
**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): December 21, 2021 (December 15, 2021)

VECTOR GROUP LTD.

(Exact Name of Registrant as Specified in Its Charter)

Delaware
(State or Other Jurisdiction of Incorporation)

1-5759
(Commission
File Number)

65-0949535
(I.R.S. Employer
Identification No.)

4400 Biscayne Boulevard Miami Florida
(Address of Principal Executive Offices)

33137
(Zip Code)

(305) 579-8000
(Registrant's Telephone Number, Including Area Code)

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

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

Securities Registered Pursuant to 12(b) of the Act:

Title of each class:	Trading Symbol(s)	Name of each exchange on which registered:
Common stock, par value \$0.10 per share	VGR	New York Stock Exchange

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

Emerging growth company

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

INTRODUCTORY NOTE

Distribution of Douglas Elliman Inc.

As previously announced, on December 10, 2021, the Board of Directors of Vector Group Ltd. (“Vector”) approved the distribution to its stockholders of the common stock of Douglas Elliman Inc. (“Spinco”) (such distribution of Spinco’s common stock, the “Distribution”). The Distribution will take the form of a distribution by Vector of one share of Spinco common stock, par value \$0.01 per share for every two shares of Vector’s common stock (including Vector common stock underlying outstanding stock option awards and restricted stock awards) held of record at the close of business, New York City time, on December 20, 2021 (the “Record Date”). The Distribution will become effective and the new shares of Spinco will be distributed at 11:59 p.m., New York City time, on December 29, 2021 (the “Distribution Date”). On December 16, 2021, Spinco’s registration statement on Form S-1 (File No. 333-261523) (the “Form S-1”) was declared effective by the U.S. Securities and Exchange Commission (the “SEC”). The completion of the Distribution is subject to, among other things, the receipt of a tax opinion from counsel to Vector. Vector’s Board of Directors has reserved the right to modify or abandon the Distribution at any time prior to the Distribution. Vector expects the conditions to the Distribution to be satisfied on or before the Distribution Date.

Item 1.01 Entry into a Material Definitive Agreement.

Following the Distribution, Spinco will be a public company and Vector will have no continuing common stock ownership interest in Spinco. For purposes of governing the ongoing relationships between Vector and Spinco after the Distribution and to provide for an orderly transition, Vector and Spinco have entered or will enter into a number of agreements prior to the Distribution. The principal agreements are described below.

The agreements summarized in this Item 1.01 are included as Exhibits 2.1, 2.2, 10.1, 10.2 and 10.8 to this Current Report on Form 8-K, and the following summaries of those agreements are qualified in their entirety by reference to the agreements as so filed, which are incorporated into this Item 1.01 by reference.

Distribution Agreement

On December 21, 2021, Vector entered into the Distribution Agreement with Spinco as part of a series of transactions pursuant to which Spinco will receive prior to the Distribution the subsidiaries, businesses and other assets described in the Form S-1, including the real estate services and property technology (“PropTech”) investment business currently owned and operated by Vector, but excluding Vector’s interests in numerous properties and real estate projects.

Under the Distribution Agreement, as further described in the Introductory Note above, Vector will distribute all of Spinco’s outstanding common stock to the holders of Vector’s common stock (including Vector common stock underlying outstanding stock option awards and restricted stock awards).

Under the Distribution Agreement, Vector will provide Spinco with indemnities with respect to liabilities, damages, costs and expenses arising out of any of: (i) Vector’s businesses (other than businesses of Spinco); (ii) certain identified claims or proceedings; and (iii) any breach by Vector of its obligations under the Distribution Agreement. Spinco will provide Vector with indemnities with respect to liabilities, damages, costs and expenses arising out of any of (i) its businesses; and (ii) certain identified claims or proceedings; and (iii) any breach by Spinco of its obligations under the Distribution Agreement.

In the Distribution Agreement, Vector and Spinco will each release the other party from all liabilities existing or arising from any acts occurring on or prior to the Distribution.

The Distribution Agreement also provides that Vector has the sole and absolute discretion to determine whether to proceed with the Distribution, including the form, structure and terms of any transactions to effect the Distribution and the timing of and satisfaction of conditions to the consummation of the Distribution.

The Distribution Agreement also provides for access to records and information, cooperation in defending litigation, as well as methods of resolution for certain disputes.

Transition Services Agreement

On December 21, 2021, Vector and Spinco entered into a Transition Services Agreement under which, in exchange for the fees specified in such agreement, Vector agrees to provide certain corporate and other services to Spinco, including with respect to such areas as accounts payable, payroll, tax, certain legal functions, human resources, insurance and risk management, investor relations, corporate communications, benefit plan administration and reporting and internal audit functions. For these services, Spinco will pay Vector an arms' length amount determined pursuant to a transfer pricing study conducted by a third party. Vector and Spinco, as parties receiving services under the Transition Services Agreement, will agree to indemnify the party providing services for losses incurred by such party that arise out of or are otherwise in connection with the provision by such party of services under the Transition Services Agreement, except to the extent that such losses result from the providing party's gross negligence, willful misconduct or breach of its obligations under the Transition Services Agreement. Similarly, each party providing services under the Transition Services Agreement will agree to indemnify the party receiving services for losses incurred by such party that arise out of or are otherwise in connection with the indemnifying party's provision of services if such losses result from the providing party's gross negligence, willful misconduct or breach of its obligations under the agreement.

Tax Disaffiliation Agreement

On December 21, 2021, Vector and Spinco entered into a Tax Disaffiliation Agreement that governs the parties' respective rights, responsibilities and obligations with respect to taxes and tax benefits, the filing of tax returns, the control of audits and other tax matters. References in this summary description of the Tax Disaffiliation Agreement to the terms "tax" or "taxes" mean taxes as well as any interest, penalties, additions to tax or additional amounts in respect of such taxes.

Spinco and its eligible subsidiaries currently join with Vector in the filing of certain consolidated, combined, and unitary returns for state, local, and other applicable tax purposes. However, for periods (or portions thereof) beginning after the Distribution, Spinco generally will not join with Vector or any of its subsidiaries (as determined after the Distribution) in the filing of any federal, state, local or other applicable consolidated, combined or unitary tax returns.

Under the Tax Disaffiliation Agreement, with certain exceptions, Vector will generally be responsible for all U.S. federal, state, local and other applicable income taxes for any taxable period or portion of such period ending on or before the Distribution Date. Spinco will generally be responsible for all taxes that are attributable to it or one of its subsidiaries after the Distribution Date.

Spinco will be generally responsible for filing all separate company tax returns that relate to it or one of its subsidiaries for any taxable period or portion of such period beginning after the Distribution Date. Vector will be generally responsible for filing all other tax returns. Where possible, Spinco will waive the right to carry back any losses, credits, or similar items to periods ending prior to or on the Distribution Date, however, if Spinco cannot waive the right, Spinco will be entitled to receive the resulting refund or credit, net of any taxes incurred by Vector with respect to the refund or credit.

Generally, Vector will have the authority to conduct all tax proceedings, including tax audits, relating to taxes or any adjustment to taxes for which Vector is responsible for filing a return under the Tax Disaffiliation Agreement, and Spinco will have the authority to conduct all tax proceedings, including tax audits, relating to taxes or any adjustment to taxes for which Spinco is responsible for filing a return under the Tax Disaffiliation Agreement. However, if one party acknowledges a liability to indemnify the other party for a tax to which such

proceeding relates, and provides evidence to the other party of its ability to make such payment, the first-mentioned party will have the authority to conduct such proceeding. The Tax Disaffiliation Agreement further provides for cooperation between Vector and Spinco with respect to tax matters, the exchange of information and the retention of records that may affect the tax liabilities of the parties to the agreement.

The Tax Disaffiliation Agreement requires that neither Spinco nor any of its subsidiaries will take, or fail to take, any action where such action, or failure to act, would be inconsistent with or preclude the Distribution from qualifying as a tax-free transaction to Vector and to its stockholders under Section 355 of the Code, or would otherwise cause holders of Vector's stock receiving Spinco stock in the Distribution to be taxed as a result of the Distribution and certain transactions undertaken in connection with the Distribution. Additionally, for the two-year period following the Distribution, Spinco will be restricted from engaging in certain activities that may jeopardize the tax-free treatment of the Distribution to Vector and its stockholders, unless Spinco receives Vector's consent or otherwise obtain a ruling from the Internal Revenue Service or a legal opinion, in either case reasonably satisfactory to Vector, that the activity will not alter the tax-free status of the Distribution to Vector and its stockholders.

Finally, Spinco will be required to indemnify Vector, directors and officers for any taxes, resulting from action or failure to act, if such action or failure to act precludes the Distribution from qualifying as a tax-free transaction (including taxes imposed as a result of a violation of the restrictions set forth above).

Employee Matters Agreement

Vector and Spinco have entered into an Employee Matters Agreement that allocates assets, liabilities and responsibilities with respect to certain employee compensation and benefit plans and programs and certain other related matters upon completion of the Distribution, including the treatment of outstanding equity awards held by employees and non-employee directors of Vector. In general, Spinco employees currently participate in various of Spinco's retirement, health and welfare, and other employee benefit plans. After the Distribution, it is anticipated that Spinco's employees will generally continue to participate in such plans and arrangements established and maintained by Spinco. Effective as of the Distribution date, Vector and Spinco generally will each hold responsibility for their respective employees and compensation plans.

Aviation Agreements

Subject to applicable Federal Aviation Administration rules, subsidiaries of Vector have entered into dry lease agreements with Spinco and certain of its subsidiaries, pursuant to which Spinco will have the right to lease on a flight-by-flight basis certain aircraft owned by Vector. Spinco will be required to pay Vector an hourly rental rate for each flight. Spinco expects to enter into an additional agreement with a third-party management company to provide crew, and other necessary administrative support services, which is expected to be the same management company contracted by Vector, in which case Vector expects payments for fixed costs to be allocated on an equitable basis.

Item 5.02 Compensatory Arrangements of Certain Officers.

Executive Officer Letter Agreements

In connection with the Distribution, Vector has entered into letter agreements with each of Messrs. Howard M. Lorber, Richard J. Lampen, J. Bryant Kirkland III and Marc N. Bell, Vector's President and Chief Executive Officer; Executive Vice President and Chief Operating Officer; Senior Vice President, Chief Financial Officer and Treasurer; and Senior Vice President, General Counsel and Secretary, respectively, to acknowledge that they will also serve as Spinco's President and Chief Executive Officer and on its Board of Directors; Spinco's Executive Vice President and Chief Operating Officer and on its Board of Directors; Spinco's Senior Vice President, Chief Financial Officer and Treasurer; and Spinco's Senior Vice President, Secretary and General Counsel, respectively, following the Distribution. In addition, Mr. Lorber's letter agreement provides that his base salary with Vector following the Distribution will be \$1,800,000 per annum and documents certain changes to his benefits following the Distribution, and Mr. Lampen's letter agreement provides that his base salary with Vector following the Distribution will be \$650,000 per annum.

The description of the letter agreements contained in this Item 5.02 does not purport to be complete and is qualified in its entirety by reference to the full text of each letter agreement, copies of which are attached as Exhibits 10.3-10.6 to this Current Report on Form 8-K and is incorporated herein by reference.

Amendment to Kirkland Employment Agreement

On December 21, 2021, Vector and J. Bryant Kirkland III, the Senior Vice President, Treasurer and Chief Financial Officer of Vector, entered into a letter agreement (the "Kirkland Amendment") amending Mr. Kirkland's Employment Agreement with Vector dated as of January 27, 2006, as amended by the First Amendment, dated as of February 29, 2016. The Kirkland Amendment revised the description of the annual cash bonus amount that would be payable to Mr. Kirkland in the event of severance-qualifying termination of employment to provide that such bonus shall be equal to the bonus paid to Mr. Kirkland for the performance period immediately prior to the year in which termination notice is given, but will not exceed Mr. Kirkland's then-current target bonus opportunity.

The description of the Kirkland Amendment contained in this Item 5.02 does not purport to be complete and is qualified in its entirety by reference to the full text of the Kirkland Amendment, a copy of which is attached as Exhibit 10.7 to this Current Report on Form 8-K and is incorporated herein by reference.

Item 8.01 Other Events.

The information set forth in the Introductory Note is incorporated into this Item 8.01 by reference.

Certain Relationships and Potential Conflicts of Interest

Following the Distribution, there will be an overlap between certain key directors and officers of Vector and of Spinco. Howard M. Lorber will serve as the President and Chief Executive Officer of Vector and of Spinco. Richard J. Lampen will serve as the Chief Operating Officer of Vector and of Spinco. J. Bryant Kirkland III will serve as the Chief Financial Officer and Treasurer of Vector and of Spinco, Marc N. Bell will serve as General Counsel of Vector and of Spinco, and J. David Ballard will serve as Senior Vice President, Enterprise Efficiency and Chief Technology Officer of Vector and of Spinco. As a result, following the Distribution, not all of Vector's executive officers will be devoting their full time and attention to Vector's affairs. In addition, immediately following the Distribution, three members of Vector's Board, Mr. Lorber, Mr. Lampen, and Wilson L. White, will also be directors of Spinco.

The overlapping directors and officers may have actual or apparent conflicts of interest with respect to matters involving or affecting each company. For example, there will be the potential for a conflict of interest when Spinco, on the one hand, and Vector and its respective subsidiaries and successors, on the other hand, are party to commercial transactions concerning real property investments and other corporate opportunities that may be suitable for more than one of the companies. Also, conflicts may arise if there are issues or disputes under the commercial arrangements that will exist between Vector and Spinco. In addition, after the Distribution, certain of Spinco's directors and officers will continue to own stock and/or stock options or other equity awards earned from Vector.

In addition, Spinco has been engaged by the developers as the sole broker or the co-broker for several of Vector's subsidiaries' real estate development projects that Vector's subsidiary, New Valley LLC owns an interest in through its real estate venture investments. Spinco reported gross commissions of approximately \$10.8 million, \$19.0 million, and \$20.1 million from these projects for the years ended December 31, 2020, 2019, and 2018, respectively.

A son of Vector's Chairman and Chief Executive Officer is an associate broker of Spinco and he received commissions and other payments of approximately \$870,000, \$712,000 and \$317,600 in accordance with brokerage activities in 2020, 2019 and 2018, respectively. For the nine months ended September 30, 2021, he received commissions and other payments of approximately \$631,000.

Beginning in September 2020, Daniel A. Sachar, the son-in-law of Vector's Executive Vice President and Chief Operating Officer, serves as Vice President, Enterprise Innovation and Managing Director of New Valley Ventures LLC, which will be a subsidiary of Spinco on the Distribution Date, and received total compensation, which included salary, bonus and 401(k) matching awards of approximately \$133,000 in 2020.

These ownership interests could create actual, apparent or potential conflicts of interest when these individuals are faced with decisions that could have different implications for Vector and Spinco.

Treatment of Outstanding Awards

Vector has granted options to purchase shares of Vector common stock to its employees (each, a "Vector option"). In connection with the Distribution, each such employee who is a holder of a Vector option, whether vested or unvested, that is outstanding on the record date will receive one share of Spinco common stock for every two shares of Vector common stock underlying such Vector option. Such distribution will be made to the such holder, less any required withholding taxes, at the same time that the distribution is made to Vector's stockholders. Other than such distribution, there will be no adjustments to the existing Vector options in connection with the Distribution and the Vector options will continue to be governed by the same terms and conditions (including vesting terms, the number of shares of Vector common stock underlying the Vector options and the exercise price of such Vector options), as were applicable to the Vector option immediately prior to the Distribution.

Vector has issued restricted shares of Vector's common stock to its employees and non-employee directors that are subject to time-based vesting conditions (each, a "Vector time-based restricted share award"). In connection with the Distribution, each such employee and non-employee director who is a holder of a Vector time-based restricted share award that is outstanding on the record date will receive one share of Spinco common stock for every two of the Vector's restricted shares under the Vector time-based restricted share award. Such distribution will be made to the such holder, less any required withholding taxes, at the same time that the distribution is made to the Vector's stockholders. Other than such distribution, there will be no adjustment to the existing Vector time-based restricted share award in connection with the Distribution and the Vector time-based restricted share award will continue to be governed by the same terms and conditions (including vesting terms and the number of Vector restricted shares outstanding under the Vector time-based restricted share award), as were applicable to the Vector time-based restricted share award immediately prior to the Distribution.

Vector has also issued restricted shares of Vector's common stock to certain employees that are subject to performance-based vesting conditions (each, a "Vector performance-based restricted share award" and together with the Vector options and Vector time-based restricted share awards, the "Vector equity awards"). In connection with the Distribution, each such employee who is a holder of a Vector performance-based restricted share award that is outstanding on the record date will receive one share of Spinco common stock for every two of Vector's restricted shares under the Vector performance-based restricted share award (based on the full number of restricted shares under the equity award); provided that (i) for the Vector performance-based restricted share award granted on November 10, 2015, such distribution will be subject to the same restrictions as the underlying Vector performance-based restricted share award and when the underlying Vector performance-based restricted share award vests, the distribution will be made, less any required withholding taxes and (ii) for the Vector performance-based restricted share award granted on February 24, 2021, the Distribution will be made to such holder, less any required withholding taxes, at the same time that the Distribution is made to Vector's stockholders. Other than such distribution, there will be no adjustment to the existing Vector performance-based restricted share award in connection with the Distribution and the Vector performance-based restricted share award will continue to be governed by the same terms and conditions (including vesting terms and the number of Vector restricted shares outstanding under the Vector performance-based restricted share award), as were applicable to the Vector performance-based restricted share award immediately prior to the Distribution.

The total percentage of Spinco stock that will be distributed to employees and directors in respect of outstanding Vector equity awards is approximately 3.3%, and, other than the performance-based restricted share award granted on November 10, 2015, such stock will be distributed to the holders of outstanding Vector equity awards without any vesting conditions even if the Vector equity awards are never exercised or vested. The Distribution of Spinco common stock in respect of Vector common stock underlying Vector equity awards is expected to be taxable to both Vector and the holders of such awards. In connection with the employee portion of

such tax obligations, the Distribution of shares of Spinco common stock that would otherwise be made in respect of shares of Vector common stock underlying Vector equity awards will be reduced by a percentage equal to the highest blended estimated Federal and state marginal tax rate applicable to such employee, and Vector will make a cash payment equal to the dollar value of the shares of Spinco common stock that were not distributed to such employee to the applicable governmental entity in satisfaction of such employee's tax obligations.

No fractional shares of Spinco common stock will be issued in connection with the Distribution. If a holder of an outstanding Vector equity award would be entitled to receive a fractional share, such amount will be paid in cash at the time specified above and will generally be taxable to the holder of such outstanding Vector equity award.

Forward-Looking Statements

Statements and other information included in this Current Report on Form 8-K that are not historical facts, including include information relating to Vector's intent, belief or current expectations, primarily with respect to, but not limited to, economic outlook, capital expenditures, cost reduction, cash flows, operating performance, growth expectations, competition, legislation and regulations, litigation, and related industry developments (including trends affecting Vector's business, financial condition and results of operations) and Vector's spin-off of Spinco, may constitute forward-looking statements. Forward-looking statements are subject to the safe harbor provisions of the Private Securities Litigation Reform Act of 1995, as amended. The forward-looking statements speak only as of the date they are made, and Vector disclaims any obligation to update or revise the forward-looking statements contained herein, except as otherwise required by applicable federal securities laws..

Forward-looking statements can be identified by words or phrases such as "anticipate," "believe," "continue," "could," "estimate," "expect," "intend," "may be," "objective," "opportunisticly," "plan," "potential," "predict," "project," "prospects," "seek," and "will be" and similar words or phrases or their negatives. Forward-looking statements involve important risks and uncertainties that could cause Vector's actual results, performance or achievements to differ materially from Vector's anticipated results, performance or achievements expressed or implied by the forward-looking statements. Further information on the risks and uncertainties to the business of Vector include the risk factors described in the filings of the Vector with the SEC.

Factors that could cause actual results of Spinco to differ materially from those suggested by forward-looking statements include: general economic and market conditions, and any changes therein, due to acts of war and terrorism or otherwise; governmental regulations and policies; adverse changes in global, national, regional and local economic and market conditions, including those related to pandemics and health crises, such as the outbreak of COVID-19 and the impact of potential COVID-19 variants; the extent and timing of COVID-19 vaccine administration and the duration of the COVID-19 pandemic; Spinco's ability to effectively manage the impacts of the COVID-19 pandemic and any government-mandated or encouraged suspension of Spinco's business operations; the impacts of the Tax Cuts and Jobs Act of 2017, including its impact on the markets of Spinco's business; effects of industry competition; severe weather events or natural or man-made disasters, including increasing the severity or frequency of such events due to climate change or otherwise, or other catastrophic events may disrupt Spinco's business and have an unfavorable impact on home sale activity; the level of Spinco's expenses, including its corporate expenses as a stand-alone publicly-traded company; Spinco's status as an emerging growth company; the tax-free treatment of the spin-off; Spinco's lack of operating history as a public company and costs associated with being an independent public company; potential dilution to holders of Spinco's common stock as a result of issuances of additional shares of common stock to fund its financial obligations and other financing activities; the failure of Spinco or Vector to satisfy their respective obligations under the agreements entered into in connection with the spin-off; and the additional factors described under "Risk Factors" in the prospectus that is part of the registration statement on Form S-1 filed with the SEC by Spinco.

(d) Exhibits

- 2.1 [Distribution Agreement, dated as of December 21, 2021, between Vector Group Ltd. and Douglas Elliman Inc.](#)
- 2.2 [Employee Matters Agreement, dated as of December 21, 2021 between Vector Group Ltd. and Douglas Elliman Inc.](#)
- 10.1 [Transition Services Agreement, dated as of December 21, 2021 between Vector Group Ltd. and Douglas Elliman Inc.](#)
- 10.2 [Tax Disaffiliation Agreement, dated as of December 21, 2021 between Vector Group Ltd. and Douglas Elliman Inc.](#)
- 10.3 [Executive Letter Agreement, dated as of December 21, 2021 between Vector Group Ltd. and Howard M. Lorber.](#)
- 10.4 [Executive Letter Agreement, dated as of December 21, 2021 between Vector Group Ltd. and Richard J. Lampen.](#)
- 10.5 [Executive Letter Agreement, dated as of December 21, 2021 between Vector Group Ltd. and J. Bryant Kirkland III.](#)
- 10.6 [Executive Letter Agreement, dated as of December 21, 2021 between Vector Group Ltd. and Marc N. Bell.](#)
- 10.7 [Second Amendment to Employment Agreement, dated as of December 21, 2021 between Vector Group Ltd. and J. Bryant Kirkland III.](#)
- 10.8 [Form of Aircraft Lease Agreement.](#)
- 104 Cover Page Interactive Data File (embedded within the inline XRBL document).

SIGNATURE

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

VECTOR GROUP LTD.
(Registrant)

Date: December 21, 2021

By: /s/ J. Bryant Kirkland III
Name: J. Bryant Kirkland III
Title: Senior Vice President, Treasurer and Chief Financial Officer

DISTRIBUTION AGREEMENT

by and between

VECTOR GROUP LTD.

and

DOUGLAS ELLIMAN INC.

Dated as of December 21, 2021

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DISTRIBUTION AGREEMENT

This DISTRIBUTION AGREEMENT (this “Agreement”), dated as of December 21, 2021, is entered into by and between Vector Group Ltd., a Delaware corporation (“Vector”), and Douglas Elliman Inc., a Delaware corporation (“Spinco”). Each of Vector and Spinco is referred to herein as a “Party” and collectively, as the “Parties”.

WITNESSETH:

WHEREAS, Vector, acting through its direct and indirect Subsidiaries, currently conducts a number of businesses, including (i) the Spinco Business (real estate brokerage and other services and property technology investment), and (ii) the Vector Retained Business (tobacco manufacturing, distribution and sale and real estate investments);

WHEREAS, the Board of Directors of Vector (the “Vector Board”) has determined that it is appropriate, desirable and in the best interests of Vector and its stockholders to separate into two independent, publicly traded companies: Spinco and Vector;

WHEREAS, in order to effect such separation, the Vector Board has determined that it is appropriate, desirable and in the best interests of Vector and its stockholders (i) to enter into a series of transactions whereby (A) Vector and/or one or more members of the Vector Group will own all of the Vector Retained Assets and assume (or retain) all of the Vector Retained Liabilities, and (B) Spinco and/or one or more members of the Spinco Group will own all of the Spinco Assets and assume (or retain) all of the Spinco Liabilities (such transactions set forth in this clause (i), as they may be amended or modified from time to time, collectively, the “Plan of Reorganization”), and (ii) after the transactions to implement the Plan of Reorganization, for Vector to distribute to the holders of Vector Common Stock on a pro rata basis (including Vector Common Stock underlying outstanding stock option awards and restricted stock awards), in each case without consideration being paid by such stockholders, one share of Spinco common stock, par value \$0.01 per share (“Spinco Common Stock”), for every two shares of Vector Common Stock held on the Record Date, which constitutes one-hundred percent (100%) of the outstanding Spinco Common Stock;

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

WHEREAS, it is the intention of the Parties that each of the contributions of Assets to, and the Assumption of Liabilities by, Spinco together with the distribution of the Spinco Common Stock qualifies as a reorganization within the meaning of Sections 368(a)(1)(D) and 355 of the Internal Revenue Code of 1986, as amended (the “Code”); and

WHEREAS, each of Vector and Spinco has determined that it is necessary and desirable to set forth the principal corporate transactions required to effect the Plan of Reorganization and the Distribution and to set forth other agreements that will govern certain other matters following the Relevant Time.

NOW, THEREFORE, in consideration of the foregoing and the mutual agreements, provisions and covenants contained in this Agreement, the Parties hereby agree as follows:

ARTICLE I

DEFINITIONS AND INTERPRETATION

Section 1.1 General. As used in this Agreement, the following terms shall have the following meanings:

(1) “AAA” shall have the meaning set forth in Section 8.2.

(2) “Action” shall mean any demand, action, claim, suit, countersuit, arbitration, inquiry, subpoena, proceeding or investigation by or before any Governmental Entity or any arbitration or mediation tribunal.

(3) “Affiliate” shall mean, when used with respect to a specified Person, a Person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with such specified Person. For the purposes of this definition, “control” (including the correlative meanings of the terms “controlled by” and “under common control with”), when used with respect to any specified Person shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities or other interests, by Contract or otherwise. It is expressly agreed that no Party or member of its Group shall be deemed to be an Affiliate of the other Party or member of such other Party’s Group by reason of having one or more directors or officers in common. For the avoidance of doubt, following the Distribution, (a) Spinco shall not be considered an Affiliate of Vector; and (b) Vector shall not be considered an Affiliate of Spinco.

(4) “Agreement” shall have the meaning set forth in the preamble.

(5) “Agreement Disputes” shall have the meaning set forth in Section 8.1.

(6) “Ancillary Agreements” shall mean all of the written Contracts, instruments, assignments, licenses or other arrangements (other than this Agreement and the Commercial Arrangements) entered into in connection with the transactions contemplated hereby, including the Transition Services Agreement, Tax Disaffiliation Agreement, Employee Matters Agreement, Aviation Leasing Agreements, and Spinco Intellectual Property Agreement.

(7) “Annual Reports” shall have the meaning set forth in Section 5.1(c).

(8) “Assets” shall mean assets, properties, claims and rights (including goodwill), wherever located (including in the possession of vendors or other third parties or elsewhere), of every kind, character and description, whether real, personal or mixed, tangible, intangible or contingent, in each case whether or not recorded or reflected or required to be recorded or reflected on the Records or financial statements of any Person, including the following:

- (i) all accounting and other legal and business books, records, ledgers and files whether printed, electronic or written;
- (ii) all apparatuses, computers and other electronic data processing and communications equipment, fixtures, machinery, equipment, furniture, office equipment, automobiles, trucks, aircraft and other transportation equipment, special and general tools, manufacturing equipment and machinery and other tangible personal property;
- (iii) all inventories of products, goods, materials, parts, raw materials and supplies;
- (iv) all interests in real property of whatever nature, including easements, whether as owner, mortgagee or holder of a Security Interest in real property, lessor, sublessor, lessee, sublessee or otherwise;
- (v) all interests in any capital stock or other equity interests of any Subsidiary or any other Person, all bonds, notes, debentures or other securities issued by any Subsidiary or any other Person, all loans, advances or other extensions of credit or capital contributions to any Subsidiary or any other Person and all other investments in securities of any Person;
- (vi) all license Contracts, leases of personal property, open purchase orders for raw materials, supplies, parts or services, unfilled orders for the manufacture and sale of products and other Contracts or commitments;
- (vii) all deposits, letters of credit and performance and surety bonds;
- (viii) all written (including in electronic form) technical information, data, specifications, research and development information, engineering drawings and specifications, operating and maintenance manuals, and materials and analyses prepared by consultants and other third parties;
- (ix) all Intellectual Property;
- (x) all Software;
- (xi) all cost information, sales and pricing data, customer prospect lists, supplier records, customer and supplier lists, customer and vendor data, correspondence and lists, product data and literature, artwork, design, development and business process files and data, vendor and customer drawings, specifications, quality records and reports and other books, records, studies, surveys, reports, plans and documents;
- (xii) all prepaid expenses, trade accounts and other accounts and notes receivables;

(xiii) all rights under Contracts, all claims or rights against any Person, causes in action or similar rights, whether accrued or contingent;

(xiv) all rights under insurance Policies and all rights in the nature of insurance, indemnification or contribution;

(xv) all licenses, permits, approvals and authorizations which have been issued by any Governmental Entity;

(xvi) all cash or cash equivalents, bank accounts, lock boxes and other third-party deposit arrangements; and

(xvii) all interest rate, currency, commodity or other swap, collar, cap or other hedging or similar Contracts or arrangements.

(9) “Assume”, and variations thereof, shall have the meaning set forth in Section 2.3, mutatis mutandis.

(10) “Audited Party” shall have the meaning set forth in Section 5.1(b).

(11) “Aviation Leasing Agreement” shall mean each non-exclusive aircraft lease agreement under Part 91 of the Federal Aviation Regulations entered into from time to time between a member of the Vector Group and a member of the Spinco Group, or any other aircraft lease agreement designated as such.

(12) “Business” shall mean the Vector Retained Business or the Spinco Business, as applicable.

(13) “Business Day” shall mean any day that is not a Saturday, a Sunday or any other day on which banks are required or authorized by Law to be closed in The City of New York.

(14) “Business Entity” shall mean any corporation, partnership, limited liability company, joint venture or other entity which may legally hold title to Assets.

(15) “Code” shall have the meaning set forth in the recitals hereto.

(16) “Commercial Arrangements” shall mean those arrangements set forth on Schedule 1.1(16) and such other commercial arrangements between the Parties that are intended to survive and continue following the Relevant Time; provided, however, that for the avoidance of doubt, Commercial Arrangements shall not apply to any of the following Contracts, arrangements, course of dealings or understandings (or to any of the provisions thereof):

(i) the Transition Services Agreement;

(ii) Aviation Leasing Agreements;

(iii) any agreements, arrangements, commitments or understandings to which any Person other than the Parties and their respective Groups is a party thereto (it being understood that to the extent that the rights and obligations of the Parties and the members of their respective Groups under any such Contracts constitute Spinco Assets or Spinco Liabilities or Vector Retained Assets or Vector Retained Liabilities, such Contracts shall be assigned or retained pursuant to Article II); and

(iv) any agreements, arrangements, commitments or understandings to which any non-wholly owned Subsidiary of Vector or Spinco, as the case may be, is a Party.

(17) “Confidential Information” shall mean all information concerning or belonging to a Party and/or its Subsidiaries or Business which, prior to or following the Relevant Time, has been disclosed by a Party or its Subsidiaries to the other Party or its Subsidiaries, in written, oral (including by recording), electronic, or visual form to, or otherwise has come into the possession of, the other, including pursuant to the access provisions of Section 7.1 or Section 7.2 or any other provision of this Agreement (except to the extent that such information can be shown to have been (i) in the public domain through no fault of such Party or its Subsidiaries or (ii) lawfully acquired by such Party or its Subsidiaries from other sources; provided, however, in the case of clause (ii) that, to the furnished Party’s knowledge, such furnishing sources did not provide such information in breach of any confidentiality obligations).

(18) “Consents” shall mean any consents, waivers or approvals from, or notification requirements to, any Person other than a Governmental Entity.

(19) “Contract” shall mean any agreement, contract, obligation, indenture, instrument, lease, promise, arrangement, release, warranty, commitment or undertaking (whether written or oral and whether express or implied).

(20) “Conveyancing and Assumption Instruments” shall mean, collectively, the various Contracts and other documents heretofore entered into and to be entered into to effect the Transfer of Assets and the Assumption of Liabilities in the manner contemplated by this Agreement and the Plan of Reorganization, or otherwise relating to, arising out of or resulting from the transactions contemplated by this Agreement, in such form or forms as the Parties agree.

(21) “Dispute Notice” shall have the meaning set forth in Section 8.1.

(22) “Distribution” shall mean the distribution by Vector to holders of record of shares of Vector Common Stock (including Vector Common Stock underlying outstanding stock option awards and restricted stock awards) as of the Record Date of 100% of the Spinco Common Stock owned by Vector on the basis of one share of Spinco Common Stock for every two outstanding shares of Vector Common Stock.

(23) “Distribution Agent” shall mean American Stock Transfer & Trust Company.

(24) “Distribution Date” shall mean the date on which the Distribution is effected.

(25) “Employee Matters Agreement” shall mean the Employee Matters Agreement, dated as of the date hereof, by and between Vector and Spinco.

(26) “Force Majeure” shall mean, with respect to a Party, an event beyond the control of such Party (or any Person acting on its behalf), which by its nature could not have been foreseen by such Party (or such Person), or, if it could have been foreseen, was unavoidable, and includes, without limitation, acts of God, storms, floods, riots, labor unrest, pandemics, nuclear incidents, fires, sabotage, civil commotion or civil unrest, interference by civil or military authorities, acts of war (declared or undeclared) or armed hostilities or other national or international calamity or one or more acts of terrorism or failure of energy sources or distribution facilities.

(27) “Form S-1” shall mean the registration statement on Form S-1 filed by Spinco with the SEC in connection with the Distribution.

(28) “Governmental Approvals” shall mean any notices or reports to be submitted to, or other filings to be made with, or any consents, registrations, approvals, permits or authorizations to be obtained from, any Governmental Entity.

(29) “Governmental Entity” shall mean any domestic or foreign governmental or regulatory authority, agency, commission, body, court or other legislative, executive or judicial governmental entity.

(30) “Group” shall mean (i) with respect to Vector, the Vector Group, and (ii) with respect to Spinco, the Spinco Group.

(31) “Guaranty Release” shall have the meaning set forth in Section 2.9(b).

(32) “Indemnifiable Loss” shall mean any and all damages, losses, deficiencies, Liabilities, obligations, penalties, judgments, settlements, claims, payments, fines, interest, costs and expenses (including the costs and expenses of any and all Actions and demands, assessments, judgments, settlements and compromises relating thereto and the reasonable costs and expenses of attorneys’, accountants’, consultants’ and other professionals’ fees and expenses incurred in the investigation or defense thereof or the enforcement of rights hereunder), excluding special, consequential, indirect and/or punitive damages (other than special, consequential, indirect and/or punitive damages awarded to any third party against an Indemnitee).

(33) “Indemnifying Party” shall have the meaning set forth in Section 6.4(b).

(34) “Indemnitee” shall have the meaning set forth in Section 6.4(b).

(35) “Indemnity Payment” shall have the meaning set forth in Section 6.8(a).

(36) “Information” shall mean information, whether or not patentable or copyrightable, in written, oral, electronic or other tangible or intangible forms, stored in any medium, including studies, reports, records, books, contracts, instruments, surveys, discoveries, ideas, concepts, trade secrets, know-how, techniques, designs, specifications, drawings, blueprints, diagrams, models, prototypes, samples, flow charts, data, computer data, disks, diskettes, tapes, computer programs or other software, marketing plans, customer names, communications by or to attorneys (including attorney-client privileged communications), memos and other materials prepared by attorneys or under their direction (including attorney work product), communications and materials otherwise related to or made or prepared in connection with or in preparation for any legal proceeding, and other technical, financial, employee or business information or data.

(37) “Insurance Proceeds” shall mean those monies (i) received by an insured person from an insurance carrier, including due to premium adjustments, whether or not retrospectively rated, or (ii) paid by an insurance carrier on behalf of an insured person, in either case net of any applicable premium deductible or self-insured retention. For the avoidance of doubt, “Insurance Proceeds” shall not include any costs or expenses incurred by a Party or its Affiliates in pursuing insurance coverage.

(38) “Intellectual Property” shall mean all intellectual property and industrial property rights of any kind or nature, including all U.S. and foreign (i) Patents, (ii) Trademarks, (iii) copyrights and copyrightable subject matter, (iv) rights of publicity, (v) moral rights and rights of attribution and integrity, (vi) rights in Software, (vii) trade secrets and all other Confidential Information, know-how, inventions, proprietary processes, formulae, models and methodologies, (viii) rights of privacy and rights to personal information, (ix) telephone numbers and Internet protocol addresses, (x) all rights in the foregoing and in other similar intangible assets, (xi) all applications and registrations for the foregoing, and (xii) all rights and remedies against past, present, and future infringement, misappropriation, or other violation of the foregoing.

(39) “Internal Control Audit and Management Assessments” shall have the meaning set forth in Section 5.1(a).

(40) “Law” shall mean any U.S. or non-U.S. federal, national, supranational, state, provincial, local or similar statute, law, ordinance, regulation, rule, code, income Tax treaty, stock exchange rule, order, requirement or rule of law (including common law).

(41) “Liabilities” shall mean any and all debts, liabilities, costs, expenses, interest and obligations, whether accrued or fixed, absolute or contingent, matured or unmatured, reserved or unreserved, or determined or determinable, including those arising under any Law, claim, demand, Action, whether asserted or unasserted, or order, writ, judgment, injunction, decree, stipulation, determination or award entered by or with any Governmental Entity and those arising under any Contract or any fines, damages or equitable relief which may be imposed and including all costs and expenses related thereto.

(42) "Liable Party" shall have the meaning set forth in Section 2.8(b).

(43) "Mediation Period" shall have the meaning set forth in Section 8.2.

(44) "New York Courts" shall have the meaning set forth in Section 9.19.

(45) "NYSE" shall mean The New York Stock Exchange.

(46) "Other Party" shall have the meaning set forth in Section 2.8(a).

(47) "Other Party's Auditors" shall have the meaning set forth in Section 5.1(b).

(48) "Outside Notice Date" shall have the meaning set forth in Section 6.4(b).

(49) "Party" shall have the meaning set forth in the preamble.

(50) "Patents" shall mean any patents, patent applications, patent disclosures, derivative patents and all related continuations, continuations-in-part, divisionals, reissues, re-examinations, substitutions and extensions thereof.

(51) "Person" shall mean any natural person, firm, individual, corporation, business trust, joint venture, association, company, limited liability company, partnership or other organization or entity, whether incorporated or unincorporated, or any Governmental Entity.

(52) "Plan of Reorganization" shall have the meaning set forth in the recitals hereto.

(53) "Policies" shall mean insurance policies and insurance Contracts of any kind (other than life and benefits policies or Contracts), including primary, excess and umbrella policies, comprehensive general liability policies, director and officer liability, fiduciary liability, automobile, aircraft, marine, property and casualty, workers' compensation and employee dishonesty insurance policies, bonds and self-insurance and captive insurance company arrangements, together with the rights, benefits and privileges thereunder.

(54) "Prime Rate" shall mean the rate per annum publicly announced by Citibank, N.A. (or successor thereto) from time to time as its prime rate in effect at its principal office in New York City. For purposes of this Agreement, any change in the Prime Rate shall be effective on the date such change in the Prime Rate is publicly announced as effective.

(55) "Record Date" shall mean such date as may be determined by the Vector Board as the record date for the Distribution.

(56) "Records" shall mean any Contracts, documents, books, records or files whether written or electronic.

(57) “Relevant Time” shall mean 12:01 a.m., Eastern Time, on the Distribution Date.

(58) “Rules” shall have the meaning set forth in Section 8.3.

(59) “SEC” shall mean the United States Securities and Exchange Commission.

(60) “Securities Act” shall mean the Securities Act of 1933, as amended, and the rules and regulations of the SEC thereunder, all as the same shall be in effect at the time that reference is made thereto.

(61) “Security Interest” shall mean any mortgage, security interest, pledge, lien, charge, claim, option, right to acquire, voting or other restriction, right-of-way, covenant, condition, easement, encroachment, restriction on transfer, or other encumbrance of any nature whatsoever, excluding restrictions on transfer under securities Laws.

(62) “Separation Expenses” shall have the meaning set forth in Section 9.5.

(63) “Shared Contract” shall mean any Contract (a) listed on Schedule 1.1(63) or that relates to a customer or supplier listed on Schedule 1.1(63), or (b) any Contract of any member of either Group (i) that relates to the Business of both Parties and (ii) either (A) that the Parties specifically intended to amend, divide, modify, partially assign or replicate (in whole or in part) the respective rights and obligations under and in respect of such Contract prior to the Relevant Time or (B) the existence of which either Party discovers prior to the date that is eighteen (18) months after the Relevant Time and had the Parties given specific consideration to such Contract they would have amended, divided, modified, partially assigned or replicated (in whole or in part) the respective rights and obligations under and in respect of such Contract. For the avoidance of doubt, any Contract relating to a Commercial Arrangement shall not be considered a Shared Contract for any purpose under this Agreement.

(64) “Software” shall mean all computer programs (whether in source code, object code, or other form), algorithms, databases, compilations and data, and technology supporting the foregoing, and all documentation, including flowcharts and other logic and design diagrams, technical, functional and other specifications, and user and training materials related to any of the foregoing.

(65) “Spinco” shall have the meaning set forth in the preamble.

(66) “Spinco Accounts” shall have the meaning set forth in Section 2.10(a).

(67) “Spinco Assets” shall mean:

(i) the ownership interests in those Business Entities that are included in the definition of Spinco Group including those Business Entities set forth on Schedule 1.1(73) in the definition of Spinco Group;

(ii) the offices, facilities and other owned real property listed on Schedule 1.1(67) and the leases governing the leased real property (or subleases governing the subleased real property) listed on Schedule 1.1(67);

(iii) all Spinco Contracts, any rights or claims arising thereunder, and any other rights or claims or contingent rights or claims primarily relating to or arising from any Spinco Asset or the Spinco Business;

(iv) any and all Assets reflected on the Spinco Balance Sheet or the accounting records supporting such balance sheet and any Assets acquired by or for Spinco or any member of the Spinco Group subsequent to the date of such balance sheet which, had they been so acquired on or before such date and owned as of such date, would have been reflected on such balance sheet if prepared on a consistent basis, subject to any dispositions of any of such Assets subsequent to the date of such balance sheet;

(v) any rights of any member of the Spinco Group under any Policies, including any rights thereunder arising after the Distribution Date in respect of any Policies that are occurrence policies;

(vi) subject to Section 9.2, any and all Assets owned or held immediately prior to the Relevant Time by Vector or any of its Subsidiaries primarily relating to or used in the Spinco Business. The intention of this clause (vi) is only to rectify any inadvertent omission of Transfer of any Asset that, had the Parties given specific consideration to such Asset as of the date hereof, would have otherwise been classified as a Spinco Asset. Subject to Section 9.2, no Asset shall be deemed a Spinco Asset solely as a result of this clause (vi) including with respect to any of the Assets described in Section 9.2 unless a claim with respect thereto is made by Spinco within the applicable time period(s) established by Section 2.6(d);

(vii) and any and all Assets that are expressly contemplated by this Agreement or any Ancillary Agreement as Assets which have been or are to be Transferred to Spinco or any other member of the Spinco Group;

(viii) any and all furnishings and office equipment and any other equipment located at a physical site or the portion thereof of which the ownership or leasehold interest is held by, or being Transferred to, Spinco; provided, however, that personal computers shall be Transferred to the Party who, following the Relevant Time, employs the applicable employee who, prior to the Relevant Time, used such personal computer; and

Notwithstanding the foregoing, the Spinco Assets shall not include any Assets that are expressly contemplated by this Agreement or any Ancillary Agreement (or the Schedules hereto or thereto) as Assets to be retained by or Transferred to any member of the Vector Group.

In the event of any inconsistency or conflict which may arise in the application or interpretation of any of the foregoing provisions, for the purpose of determining what is and is not a Spinco Asset, any item explicitly included on a Schedule referred to in this definition shall take priority over any provision of the text hereof including, for the avoidance of doubt, any interpretation of the definition of Vector Retained Assets.

(68) "Spinco Balance Sheet" shall mean the condensed combined consolidated balance sheet of the Spinco Group, including the notes thereto, as of September 30, 2021, as filed with the Form S-1.

(69) "Spinco Board" shall have the meaning set forth in Section 3.2.

(70) "Spinco Business" shall mean (i) the business and operations of Vector's real estate brokerage and other services and property technology investment business as described in the Form S-1, (ii) any other business conducted primarily through the use of the Spinco Assets prior to the Relevant Time, and (iii) the businesses and operations of the Business Entities acquired or established by or for Spinco or any of its Subsidiaries after the date of this Agreement.

(71) "Spinco Common Stock" shall have the meaning set forth in the recitals hereto.

(72) "Spinco Contracts" shall mean the following Contracts to which Vector or any of its Affiliates is a party or by which it or any of its Affiliates or any of their respective Assets is bound, whether or not in writing, except for any such Contract or part thereof (i) that is expressly contemplated not to be Transferred by any member of the Vector Group to the Spinco Group or (ii) that is expressly contemplated to be Transferred to (or remain with) any member of the Vector Group, in each case, pursuant to any provision of this Agreement or any Ancillary Agreement:

- (i) any Contract entered into in the name of, or expressly on behalf of, any division, business unit or member of the Spinco Group;
- (ii) any Contract that relates primarily to the Spinco Business;
- (iii) any Contract representing lease obligations reflected on the Spinco Balance Sheet;
- (iv) any Contract or part thereof that is otherwise expressly contemplated pursuant to this Agreement (including pursuant to Section 2.2(c)) or any of the Ancillary Agreements to be assigned to any member of the Spinco Group, including those set forth on Schedule 1.1(72)(iv); and
- (v) any guarantee, indemnity, representation or warranty of or in favor of any member of the Spinco Group.

(73) "Spinco Group" shall mean Spinco and each Person (other than any member of the Vector Group) that is a direct or indirect Subsidiary of Spinco immediately after the Relevant Time, and each Person that becomes a Subsidiary of Spinco after the Relevant Time, which shall include those entities identified as such on Schedule 1.1(73).

(74) "Spinco Indemnitees" shall mean each member of the Spinco Group and each of their and their Affiliates and each of their respective Affiliates' directors, officers, employees, advisors and agents.

(75) "Spinco Intellectual Property Agreement" shall mean the Trademark License Agreement, dated as of the date hereof, by and between New Valley LLC and New Valley Ventures LLC, including any exhibits, schedules, amendments or supplements thereto.

(76) "Spinco Liabilities" shall mean:

(i) any and all Liabilities that are expressly contemplated by this Agreement or any Ancillary Agreement (or the Schedules hereto or thereto, including Schedule 1.1(76)(vi) hereto) as Liabilities to be Assumed by any member of the Spinco Group, and all obligations and Liabilities expressly Assumed by any member of the Spinco Group under this Agreement or any of the Ancillary Agreements;

(ii) any and all Liabilities primarily relating to, arising out of or resulting from:

(a) the operation or conduct of the Spinco Business, as conducted at any time prior to, on or after the Relevant Time (including any Liability relating to, arising out of or resulting from any act or failure to act by any director, officer, employee, agent or representative (whether or not such act or failure to act is or was within such Person's authority));

(b) the operation or conduct of any business conducted by any member of the Spinco Group at any time after the Relevant Time (including any Liability relating to, arising out of or resulting from any act or failure to act by any director, officer, employee, agent or representative (whether or not such act or failure to act is or was within such Person's authority));

(c) any Spinco Assets, whether arising before, on or after the Relevant Time; or

(d) any Intellectual Property Transferred to Spinco or any of its Subsidiaries pursuant to the Spinco Intellectual Property Agreement, whether arising before, on or after the Relevant Time;

(iii) any Liabilities to the extent relating to, arising out of or resulting from any terminated or divested Business Entity, business or operation formerly and primarily related to the Spinco Group or the Spinco Business;

- (iv) any Liabilities relating to, arising out of or resulting from any litigation set forth in Schedule 1.1(76)(vi);
- (v) any Liabilities relating to, arising out of or resulting from any indebtedness of any member of the Spinco Group; and
- (vi) all Liabilities reflected as liabilities or obligations on the Spinco Balance Sheet or the accounting records supporting such balance sheet, and all Liabilities arising or Assumed after the date of such balance sheet which, had they arisen or been Assumed on or before such date and been retained as of such date, would have been reflected on such balance sheet if prepared on a consistent basis, subject to any discharge of such Liabilities subsequent to the date of the Spinco Balance Sheet.

Notwithstanding anything to the contrary herein, the Spinco Liabilities shall not include:

- (x) any Liabilities that are expressly contemplated by this Agreement or any Ancillary Agreement (or the Schedules hereto or thereto) as Liabilities to be retained or Assumed by any member of the Vector Group or for which Vector is liable;
- (y) any Contracts expressly Assumed by any member of the Vector Group under this Agreement or any of the Ancillary Agreements; and
- (z) any Liabilities expressly discharged pursuant to Section 2.4 of this Agreement.

In the event of any inconsistency or conflict which may arise in the application or interpretation of any of the foregoing provisions, for the purpose of determining what is and is not a Spinco Liability, any item explicitly included on a Schedule referred to in this definition shall take priority over any provision of the text hereof.

(77) "Spinco Portion" shall have the meaning set forth in Section 2.2(b).

(78) "Subsidiary" shall mean, with respect to any Person, any corporation, partnership, joint venture, association, joint stock company, trust, unincorporated organization or other entity in which such Person, directly or indirectly (i) beneficially owns more than fifty percent (50%) of (A) the total combined voting power of all classes of voting securities of such Person, (B) the total combined equity economic interest thereof or (C) the capital or profits thereof, in the case of a partnership, or (ii) otherwise has the power to elect or direct the election of more than fifty percent (50%) of the members of the governing body of such entity or otherwise has control over such entity (e.g., as the managing partner of a partnership).

(79) "Tax" or "Taxes" shall have the meaning set forth in the Tax Disaffiliation Agreement.

- (80) “Tax Contest” shall have the meaning set forth in the Tax Disaffiliation Agreement.
- (81) “Tax Disaffiliation Agreement” shall mean the Tax Disaffiliation Agreement, dated as of the date hereof, by and between Vector and Spinco.
- (82) “Tax Return” shall have the meaning set forth in the Tax Disaffiliation Agreement.
- (83) “Third Party Claim” shall have the meaning set forth in Section 6.4(b).
- (84) “Third Party Claim Notice” shall have the meaning set forth in Section 6.4(b).
- (85) “Third Party Proceeds” shall have the meaning set forth in Section 6.8(a).
- (86) “Trademarks” shall mean all U.S. and foreign trademarks, service marks, corporate names, trade names, domain names, logos, slogans, designs, trade dress and other similar designations of source or origin, together with the goodwill symbolized by any of the foregoing.
- (87) “Transfer” shall have the meaning set forth in Section 2.2(a)(i).
- (88) “Transition Services Agreement” shall mean the Transition Services Agreement, dated as of the date hereof, by and between Vector and Spinco.
- (89) “Vector” shall have the meaning set forth in the preamble.
- (90) “Vector Accounts” shall have the meaning set forth in Section 2.10(a).
- (91) “Vector Balance Sheet” shall mean the condensed combined consolidated balance sheet of Vector prepared to give effect to the transactions contemplated hereby, including the notes thereto, as of September 30, 2021, attached hereto as Schedule 1.1(91); provided, however, that to the extent any Assets or Liabilities are Transferred by Spinco or any member of its Group to Vector or any member of the Vector Group or vice versa in connection with the Plan of Reorganization and prior to the Distribution Date, such assets and/or liabilities shall be deemed to be included or excluded from the Vector Balance Sheet, as the case may be.
- (92) “Vector Board” shall have the meaning set forth in the recitals hereto.
- (93) “Vector Common Stock” shall mean the issued and outstanding shares of Vector common stock, par value \$0.10 per share, of Vector.
- (94) “Vector Group” shall mean Vector and each Person (other than any member of the Spinco Group) that is a direct or indirect Subsidiary of Vector immediately after the Relevant Time, and each Business Entity that becomes a Subsidiary of Vector after the Relevant Time, which shall include those entities identified as such on Schedule 1.1(94).

(95) “Vector Indemnitees” shall mean Vector, each member of the Vector Group, each of their respective directors, officers, employees and agents and each of the heirs, executors, successors and assigns of any of the foregoing, except the Spinco Indemnitees.

(96) “Vector Portion” shall have the meaning set forth in Section 2.2(b).

(97) “Vector Retained Assets” shall mean:

(i) the ownership interests in those Business Entities that are included in the definition of Vector Group, including those Business Entities set forth on Schedule 1.1(94) in the definition of Vector Group;

(ii) the offices, facilities and other owned real property listed on Schedule 1.1(97) and the leases governing the leased real property (or subleases governing the subleased real property) listed on Schedule 1.1(97);

(iii) all Vector Retained Contracts, any rights or claims arising thereunder, and any other rights or claims or contingent rights or claims primarily relating to or arising from any Vector Retained Asset or the Vector Retained Business;

(iv) any and all Assets (other than cash and cash equivalents and investments) reflected on the Vector Balance Sheet or the accounting records supporting such balance sheet and any Assets acquired by or for Vector or any member of the Vector Group subsequent to the date of such balance sheet which, had they been so acquired on or before such date and owned as of such date, would have been reflected on such balance sheet if prepared on a consistent basis, subject to any dispositions of any of such Assets subsequent to the date of such balance sheet;

(v) any rights of any member of the Vector Group under any Policies;

(vi) subject to Section 9.2, any and all Assets owned or held immediately prior to the Relevant Time by Vector or any of its Subsidiaries (including, prior to the Relevant Time, Spinco or any of its Subsidiaries) primarily relating to or used in the Vector Retained Business. The intention of this clause (vi) is only to rectify any inadvertent omission of Transfer of any Asset that, had the Parties given specific consideration to such Asset as of the date hereof, would have otherwise been classified as a Vector Retained Asset. Subject to Section 9.2, no Asset shall be deemed a Vector Retained Asset solely as a result of this clause (vi) unless a claim with respect thereto is made by Vector within the applicable time period(s) established by Section 2.6(d);

(vii) any and all Assets that are expressly contemplated by this Agreement or any Ancillary Agreement as Assets which are being retained by, or have been or are to be Transferred to, Vector or any other member of the Vector Group; and

(viii) any and all furnishings and office equipment and any other equipment located at a physical site or the portion thereof of which the ownership or leasehold interest is held by, being retained by or Transferred to, Vector; provided, however, that personal computers shall be Transferred to the Party who, following the Relevant Time, employs the applicable employee who, prior to the Relevant Time, used such personal computer.

Notwithstanding the foregoing, the Vector Retained Assets shall not include any Assets that are expressly contemplated by this Agreement or any Ancillary Agreement (or the Schedules hereto or thereto) as Assets to be retained by or Transferred to any member of the Spinco Group.

In the event of any inconsistency or conflict which may arise in the application or interpretation of any of the foregoing provisions, for the purpose of determining what is and is not a Vector Retained Asset, any item explicitly included on a Schedule referred to in this definition shall take priority over any provision of the text hereof including, for the avoidance of doubt, any interpretation of the definition of Spinco Assets.

(98) "Vector Retained Business" shall mean:

- (i) Vector's current tobacco segment;
- (ii) the assessment, development and management of, and investment in, real estate properties and projects, including fundraising, sales and similar ancillary activities in connection therewith;
- (iii) the real property investments listed on Schedule 1.1(98);
- (iv) any other business conducted primarily through the use of the Vector Retained Assets prior to the Relevant Time; and
- (v) the businesses and operations of Business Entities acquired or established by or for Vector or any of its Subsidiaries in connection with the operation of the Vector Retained Business after the date of this Agreement.

(99) "Vector Retained Contracts" shall mean the following Contracts to which Vector or any of its Affiliates is a party or by which it or any of its Affiliates or any of their respective Assets is bound, whether or not in writing, except for any such Contract or part thereof (i) that is expressly contemplated not to be Transferred by any member of the Spinco Group to Vector or (ii) that is expressly contemplated to be Transferred to (or remain with) any member of the Spinco Group, in each case, pursuant to any provision of this Agreement or any Ancillary Agreement:

- (i) any Contract entered into in the name of, or expressly on behalf of, any division, business unit or member of the Vector Group;
- (ii) any Contract that relates primarily to the Vector Retained Business;

- (iii) any Contract representing capital or operating equipment lease obligations reflected on the Vector Balance Sheet;
- (iv) any Contract, or part thereof, that is otherwise expressly contemplated pursuant to this Agreement (including pursuant to Section 2.2(c)) or any of the Ancillary Agreements to be assigned to any member of the Vector Group; and
- (v) any guarantee, indemnity, representation or warranty of or in favor of any member of the Vector Group.
- (100) “Vector Retained Liabilities” shall mean:
- (i) any and all Liabilities that are expressly contemplated by this Agreement or any Ancillary Agreement (or the Schedules hereto or thereto, including Schedule 1.1(100)(iii) and Schedule 1.1(100)(iv) hereto) as Liabilities to remain with or be Assumed by any member of the Vector Group, and all obligations and Liabilities expressly Assumed by any member of the Vector Group under this Agreement or any of the Ancillary Agreements;
- (ii) any and all Liabilities primarily relating to, arising out of or resulting from:
- (A) the operation or conduct of the Vector Retained Business, as conducted at any time prior to, on or after the Relevant Time (including any Liability relating to, arising out of or resulting from any act or failure to act by any director, officer, employee, agent or representative (whether or not such act or failure to act is or was within such Person’s authority));
- (B) the operation or conduct of any business conducted by any member of the Vector Group at any time after the Relevant Time (including any Liability relating to, arising out of or resulting from any act or failure to act by any director, officer, employee, agent or representative (whether or not such act or failure to act is or was within such Person’s authority));
- (C) any Vector Retained Assets, whether arising before, on or after the Relevant Time; or
- (D) any Intellectual Property retained by or Transferred to Vector or any of its Subsidiaries pursuant to the Spinco Intellectual Property Agreement, whether arising before, on or after the Relevant Time;
- (iii) any Liabilities to the extent relating to, arising out of or resulting from any terminated or divested Business Entity, business or operation (A) formerly and primarily related to the Vector Retained Business or (B) set forth on Schedule 1.1(100)(iii);

(iv) any Liabilities relating to, arising out of or resulting from (i) any indebtedness (including debt securities and asset-backed debt) of any member of the Vector Group, (ii) any indebtedness (regardless of the issuer of such indebtedness) secured exclusively by any of the Vector Retained Assets (including any Liabilities relating to, arising out of or resulting from a claim by a holder of any such indebtedness, in its capacity as such) or (iii) any indebtedness set forth on Schedule 1.1(100)(iv); and

(v) all Liabilities reflected as Liabilities or obligations on the Vector Balance Sheet or the accounting records supporting such balance sheet, and all Liabilities arising or Assumed after the date of such balance sheet which, had they arisen or been Assumed on or before such date and been retained as of such date, would have been reflected on such balance sheet if prepared on a consistent basis, subject to any discharge of such Liabilities subsequent to the date of the Vector Balance Sheet.

Notwithstanding anything to the contrary herein, the Vector Retained Liabilities shall not include:

(x) any Liabilities that are expressly contemplated by this Agreement or any Ancillary Agreement (or the Schedules hereto or thereto) as Liabilities to be retained or Assumed by any member of the Spinco Group or for which any such Party is liable;

(y) any Contracts expressly Assumed by any member of the Spinco Group under this Agreement or any of the Ancillary Agreements; and

(z) any Liabilities expressly discharged pursuant to Section 2.4 of this Agreement.

In the event of any inconsistency or conflict which may arise in the application or interpretation of any of the foregoing provisions, for the purpose of determining what is and is not a Vector Liability, any item explicitly included on a Schedule referred to in this definition shall take priority over any provision of the text hereof including, for the avoidance of doubt, any interpretation of the definition of Spinco Assets.

Section 1.2 References; Interpretation. References in this Agreement to any gender include references to all genders, and references to the singular include references to the plural and vice versa. Unless the context otherwise requires, the words “include”, “includes” and “including” when used in this Agreement shall be deemed to be followed by the phrase “without limitation”. Unless the context otherwise requires, references in this Agreement to Articles, Sections, Exhibits and Schedules shall be deemed references to Articles and Sections of, and Exhibits and Schedules to, this Agreement. Unless the context otherwise requires, the words “hereof”, “hereby” and “herein” and words of similar meaning when used in this Agreement refer to this Agreement in its entirety and not to any particular Article, Section or provision of this Agreement.

Section 1.3 Relevant Time; Suspension.

(a) This Agreement shall be effective as of the Relevant Time.

(b) Notwithstanding Section 1.3(a) above, as between any of the Parties that are Affiliates, the provisions of, and the obligations under, this Agreement shall be suspended as between such Parties until the Relevant Time, other than for Sections 2.1, 2.2, 2.3 and 2.7, each of which will be effective as of the Relevant Time.

ARTICLE II

THE SEPARATION

Section 2.1 General. Subject to the terms and conditions of this Agreement, in accordance with the Plan of Reorganization set forth on Schedule 2.1 and to the extent not previously effected pursuant to the steps set forth in the Plan of Reorganization, the Parties shall, and shall cause their respective Affiliates to, effect the transactions contemplated by the Plan of Reorganization. It is the intent of the Parties that after consummation of the transactions contemplated thereby Vector Group shall be reorganized, to the extent necessary, such that following the consummation of such reorganization, subject to Section 2.6, (i) all of Vector's and its Subsidiaries' right, title and interest in and to the Spinco Assets will be owned or held by a member of the Spinco Group, the Spinco Business will be conducted by the members of the Spinco Group and all of the Spinco Liabilities will be Assumed directly or indirectly by (or remain with) a member of the Spinco Group and (iii) all of Vector's and its Subsidiaries' right, title and interest in and to the Vector Retained Assets will be owned or held by a member of the Vector Group, the Vector Retained Business will be conducted by the members of the Vector Group and all of the Vector Retained Liabilities will be Assumed directly or indirectly by (or remain with) a member of the Vector Group.

Section 2.2 Transfer of Assets.

(a) Subject to the terms and conditions of this Agreement, including those set forth in Section 9.2, on or prior to the Relevant Time and to the extent not already completed (and it being understood that some of such Transfers may occur following the date hereof and prior to the Relevant Time):

(i) Vector shall, on behalf of itself and its Subsidiaries, as applicable, transfer, contribute, assign and convey or cause to be transferred, contributed, assigned and conveyed ("Transfer") to Spinco, or another member of the Spinco Group, all of its and its Subsidiaries' right, title and interest in and to the Spinco Assets; and

(ii) Spinco shall, on behalf of itself and its Subsidiaries, as applicable, Transfer to Vector, or another member of the Vector Group, all of its and its Subsidiaries' right, title and interest in and to the Vector Retained Assets.

(b) Treatment of Shared Contracts. Without limiting the generality of the obligations set forth in Section 2.2(a), the Parties shall, and shall cause their respective Subsidiaries to, use their respective reasonable best efforts to work together (and, if necessary and desirable, to work with the third party to such Shared Contract) in an effort to divide, partially assign, modify and/or replicate (in whole or in part) the respective rights and obligations under and in respect of any Shared Contract, such that (a) a member of the Spinco Group is the beneficiary of the rights and is responsible for the obligations related to that portion of such Shared Contract relating to the Spinco Business (the "Spinco Portion"), which rights shall be Spinco Assets and which obligations shall be Spinco Liabilities and (b) a member of the Vector Group is the beneficiary of the rights and is responsible for the obligations related to such Shared Contract relating to the Vector Business (the "Vector Portion"), which rights shall be Vector Retained Assets and which obligations shall be Vector Liabilities. If the Parties, or their respective Subsidiaries, as applicable, do not or are not able to enter into an arrangement to formally divide, partially assign, modify and/or replicate such Shared Contract as contemplated by the previous sentence, then the Parties shall, and shall cause their respective Subsidiaries to, cooperate in any lawful arrangement to provide that a member of the Spinco Group shall receive the interest in the benefits and obligations of the Spinco Portion under such Shared Contract and a member of the Vector Group shall receive the interest in the benefits and obligations of the Vector Portion under such Shared Contract; provided, however, that no Party shall be required to expend any money or take any action in furtherance of this Section 2.2(b) that would require the expenditure of money (other than any payment obligations under the applicable Shared Contract).

(c) Consents. The Parties shall use their reasonable best efforts to obtain the required licenses, permits and authorizations issued by any Governmental Entity or parts thereof as contemplated by this Agreement.

Section 2.3 Assumption and Satisfaction of Liabilities. Except as otherwise specifically set forth in any Ancillary Agreement, from and after the Relevant Time, (a) Vector shall, or shall cause a member of the Vector Group to, accept, assume (or, as applicable, retain) and perform, discharge and fulfill, in accordance with their respective terms ("Assume"), all of the Vector Retained Liabilities and (b) Spinco shall, or shall cause a member of the Spinco Group to, Assume all the Spinco Liabilities, in each case, regardless of (i) when or where such Liabilities arose or arise, (ii) whether the facts upon which they are based occurred prior to, on or subsequent to the Relevant Time, (iii) where or against whom such Liabilities are asserted or determined, or (iv) whether arising from or alleged to arise from negligence, recklessness, violation of Law, fraud or misrepresentation by any member of the Vector Group or the Spinco Group, or any of their past or present respective directors, officers, employees, agents, Subsidiaries or Affiliates.

Section 2.4 Intercompany Accounts.

(a) Except as set forth in Section 2.4(b), Vector (and/or any member of the Vector Group) and Spinco (and/or any member of the Spinco Group), hereby terminate, effective as of the Relevant Time, any and all Contracts and intercompany Liabilities, whether or not in writing, between Vector (and/or any member of the Vector Group) and Spinco (and/or any member of the Spinco Group), that are effective or outstanding as of

immediately prior to the Relevant Time. No such terminated Contract (including any provision thereof that purports to survive termination) or intercompany Liability shall be of any further force or effect from and after the Relevant Time. Each Party shall, at the reasonable request of the other Party, take, or cause to be taken, such other actions as may be necessary to effect the foregoing.

(b) The provisions of Section 2.4(a) shall not apply to any of the following Contracts (or to any of the provisions thereof):

(i) this Agreement and the other Ancillary Agreements (and each other Contract expressly contemplated by this Agreement or any other Ancillary Agreements to be entered into or continued by the Parties or any of the members of their respective Groups after the Relevant Time);

(ii) any Contracts to which any Person, other than the Parties and their respective wholly owned Subsidiaries, is a Party (it being understood that to the extent that the rights and obligations of the Parties and the members of their respective Groups under any such Contracts constitute Vector Retained Assets, Spinco Assets or Vector Retained Liabilities or Spinco Liabilities, they shall be assigned pursuant to Section 2.1);

(iii) any Shared Contracts;

(iv) any Commercial Arrangements; and

(v) any intercompany trade payables due or trade receivables owed solely between Vector and/or any member of the Vector Group and Spinco and/or any member of the Spinco Group that are effective or outstanding as of immediately prior to the Relevant Time, which amounts shall be settled (and net amounts paid) as of the Relevant Time or as promptly as practicable thereafter (with all invoices for such payables due to be delivered by the Parties within five (5) Business Days following the Relevant Time and to be paid, in any event, within thirty (30) days of the receipt of such invoice) (except for any such intercompany payables or receivables arising pursuant to any Ancillary Agreements, which shall instead be settled in accordance with the terms of such Ancillary Agreements).

Section 2.5 Limitation of Liability.

(a) Except as provided in Section 3.4 or in the case of any knowing violation of Law, fraud or material misrepresentation, no Party shall have any Liability to the other Party in the event that any Information exchanged or provided pursuant to this Agreement which is an estimate or forecast, or which is based on an estimate or forecast, is found to be inaccurate.

(b) No Party or any Subsidiary thereof shall be liable to the other Party or any Subsidiary of the other Party based upon, arising out of or resulting from any Contract, arrangement, course of dealing or understanding existing on or prior to the Relevant Time (other than this Agreement, any Ancillary Agreement, any Commercial Arrangements, any Contract entered into in connection herewith or in order to consummate the transactions contemplated hereby or thereby or by the Plan of Reorganization).

Section 2.6 Transfers Not Effected on or Prior to the Relevant Time; Transfers Deemed Effective as of the Relevant Time.

(a) Subject to Section 9.2, to the extent that any Transfers contemplated by this Article II shall not have been consummated on or prior to the Relevant Time, the Parties shall use reasonable best efforts to effect such Transfers as promptly following the Relevant Time as shall be practicable. Nothing herein shall be deemed to require the Transfer of any Assets or the Assumption of any Liabilities which by their terms or operation of Law cannot be Transferred; provided, however, that the Parties and their respective Subsidiaries shall cooperate and use reasonable best efforts to seek to obtain any necessary Governmental Approvals for the Transfer of all Assets and Assumption of all Liabilities contemplated to be Transferred and Assumed pursuant to this Article II. In the event that any such Transfer of Assets or Assumption of Liabilities has not been consummated, from and after the Relevant Time (i) the Party retaining such Asset shall thereafter hold such Asset for the use and benefit of the Party entitled thereto (at the expense of the Person entitled thereto) and (ii) the Party intended to Assume such Liability shall, or shall cause the applicable member of its Group to, pay or reimburse the Party retaining such Liability for all amounts paid or incurred in connection with the retention of such Liability. In addition, the Party retaining such Asset or Liability shall, insofar as reasonably possible and to the extent permitted by applicable Law, treat such Asset or Liability in the ordinary course of business and take such other actions as may be reasonably requested by the Party to which such Asset is to be Transferred or by the Party that is to Assume such Liability in order to place such Party, insofar as reasonably possible, in the same position as if such Asset or Liability had been Transferred or Assumed as contemplated hereby and so that all the benefits and burdens relating to such Asset or Liability, including possession, use, risk of loss, potential for gain, and dominion, control and command over such Asset or Liability, are to inure from and after the Relevant Time to the member or members of the Vector Group or Spinco Group entitled to the receipt of such Asset or required to Assume such Liability. In furtherance of the foregoing, subject to Section 9.2, the Parties agree that, as of the Relevant Time, each Party shall be deemed to have acquired complete and sole beneficial ownership over all of the Assets, together with all rights, powers and privileges incident thereto, and shall be deemed to have Assumed in accordance with the terms of this Agreement all of the Liabilities, and all duties, obligations and responsibilities incident thereto, which such Party is entitled to acquire or required to Assume pursuant to the terms of this Agreement.

(b) If and when the Governmental Approvals, third-party consents and/or conditions, the absence or non-satisfaction of which caused the deferral of Transfer of any Asset or deferral of the Assumption of any Liability pursuant to Section 2.6(a), are obtained or satisfied, the Transfer, assignment, Assumption or novation of the applicable Asset or Liability shall be effected in accordance with and subject to the terms of this Agreement and/or the applicable Ancillary Agreement.

(c) The Party retaining any Asset or Liability due to the deferral of the Transfer of such Asset or the deferral of the Assumption of such Liability pursuant to Section 2.6(a) or otherwise shall not be obligated, in connection with the foregoing, to expend any money unless the necessary funds are advanced, assumed, or agreed in advance to be reimbursed by the Party entitled to such Asset or the Person intended to be subject to such Liability, other than reasonable attorneys' fees and recording or similar fees, all of which shall be promptly reimbursed by the Party entitled to such Asset or the Person intended to be subject to such Liability.

(d) Subject to Section 9.2, on and prior to the eighteen (18) month anniversary following the Relevant Time, if a Party owns any Asset, that, although not Transferred pursuant to this Agreement, is agreed by such Party and the other Party in their good faith judgment to be an Asset that more properly belongs to the other Party or a Subsidiary of the other Party, or an Asset that such other Party or Subsidiary was intended to have the right to continue to use (other than (for the avoidance of doubt), as between the Parties, for any Asset acquired from an unaffiliated third party by a Party or member of such Party's Group following the Relevant Time), then the Party owning such Asset shall, as applicable (i) Transfer any such Asset to the Party identified as the appropriate transferee and following such Transfer, such Asset shall be a Spinco Asset or Vector Retained Asset, as the case may be, or (ii) grant such mutually agreeable rights with respect to such Asset to permit such continued use, subject to, and consistent with this Agreement, including with respect to Assumption of associated Liabilities, in all events, subject to the Parties' agreement (I) as to the most cost efficient means of effecting such Transfer or grant of rights and (II) to share any incremental costs arising as a result of such Transfer.

(e) After the Relevant Time, each Party may receive mail, packages and other communications properly belonging to the other Party. Accordingly, at all times after the Relevant Time, each Party authorizes the other Party to receive and open all mail, packages and other communications received by such Party, and to the extent that they do not relate to the business of the receiving Party, the receiving Party shall promptly deliver such mail, packages or other communications (or, in case the same relate to both businesses, copies thereof) to the other Party as provided for in Section 9.6. The provisions of this Section 2.6(e) are not intended to, and shall not, be deemed to constitute an authorization by any Party to permit the other to accept service of process on its behalf and no Party is or shall be deemed to be the agent of the other Party for service of process purposes.

(f) With respect to Assets and Liabilities described in Section 2.6(a), unless otherwise required by a change in applicable Tax Law or by a final determination within the meaning of Section 1313(a) of the Code (or a similar determination under applicable state or local Law), each of Vector and Spinco shall, and shall cause the members of its respective Group to, (i) treat for all purposes of the Tax Disaffiliation Agreement (A) the deferred Assets as assets having been Transferred to and owned by the Party entitled to such Assets not later than the Relevant Time and (B) the deferred Liabilities as liabilities having been Assumed and owned by the Person intended to be subject to such Liabilities not later than the Relevant Time, and (ii) neither report nor take any income Tax position (on a Tax Return or otherwise) inconsistent with such treatment.

Section 2.7 Conveyancing and Assumption Instruments. In connection with, and in furtherance of, the Transfers of Assets and Assumptions of Liabilities contemplated by this Agreement, subject to Section 9.2, the Parties shall execute or cause to be executed, on or prior to the Relevant Time, by the appropriate entities, the Conveyancing and Assumption Instruments necessary to evidence the valid and effective Assumption by the applicable Party of its Assumed Liabilities and the valid Transfer to the applicable Party or member of such Party's Group of all right, title and interest in and to its Assets, in substantially the form contemplated hereby for Transfers and Assumptions to be effected pursuant to New York Law, the Laws of the United States or the applicable Laws of one of the other states of the United States, as applicable, in such other form as the Parties shall reasonably agree. The Transfer of capital stock shall be effected by means of executed stock powers and notation on the stock record books of the corporation or other legal entities involved and, only to the extent required by applicable Law, by notation on public registries.

Section 2.8 Novation of Liabilities.

(a) Each Party, at the request of the other Party, shall use reasonable best efforts (i) to obtain, or to cause to be obtained, any Consent, substitution or amendment required to novate or assign all obligations under Contracts, licenses and other Liabilities for which a member of such Party's Group and a member of the other Party's Group are prior to the Relevant Time jointly or severally liable and that do not constitute Liabilities of such other Party following the Relevant Time as provided in this Agreement (such other Party, the "Other Party"), or (ii) to obtain in writing the unconditional release of all parties to such arrangements (other than any member of the Group who Assumed or retained such Liability as set forth in this Agreement), so that, in any such case, the members of the applicable Group will be solely responsible for such Liabilities; provided, however, that no Party shall be obligated to pay any consideration therefor to any third party from whom any such Consent, substitution or amendment is requested (unless such Party is fully reimbursed by the requesting Party).

(b) If the Parties are unable to obtain, or to cause to be obtained, any such required Consent, release, substitution or amendment, the Other Party or a member of the Other Party's Group shall continue to be bound by such Contract, license or other obligation that does not constitute a Liability of such Other Party and, unless not permitted by Law or the terms thereof, as agent or subcontractor for such Party, the Party or member of such Party's Group who Assumed or retained such Liability as set forth in this Agreement (the "Liable Party") shall, or shall cause a member of its Group to, pay, perform and discharge fully all the obligations or other Liabilities of such Other Party or member of the Other Party's Group thereunder from and after the Relevant Time. The Liable Party shall indemnify the Other Party and hold each of them harmless against any Liabilities (other than Liabilities of such Other Party) arising in connection therewith; provided, however, that the Liable Party shall have no obligation to indemnify the Other Party losses resulting from their gross negligence, willful misconduct or bad faith. The Other Party shall, without further consideration, promptly pay and remit, or cause to be promptly paid or remitted, to the Liable Party or any member of the Liable Party's Group, any money, rights and other consideration received by it or any member of its Group in respect of such

performance by the Liable Party (unless any such consideration is an Asset of such Other Party pursuant to this Agreement). If and when any such Consent, release, substitution or amendment shall be obtained or such agreement, lease, license or other rights or obligations shall otherwise become assignable or able to be novated, the Other Party shall promptly Transfer all rights and Liabilities thereunder of any member of such Other Party's Group to the Liable Party, or to another member of the Liable Party's Group, without payment of any further consideration and the Liable Party, or another member of the Liable Party's Group, without the payment of any further consideration, shall Assume such rights and Liabilities.

Section 2.9 Guarantees.

(a) On or prior to the Relevant Time or as soon as practicable thereafter, (i) Vector shall (with the reasonable cooperation of the relevant beneficiary) use its reasonable best efforts to have any member of the Spinco Group removed as guarantor of or obligor for any Vector Retained Liability to the extent that they relate to Vector Retained Liabilities and (ii) Spinco shall (with the reasonable cooperation of the relevant beneficiary) use its reasonable best efforts to have any member of the Vector Group removed as guarantor of or obligor for any Spinco Liability to the extent that they relate to Spinco Liabilities.

(b) On or prior to the Relevant Time, to the extent required to obtain a release from a guaranty, surety bond or other credit support instrument (a "Guaranty Release"):

(i) of any member of the Vector Group, Spinco shall execute a guaranty agreement in the form of the existing guaranty, surety bond or other credit support instrument, except to the extent that such existing guaranty, surety bond or other credit support instrument contains representations, covenants or other terms or provisions either (A) with which Spinco would be reasonably unable to comply or (B) which would be reasonably expected to be breached; and

(ii) of any member of the Spinco Group, Vector shall execute a guaranty agreement in the form of the existing guaranty, surety bond or other credit support instrument, except to the extent that such existing guaranty, surety bond or other credit support instrument contains representations, covenants or other terms or provisions either (A) with which Spinco would be reasonably unable to comply or (B) which would be reasonably expected to be breached.

(c) If Vector or Spinco is unable to obtain, or to cause to be obtained, any such required removal as set forth in clauses (a) and (b) of this Section 2.9, (i) the relevant beneficiary shall indemnify and hold harmless the guarantor or obligor for any Indemnifiable Loss arising from or relating thereto (in accordance with the provisions of Article VI) and shall or shall cause one of its Subsidiaries to pay, perform and discharge fully all the obligations or other Liabilities of such guarantor or obligor thereunder, and (ii) each of Vector and Spinco, on behalf of themselves and the members of their respective Groups, agree not to renew or extend the term of, increase its obligations under, or Transfer to a third party, any guaranty or other obligation for which the other Party or member of

such Party's Group is or may be liable unless all obligations of such other Party and the members or member of such Party's Group with respect thereto are thereupon terminated by documentation reasonably satisfactory in form and substance to such Party; provided, however, that with respect to leases, in the event a Guaranty Release is not obtained and the relevant beneficiary wishes to extend the term of such guaranteed lease of such guaranteed lease, then such beneficiary shall have the option of extending the term if it provides such security as is reasonably satisfactory to the guarantor under such guaranteed lease.

Section 2.10 Bank Accounts.

(a) Vector and Spinco each agrees to take, or cause the members of their respective Groups to take, prior to the Relevant Time (or as soon as possible thereafter), all actions necessary to amend all Contracts governing each bank and brokerage account owned by Spinco or any member of the Spinco Group (collectively, the "Spinco Accounts"), including all Spinco Accounts listed or described on Schedule 2.10(a)(i), so that such Spinco Accounts, if currently linked (whether by automatic withdrawal, automatic deposit or any other authorization to transfer funds from or to, hereinafter "linked") to any bank or brokerage account owned by Vector or any other member of the Vector Group (collectively, the "Vector Accounts"), including all Vector Accounts listed or described on Schedule 2.10(a)(ii), are de-linked from such Vector Accounts.

(b) Vector and Spinco each agrees to take, or cause the members of their respective Groups to take, prior to the Relevant Time (or as soon as possible thereafter), all actions necessary to amend all Contracts governing the Vector Accounts so that such Vector Accounts, if currently linked to any Spinco Accounts, are de-linked from such Spinco Accounts.

(c) With respect to any outstanding checks issued by Vector or Spinco or any of their respective Subsidiaries prior to the Relevant Time, such outstanding checks shall be honored from and after the Relevant Time by the Person or Group owning the account on which the check is drawn, without limiting the ultimate allocation of Liability for such amounts under this Agreement or any other Ancillary Agreement.

Section 2.11 DISCLAIMER OF REPRESENTATIONS AND WARRANTIES. EACH OF VECTOR (ON BEHALF OF ITSELF AND EACH MEMBER OF THE VECTOR GROUP) AND SPINCO (ON BEHALF OF ITSELF AND EACH MEMBER OF THE SPINCO GROUP), UNDERSTANDS AND AGREES THAT, EXCEPT AS EXPRESSLY SET FORTH HEREIN, IN ANY ANCILLARY AGREEMENT OR IN ANY COMMERCIAL ARRANGEMENT, NO PARTY TO THIS AGREEMENT, ANY ANCILLARY AGREEMENT OR ANY OTHER AGREEMENT OR DOCUMENT CONTEMPLATED BY THIS AGREEMENT, ANY ANCILLARY AGREEMENTS OR OTHERWISE, IS REPRESENTING OR WARRANTING IN ANY WAY AS TO THE ASSETS, BUSINESSES OR LIABILITIES CONTRIBUTED, TRANSFERRED OR ASSUMED AS CONTEMPLATED HEREBY OR THEREBY, AS TO ANY CONSENTS OR GOVERNMENTAL APPROVALS REQUIRED IN CONNECTION HERewith OR THEREWITH, AS TO THE VALUE OR FREEDOM FROM ANY SECURITY INTERESTS OF, OR ANY OTHER MATTER CONCERNING, ANY ASSETS OF SUCH PARTY, OR AS TO THE ABSENCE OF ANY

DEFENSES OR RIGHT OF SETOFF OR FREEDOM FROM COUNTERCLAIM WITH RESPECT TO ANY ACTION OR OTHER ASSET, INCLUDING ACCOUNTS RECEIVABLE, OF ANY PARTY, OR AS TO THE LEGAL SUFFICIENCY OF ANY CONTRIBUTION, ASSIGNMENT, DOCUMENT, CERTIFICATE OR INSTRUMENT DELIVERED HEREUNDER TO CONVEY TITLE TO ANY ASSET OR THING OF VALUE UPON THE EXECUTION, DELIVERY AND FILING HEREOF OR THEREOF. EXCEPT AS MAY EXPRESSLY BE SET FORTH HEREIN OR IN ANY ANCILLARY AGREEMENT OR COMMERCIAL ARRANGEMENT, ALL SUCH ASSETS ARE BEING TRANSFERRED ON AN "AS IS," "WHERE IS" BASIS AND THE RESPECTIVE TRANSFEREES SHALL BEAR THE ECONOMIC AND LEGAL RISKS THAT (I) ANY CONVEYANCE SHALL PROVE TO BE INSUFFICIENT TO VEST IN THE TRANSFEREE GOOD TITLE, FREE AND CLEAR OF ANY SECURITY INTEREST AND (II) ANY NECESSARY CONSENTS OR GOVERNMENTAL APPROVALS ARE NOT OBTAINED OR THAT ANY REQUIREMENTS OF LAWS OR JUDGMENTS ARE NOT COMPLIED WITH.

ARTICLE III

CERTAIN ACTIONS AT OR PRIOR TO THE DISTRIBUTIONS

Section 3.1 Certificate of Incorporation; By-laws. On or prior to the Distribution Date, all necessary actions shall be taken to adopt the form of amended and restated certificate of incorporation and amended and restated by-laws filed by Spinco with the SEC as exhibits to the Form S-1.

Section 3.2 Directors. On or prior to the Distribution Date, Vector shall take all necessary action to cause the Board of Directors of Spinco (the "Spinco Board") to consist, as of or immediately following the Distribution, of the individuals identified in the Form S-1 as directors of Spinco, including causing the existing directors of Spinco to appoint such individuals and, where applicable, to resign from the Spinco Board.

Section 3.3 Resignations. On or prior to the Distribution Date, except as set forth on Schedule 3.3, (i) Vector shall cause all its employees and any employees of its Affiliates (excluding any employees of any member of the Spinco Group) to resign, effective as of the Distribution Date, from all positions as officers or directors of any member of the Spinco Group in which they serve, and (ii) Spinco shall cause all its employees and any employees of its Affiliates to resign, effective as of the Distribution Date, from all positions as officers or directors of any members of the Vector Group in which they serve.

Section 3.4 Cash Adjustment. Prior to the Relevant Time, either (i) Vector will transfer funds to Spinco or a member of the Spinco Group designated by it or (ii) Spinco will transfer or cause the transfer of funds to Vector or a member of the Vector Group designated by it, such that, on a consolidated basis, Spinco's cash and cash equivalents balance immediately prior to the Relevant Time shall equal at least \$200 million (net of each of the current and long-term portion of "Notes payable and other obligations" on the Spinco Balance Sheet).

Section 3.5 Ancillary Agreements. On or prior to the Relevant Time, each of Vector and Spinco shall enter into, and/or (where applicable) shall cause a member or members of their respective Group to enter into, the applicable Ancillary Agreements and any other Contracts in respect of the Distributions reasonably necessary or appropriate in connection with the transactions contemplated hereby and thereby.

Section 3.6 Commercial Arrangements. On or prior to the Relevant Time, each of Vector and Spinco shall enter into, and/or (where applicable) shall cause a member or members of their respective Group to enter into, the applicable Commercial Arrangements.

ARTICLE IV

THE DISTRIBUTION

Section 4.1 Stock Dividends by Vector. On the Distribution Date, Vector will cause the Distribution Agent to distribute 100% of the outstanding shares of Spinco Common Stock then owned by Vector to holders of Vector Common Stock (including Vector Common Stock underlying outstanding stock option awards and restricted stock awards subject to the terms and conditions set forth in the Employee Matters Agreement) on the Record Date, and to credit the appropriate class and number of such shares of Spinco Common Stock to book-entry accounts for each such holder of Vector Common Stock (including Vector Common Stock underlying outstanding stock option awards and restricted stock awards subject to the terms and conditions set forth in the Employee Matters Agreement). For stockholders of Vector who own Vector Common Stock through a broker or other nominee, their shares of Spinco Common Stock will be credited to their respective accounts by such broker or nominee. Each holder of Vector Common Stock (including Vector Common Stock underlying outstanding stock option awards and restricted stock awards subject to the terms and conditions set forth in the Employee Matters Agreement) on the Record Date will be entitled to receive in the Distribution one share of Spinco Common Stock for every two shares of Vector Common Stock held by such stockholder. No action by any such stockholder shall be necessary for such stockholder to receive the applicable number of shares of (and, if applicable, cash in lieu of any fractional shares pursuant to Section 4.2 hereof) Spinco Common Stock such stockholder is entitled to in the Distribution.

Section 4.2 Fractional Shares. Vector stockholders holding a number of shares of Vector Common Stock, on the Record Date, which would entitle such stockholders to receive less than one whole share of Spinco Common Stock in the Distribution, will receive cash in lieu of fractional shares. Fractional shares of Spinco Common Stock will not be distributed in the Distribution nor credited to book-entry accounts. The Distribution Agent shall, as soon as practicable after the Distribution Date (a) determine the number of whole shares and fractional shares of Spinco Common Stock allocable to each holder of record of Vector Common Stock as of the close of business on the Record Date (or in accordance with the applicable procedures of The Depository Trust Company, to members thereof), (b) aggregate all such fractional shares into whole shares and sell the whole shares obtained thereby in open market transactions, in each case, at then prevailing trading prices on behalf of holders who would otherwise be entitled to fractional share interests, and (c) distribute to each such holder, or for the benefit of each beneficial owner, such holder or owner's ratable share of the net proceeds of such sale, based upon the average gross selling price per share of Spinco Common Stock after making appropriate deductions for any amount required to be withheld for United States federal income Tax and other applicable Tax purposes. Spinco shall bear the cost of brokerage fees incurred in connection with these sales of fractional shares, which sales shall occur as soon after the Distribution Date as practicable and as determined by the Distribution Agent. None of Vector, Spinco or the Distribution Agent will guarantee any minimum sale price for the fractional shares of Spinco Common Stock. None of Vector or Spinco will pay any interest on the proceeds from the sale of fractional shares. The Distribution Agent acting on behalf of Spinco will have the sole discretion to select the broker-dealers through which to sell the aggregated fractional shares and to determine when, how and at what price to sell such shares. Neither the Distribution Agent nor the broker-dealers through which the aggregated fractional shares are sold will be Affiliates of Vector or Spinco.

Section 4.3 Actions in Connection with the Distribution.

(a) Spinco shall file such amendments and supplements to its Form S-1 as may be necessary or advisable in order to cause the same to become and remain effective as required by the SEC or federal, state or other applicable securities Laws. Spinco shall mail or otherwise distribute to the holders of Vector Common Stock as of the Record Date, on or prior to the Distribution Date, the prospectus included in its Form S-1, as well as any other information concerning Spinco, its business, operations and management, the Plan of Reorganization and such other matters as may be necessary or advisable or as may be required by Law.

(b) Each of Spinco and Vector shall cooperate in preparing, filing with the SEC or similar authority and causing to become effective registration statements or amendments thereof which are required to reflect the establishment of, or amendments to, any employee benefit and other plans necessary or appropriate in connection with the Plan of Reorganization or other transactions contemplated by this Agreement and the Ancillary Agreements. Spinco shall prepare and, in accordance with applicable Law, file with the SEC or similar authority any such documentation that is necessary or desirable to effectuate the Distribution, and Vector and Spinco shall each use reasonable best efforts to obtain all necessary approvals from the SEC with respect thereto as soon as practicable.

(c) Spinco shall prepare and file, and shall use reasonable best efforts to have approved and made effective, an application for the original listing of the Spinco Common Stock to be distributed in the Distribution on the NYSE, subject to official notice of distribution.

Section 4.4 Sole Discretion of Vector. The Vector Board shall, in its sole and absolute discretion, determine the Distribution Date and all terms of the Distribution, including the form, structure and terms of any transactions and/or offerings to effect the Distribution and the timing of and conditions to the consummation thereof. In addition, the Vector Board may at any time and from time to time until the completion of the Distribution decide to abandon any or all of the Distribution or modify or change the terms of the Distribution, including by accelerating or delaying the timing of the consummation of all or part of any Distribution.

Section 4.5 Conditions to the Distribution. The Distribution is subject to the satisfaction of the following conditions or the Vector Board's waiver of the following conditions:

(a) the Vector Board will, in its sole and absolute discretion, have authorized and approved (i) the Plan of Reorganization, (ii) any other transfers of Assets and assumptions of Liabilities contemplated by this Agreement and any related agreements with respect to Spinco and (iii) the Distribution, and will not have withdrawn that authorization and approval;

(b) the Vector Board will have declared the Distribution of 100% of the outstanding shares of Spinco Common Stock to holders Vector Common Stock (including Vector Common Stock underlying outstanding stock option awards and restricted stock awards);

(c) the SEC will have declared Spinco's Registration Statement on Form S-1 effective under the Securities Act, no stop order suspending the effectiveness of the Registration Statement will be in effect, and no proceedings for that purpose will be pending before or threatened by the SEC;

(d) the Spinco Common Stock to be delivered in the Distribution shall have been approved for listing on NYSE, subject to official notice of distribution;

(e) the Plan of Reorganization will have been completed;

(f) Vector shall have received an opinion of Sullivan & Cromwell LLP, in form and substance satisfactory to the Vector Board, regarding the U.S. federal income Tax treatment of the Distribution and certain related transactions;

(g) no order, injunction or decree that would prevent the consummation of the Distribution will be threatened, pending or issued (and still in effect) by any governmental entity of competent jurisdiction, no other legal restraint or prohibition preventing the consummation of the Distribution will be in effect, and no other event outside the control of Vector will have occurred or failed to occur that prevents the consummation of the Distribution;

(h) no events or developments will have occurred or shall exist prior to the Distribution that, in the judgment of the Vector Board, would result in the Distribution having a material adverse effect on Vector or its stockholders;

(i) Vector and Spinco will have executed and delivered this Agreement, the Tax Disaffiliation Agreement, the Employee Matters Agreement, the Transition Services Agreement and all other Ancillary Agreements related to the Distribution; and

(j) the actions set forth in Section 3.1, Section 3.2, and Section 3.3 shall have been completed.

ARTICLE V

CERTAIN COVENANTS

Section 5.1 Financial Statements and Accounting. Each Party agrees to provide the following assistance and access set forth in subsections (a), (b) and (c) of this Section 5.1, (i) during the one (1) year period following the Relevant Time in connection with the preparation and audit of each of the Party's financial statements for the year ended December 31, 2021, the preparation and review of each Party's interim financial statements beginning with the nine (9) months ended September 30, 2021 the printing, filing and public dissemination of such financial statements, the audit of each Party's internal control over financial reporting and management's assessment thereof and management's assessment of each Party's disclosure

controls and procedures, if required, in each case made as of December 31, 2021; (ii) following such initial one (1) year period, with the consent of the other Party (with such consent not to be unreasonably withheld, delayed or conditioned) for reasonable business purposes; (iii) in the event that any Party changes its auditors within two (2) years after the Relevant Time, then such Party may request reasonable access on the terms set forth in this Section 5.1 for a period of up to one hundred eighty (180) days from the date of such change; and (iv) from time to time following the Relevant Time, to the extent reasonably necessary to respond (and for the limited purpose of responding) to any written request or official comment from a Governmental Entity, such as in connection with responding to a comment letter from the SEC:

(a) Annual and Interim Financial Statements. Each Party shall provide or provide access to the other Party on a timely basis of all Information reasonably required to meet its schedule for the preparation, printing, filing, and public dissemination of its annual financial statements and for management's assessment of the effectiveness of its disclosure controls and procedures and its internal control over financial reporting in accordance with Items 307 and 308, respectively, of Regulation S-K and, to the extent applicable to such Party, its auditor's audit of its internal control over financial reporting and management's assessment thereof in accordance with Section 404 of the Sarbanes-Oxley Act of 2002 and the SEC's and Public Company Accounting Oversight Board's rules and auditing standards thereunder, if required (such assessments and audit being referred to as the "Internal Control Audit and Management Assessments"), and for the preparation, printing, filing and public dissemination of its interim financial statements. Without limiting the generality of the foregoing, each Party will provide all required financial and other Information with respect to itself and its Subsidiaries to its auditors in a sufficient and reasonable time and in sufficient detail to permit its auditors to take all steps and perform all reviews necessary to provide sufficient assistance to the other Party's auditors with respect to Information to be included or contained in such other Party's annual or interim financial statements and to permit such other Party's auditors and management to complete the Internal Control Audit and Management Assessments, if required.

(b) Access to Personnel and Records. Each Party shall authorize its respective auditors to make reasonably available to the other Party's auditors (such other Party's auditors, collectively, the "Other Party's Auditors") both the personnel who performed or are performing the annual audits of such audited Party (such Party with respect to its own audit, the "Audited Party") and work papers related to the annual audits of such Audited Party, in all cases within a reasonable time prior to such Audited Party's auditors' opinion date, so that the Other Party's Auditors are able to perform the procedures they reasonably consider necessary to take responsibility for the work of the Audited Party's auditors as it relates to their auditors' report on such other Party's financial statements, all within sufficient time to enable such other Party to meet its timetable for the printing, filing and public dissemination of its annual financial statements. Each Party shall make reasonably available to the Other Party's Auditors and management its personnel and Records in a reasonable time prior to the Other Party's Auditors' opinion date and other Party's management's assessment date so that the Other Party's Auditors and the Other Party's management are able to perform the procedures they reasonably consider necessary to conduct the Internal Control Audit and Management Assessments.

(c) Annual Reports. Each Party will deliver to the other Party a substantially final draft, as soon as the same is prepared, of the first report to be filed with the SEC (or otherwise) that includes their respective financial statements (in the form expected to be covered by the audit report of such Party's independent auditors) for the year ended December 31, 2021 (such reports, collectively, the "Annual Reports"); provided, however, that each Party may continue to revise its respective Annual Report prior to the filing thereof, which changes will be delivered to the other Party as soon as reasonably practicable; provided, further, that each Party's personnel will actively consult with the other Party's personnel regarding any material changes which they may consider making to its respective Annual Report and related disclosures prior to the anticipated filing with the SEC, with particular focus on any changes which could reasonably be expected to have an effect upon the other Party's financial statements or related disclosures.

Nothing in this Section 5.1 shall require any Party to violate any agreement with any third party regarding the confidentiality of confidential and proprietary Information relating to that third party or its business; provided, however, that in the event that a Party is required under this Section 5.1 to disclose any such Information, such Party shall use reasonable best efforts to seek to obtain such third party's written consent to the disclosure of such Information.

Section 5.2 Further Assurances.

(a) In addition to and without limiting the actions specifically provided for elsewhere in this Agreement, including Section 2.6, each of the Parties shall cooperate with each other and use (and will cause their respective Subsidiaries and Affiliates to use) reasonable best efforts, on and after the Relevant Time, to take, or to cause to be taken, all actions, and to do, or to cause to be done, all things reasonably necessary on its part under applicable Law or contractual obligations to consummate and make effective the transactions contemplated by this Agreement the Ancillary Agreements and Commercial Arrangements.

(b) Without limiting the foregoing, on and after the Relevant Time, each Party shall cooperate with the other Party, and without any further consideration, but at the expense of the requesting Party from and after the Relevant Time, to execute and deliver, or use reasonable best efforts to cause to be executed and delivered, all instruments, including instruments of Transfer, and to make all filings with, and to obtain all Governmental Approvals, any permit or license, and to take all such other actions as such Party may reasonably be requested to take by the other Party from time to time, consistent with the terms of this Agreement and the Ancillary Agreements, in order to effectuate the provisions and purposes of this Agreement and the Ancillary Agreements and the Transfers of the applicable Assets and the assignment and Assumption of the applicable Liabilities and the other transactions contemplated hereby and thereby. Without limiting the foregoing, each Party will, at the reasonable request, cost and expense of the other Party, take such other actions as may be reasonably necessary to vest in such other Party good and marketable title to the Assets allocated to such Party under this Agreement or any of the Ancillary Agreements, free and clear of any Security Interest, if and to the extent it is practicable to do so.

INDEMNIFICATION

Section 6.1 Release of Pre-Distribution Claims.

(a) Except (i) as provided in Section 6.1(b), (ii) as may be otherwise expressly provided in this Agreement or any Ancillary Agreement and (iii) for any matter for which any Party is entitled to indemnification or contribution pursuant to this Article VI, each Party, for itself and each member of its respective Group, their respective Affiliates and all Persons who at any time prior to the Relevant Time were directors, officers, agents or employees of any member of their Group (in their respective capacities as such), in each case, together with their respective heirs, executors, administrators, successors and assigns, do hereby remise, release and forever discharge the other Party and the other members of such other Party's Group, their respective Affiliates and all Persons who at any time prior to the Relevant Time were stockholders, directors, officers, agents or employees of any member of such other Party's Group (in their respective capacities as such), in each case, together with their respective heirs, executors, administrators, successors and assigns, from any and all Liabilities whatsoever, whether at Law or in equity (including any right of contribution), whether arising under any Contract, by operation of Law or otherwise, existing or arising from any acts or events occurring or failing to occur or alleged to have occurred or to have failed to occur or any conditions existing or alleged to have existed on or before the Relevant Time, including in connection with the Plan of Reorganization and all other activities to implement the Distribution and any of the other transactions contemplated hereunder and under the Ancillary Agreements.

(b) Nothing contained in Sections 6.1(a) and 2.4(a) shall impair or otherwise affect any right of any Party, and as applicable, a member of the Party's Group to enforce this Agreement, any Ancillary Agreement or any agreements, arrangements, commitments or understandings contemplated in this Agreement or any Ancillary Agreement that continue in effect after the Relevant Time. In addition, nothing contained in Section 6.1(a) shall release any Person from:

(i) any Liability Assumed, Transferred or allocated to a Party or a member of such Party's Group pursuant to or contemplated by, or any other Liability of any member of such Group under, this Agreement or any Ancillary Agreement including (A) with respect to Vector, any Vector Retained Liability and (B) with respect to Spinco, any Spinco Liability;

(ii) any Liabilities that may arise out of the Vector Retained Assets or Spinco Assets;

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

(iv) any Liability for unpaid amounts for products or services or refunds owing on products or services due on a value-received basis for work done by a member of one Group at the request or on behalf of a member of the other Group;

(v) any Liability provided in or resulting from any other Contract or understanding that is entered into or in effect after the Relevant Time between any Party (and/or a member of such Party's Group), on the one hand, and the other Party or Parties (and/or a member of such Party's Group), on the other hand;

(vi) any Liability with respect to any Commercial Arrangements set forth on Schedule 1.1(16);

(vii) any Liability that the Parties may have with respect to indemnification or contribution pursuant to this Agreement or otherwise for claims brought against the Parties by third parties, which Liability shall be governed by the provisions of this Article VI and, if applicable, the appropriate provisions of the Ancillary Agreements.

In addition, nothing contained in Section 6.1(a) shall release Vector from indemnifying any director, officer or employee of Spinco who was a director, officer or employee of Vector or any of its Affiliates on or prior to the Relevant Time, as the case may be, to the extent such director, officer or employee is or becomes a named defendant in any Action with respect to which he or she was entitled to such indemnification pursuant to then existing obligations.

(c) Each Party shall not, and shall not permit any member of its Group to make, any claim, demand or offset, or commence any Action asserting any claim or demand, including any claim of contribution or any indemnification, against the other Party or any member of the other Party's Group with respect to any Liabilities released pursuant to Section 6.1(a).

(d) It is the intent of each Party, by virtue of the provisions of this Section 6.1, to provide for a full and complete release and discharge of all Liabilities existing or arising from all acts and events occurring or failing to occur or alleged to have occurred or to have failed to occur and all conditions existing or alleged to have existed on or before the Relevant Time, whether known or unknown, between or among any Party (and/or a member of such Party's Group), on the one hand, and the other Party (and/or a member of such Party's Group), on the other hand (including any contractual agreements or arrangements existing or alleged to exist between or among any such members on or before the Relevant Time), except as specifically set forth in Sections 6.1(a) and 6.1(b). At any time, at the reasonable request of the other Party, each Party shall cause each member of its respective Group and, to the extent practicable each other Person on whose behalf it released Liabilities pursuant to this Section 6.1 to execute and deliver releases reflecting the provisions hereof.

Section 6.2 Indemnification by Vector. Except as otherwise specifically set forth in any provision of this Agreement or of any Ancillary Agreement, following the Distribution Date (with respect to the Spinco Indemnitees), Vector shall and shall cause the other members of the Vector Group to indemnify, defend and hold harmless the Spinco Indemnitees from and against any and all Indemnifiable Losses of the Spinco Indemnitees arising out of, by reason of or otherwise in connection with (i) the Vector Retained Liabilities or alleged Vector Retained Liabilities, (ii) any Liabilities arising out of Vector Retained Assets or alleged Vector Retained Assets or (iii) any breach by Vector of any provision of this Agreement or any Ancillary Agreement unless such Ancillary Agreement expressly provides for separate indemnification therein, in which case any such indemnification claims shall be made thereunder.

Section 6.3 Indemnification by Spinco. Except as otherwise specifically set forth in any provision of this Agreement or of any Ancillary Agreement, Spinco shall and shall cause the other members of the Spinco Group to indemnify, defend and hold harmless the Vector Indemnitees from and against any and all Indemnifiable Losses of the Vector Indemnitees arising out of, by reason of or otherwise in connection with (i) the Spinco Liabilities or alleged Spinco Liabilities, (ii) any Liabilities arising out of Spinco Assets or alleged Spinco Assets or (iii) any breach by Spinco of any provision of this Agreement or any Ancillary Agreement unless such Ancillary Agreement expressly provides for separate indemnification therein, in which case any such indemnification claims shall be made thereunder.

Section 6.4 Procedures for Indemnification.

(a) An Indemnitee shall give the Indemnifying Party notice of any matter that an Indemnitee has determined has given or could give rise to a right of indemnification under this Agreement (other than a Third Party Claim which shall be governed by Section 6.4(b)), within thirty (30) days of such determination, stating the amount of the Indemnifiable Loss claimed, if known, and method of computation thereof, and containing a reference to the provisions of this Agreement in respect of which such right of indemnification is claimed by such Indemnitee or arises; provided, however, that the failure to provide such written notice shall not release the Indemnifying Party from any of its obligations except and solely to the extent the Indemnifying Party shall have been actually prejudiced as a result of such failure.

(b) Third Party Claims. If a claim or demand is made against a Vector Indemnitee or a Spinco Indemnitee (each, an "Indemnitee") by any Person who is not a party to this Agreement or a member of the Vector Group or Spinco Group (a "Third Party Claim") as to which such Indemnitee is or may be entitled to indemnification pursuant to this Agreement, such Indemnitee shall notify the Party that is or may be required pursuant to this Article VI or pursuant to any Ancillary Agreement to make such indemnification (the "Indemnifying Party") in writing, and in reasonable detail, of the Third Party Claim promptly and in any event by the date (the "Outside Notice Date") that is the tenth (10th) Business Day after receipt by such Indemnitee of written notice of the Third Party Claim (such written notice, the "Third Party Claim Notice"); provided, however, that the failure to provide the Third Party Claim Notice of any such Third Party Claim pursuant to this sentence shall not affect the indemnification provided hereunder except to the extent the Indemnifying Party shall have been actually prejudiced as a result of such failure (except that the Indemnifying Party shall not be liable for any expenses incurred during the period beginning immediately after the Outside Notice Date and ending on the date that the Indemnitee gives the required Third Party Claim Notice). Thereafter, the Indemnitee shall deliver to the Indemnifying Party, promptly (and in any event within ten (10) Business Days) after the Indemnitee's receipt thereof, copies of all notices and documents (including court papers) received by the Indemnitee relating to the Third Party Claim.

(c) Other than in the case of (i) indemnification pursuant to the Tax Disaffiliation Agreement or (ii) indemnification by a beneficiary Party of a guarantor Party pursuant to Section 2.9(c) (the defense of which shall be assumed and controlled by the beneficiary Party), an Indemnifying Party shall be entitled to participate in the defense thereof and, if it so chooses and acknowledges in writing its obligation to indemnify the Indemnitee therefor, to assume the defense thereof with counsel selected by the Indemnifying Party, provided, however, that such counsel is not reasonably objected to by the Indemnitee. Should the Indemnifying Party so elect to assume the defense of a Third Party Claim, the Indemnifying Party shall, within thirty (30) days following receipt of the Third Party Claim Notice (or sooner if the nature of the Third Party Claim so requires), notify the Indemnitee of its intent to do so, and the Indemnifying Party shall thereafter not be liable to the Indemnitee for legal or other expenses subsequently incurred by the Indemnitee in connection with the defense thereof; provided, however, that such Indemnitee shall have the right to employ counsel to represent such Indemnitee if, in such Indemnitee's reasonable judgment, a conflict of interest between such Indemnitee and such Indemnifying Party exists in respect of such claim which would make representation of both such parties by one counsel inappropriate, and in such event the fees and expenses of such separate counsel shall be paid by such Indemnifying Party. If the Indemnifying Party assumes such defense, the Indemnitee shall have the right to participate in the defense thereof and to employ counsel, subject to the proviso of the preceding sentence, at its own expense, separate from the counsel employed by the Indemnifying Party, it being understood that the Indemnifying Party shall control such defense. The Indemnifying Party shall be liable for the fees and expenses of counsel employed by the Indemnitee for any period during which the Indemnifying Party has failed to or elected not to assume the defense thereof (other than during the period prior to the time the Indemnitee shall have given notice of the Third Party Claim as provided above); provided, further, that if the Indemnifying Party has assumed the defense of the Third Party Claim but has specified, and continues to assert, any reservations or exceptions to such defense, then, in any such case, the reasonable fees and expenses of one separate counsel for all Indemnitees shall be borne by the Indemnifying Party. Notwithstanding anything to the contrary contained herein, a Party shall not be required to provide notice to the other Party for any Third Party Claims for which such Party is providing legal support pursuant to the Transition Services Agreement to the extent that such other Party has received notice in such capacity.

(d) If the Indemnifying Party acknowledges in writing responsibility under this Article VI for a Third Party Claim, regardless of the Indemnifying Party's election to assume the defense thereof or not in accordance with the provisions of Section 6.4(c), then in no event will the Indemnitee admit any Liability with respect to, or settle, compromise or discharge, any Third Party Claim without the Indemnifying Party's prior written consent; provided, however, that the Indemnitee shall have the right to settle, compromise or discharge such Third Party Claim without the consent of the Indemnifying Party if the Indemnitee releases the Indemnifying Party from its indemnification obligation hereunder

in writing with respect to such Third Party Claim and such settlement, compromise or discharge would not otherwise adversely affect the Indemnifying Party. If the Indemnifying Party acknowledges in writing Liability for a Third Party Claim, the Indemnitee will agree to any settlement, compromise or discharge of a Third Party Claim that the Indemnifying Party may recommend and that by its terms obligates the Indemnifying Party to pay the full amount of the Liability in connection with such Third Party Claim and releases the Indemnitee completely in connection with such Third Party Claim and that would not otherwise adversely affect the Indemnitee or admit any wrongdoing by the Indemnitee. If an Indemnifying Party elects not to assume the defense of a Third Party Claim, or fails to notify an Indemnitee of its election to do so as provided herein, or an Indemnifying Party refuses to acknowledge in writing or otherwise disputes its responsibility for such Third Party Claim, such Indemnitee may compromise, settle or defend such Third Party Claim.

(e) In the event and to the extent of payment by an Indemnifying Party to any Indemnitee in connection with any Third Party Claim, such Indemnifying Party shall be subrogated to and shall stand in the place of such Indemnitee as to any events or circumstances in respect of which such Indemnitee may have any right or claim relating to such Third Party Claim against any claimant or plaintiff asserting such Third Party Claim. Such Indemnitee shall cooperate with such Indemnifying Party in a reasonable manner, and at the cost and expense of such Indemnifying Party, in prosecuting any subrogated right or claim.

Section 6.5 Cooperation in Defense and Settlement.

(a) With respect to any Third Party Claim, the Parties shall cooperate as may reasonably be required in connection with the investigation, defense, prosecution and/or settlement of any Third Party Claim. In furtherance of this obligation, the Parties agree that if an Indemnifying Party chooses to assume the defense of, or to compromise or settle, any Third Party Claim, the Indemnitee shall use its commercially reasonable efforts to make available to the Indemnifying Party, upon written request, (x) their former and then current directors, officers, employees and agents and those of their subsidiaries as witnesses and (y) as soon as reasonably practicable following the receipt of such written request, any agreements, books, records, files or other documents within its control or which it otherwise has the ability to make available, to the extent that (i) any such Person, agreements, books, records, files or other documents may reasonably be required in connection with such defense, settlement, prosecution or compromise and (ii) making such Person, agreements, books records or other documents so available would not constitute a waiver of the attorney-client privilege of the Indemnitee. At the request of an Indemnifying Party, an Indemnitee shall enter into a reasonably acceptable joint defense agreement.

(b) Each of Vector and Spinco agrees that at all times from and after the Relevant Time, if an Action is commenced by a third party with respect to which one or more named Parties (or any member of such respective Party's Group) is a nominal defendant and/or such Action is otherwise not a Liability allocated to such named Party under this Agreement or any Ancillary Agreement, then the other Party shall use reasonable best efforts to cause such nominal defendant to be removed from such Action, as soon as reasonably practicable.

(c) Except in the case of fraud or willful misconduct and except as set forth in Section 9.20, the remedies provided in this Article VI shall be the exclusive remedy and shall preclude assertion by any Indemnatee of any other rights or the seeking of any and all other remedies against any Indemnifying Party.

Section 6.6 Indemnification Payments. Indemnification required by this Article VI shall be made by periodic payments of the amount thereof in a timely fashion during the course of the investigation or defense, as and when bills are received or an Indemnifiable Loss or Liability is incurred. For all Tax purposes and to the extent permitted by applicable Law, the Parties hereto shall treat (i) any payment (other than payments representing interest) made pursuant to this Article VI as a capital contribution or a distribution, as the case may be, immediately prior to the Distribution and (ii) any payment of interest as taxable or deductible, as the case may be, to the Party entitled under this Agreement to retain such payment or required under this Agreement to make such payment, in either case except as otherwise required by applicable Law.

Section 6.7 Contribution.

(a) If the indemnification provided for in Sections 6.2 and 6.3 is unavailable to, or insufficient to hold harmless an Indemnatee under this Agreement or any Ancillary Agreement in respect of any Liabilities referred to herein or therein, then the relevant Indemnifying Party shall contribute to the amount paid or payable by such Indemnatee as a result of such Liabilities in such proportion as is appropriate to reflect the relative fault of such Indemnifying Party and the Indemnatee in connection with the actions or omissions that resulted in Liabilities as well as any other relevant equitable considerations. With respect to the foregoing, the relative fault of such Indemnifying Party and Indemnatee shall be determined by reference to, among other things, the Information supplied by such Indemnifying Party or Indemnatee, and the Parties' relative intent, knowledge, access to Information and opportunity to correct or prevent any statement or omission.

(b) The Parties agree that it would not be just and equitable if contribution pursuant to this Section 6.7 were determined by a pro rata allocation or by any other method of allocation that does not take account of the equitable considerations referred to in Section 6.7(a). The amount paid or payable by an Indemnatee as a result of the Liabilities referred to in Section 6.7(a) shall be deemed to include, subject to the limitations set forth above, any legal or other fees or expenses reasonably incurred by such Indemnatee in connection with investigating any claim or defending any Action. 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.

Section 6.8 Indemnification Obligations Net of Insurance Proceeds and Other Amounts.

(a) Any Indemnifiable Loss subject to indemnification or contribution pursuant to this Article VI will be calculated (i) net of Insurance Proceeds that actually reduce the amount of the Indemnifiable Loss, (ii) net of any proceeds received by the Indemnitee from any third party for indemnification for such Liability that actually reduce the amount of the Indemnifiable Loss ("Third Party Proceeds"), and (iii) net of any Tax benefits actually realized in accordance with, and subject to, the principles set forth or referred to in the Tax Disaffiliation Agreement, and increased in accordance with, and subject to, the principles set forth in the Tax Disaffiliation Agreement. Accordingly, the amount which any Indemnifying Party is required to pay pursuant to this Article VI to any Indemnitee pursuant to this Article VI will be reduced by any Insurance Proceeds or Third Party Proceeds theretofore actually recovered by or on behalf of the Indemnitee in respect of the related Indemnifiable Loss. If an Indemnitee receives a payment required by this Agreement from an Indemnifying Party in respect of any Indemnifiable Loss (an "Indemnity Payment") and subsequently receives Insurance Proceeds or Third Party Proceeds, then the Indemnitee will pay to the Indemnifying Party an amount equal to the excess of the Indemnity Payment received over the amount of the Indemnity Payment that would have been due if the Insurance Proceeds or Third Party Proceeds had been received, realized or recovered before the Indemnity Payment was made.

(b) The Parties acknowledge that the indemnification and contributions hereof do not relieve any insurer who would otherwise be obligated to pay any claim to pay such claim. In furtherance of the foregoing, the Indemnitee shall use reasonable best efforts to seek to collect or recover any third-party Insurance Proceeds and any Third Party Proceeds (other than Insurance Proceeds under an arrangement where future premiums are adjusted to reflect prior claims in excess of prior premiums) to which the Indemnitee is entitled in connection with any Indemnifiable Loss for which the Indemnitee seeks contribution or indemnification pursuant to this Article VI; provided, however, that the Indemnitee's inability to collect or recover any such Insurance Proceeds or Third Party Proceeds shall not limit the Indemnifying Party's obligations hereunder.

Section 6.9 Additional Matters; Survival of Indemnities.

(a) The indemnity and contribution agreements contained in this Article VI shall remain operative and in full force and effect, regardless of (i) any investigation made by or on behalf of any Indemnitee; (ii) the knowledge by the Indemnitee of Indemnifiable Losses for which it might be entitled to indemnification or contribution hereunder; and (iii) any termination of this Agreement.

(b) The rights and obligations of each Party and their respective Indemnitees under this Article VI shall survive the sale or other Transfer by any Party or its respective Subsidiaries of any Assets or businesses or the assignment by it of any Liabilities.

(c) Each Party shall, and shall cause the members of its respective Group to, preserve and keep their Records relating to financial reporting, internal audit, employee benefits, past acquisition or disposition transactions, claims, demands, actions, and email files and backup tapes regarding any of the foregoing as such pertains to any period prior to the Relevant Time in their possession, whether in electronic form or otherwise, until the latest of, as applicable (i) ten (10) years following the Distribution Date or (ii) the date on which such Records are no longer required to be retained pursuant to such Party's applicable record retention policy and schedules as in effect immediately prior to the Distribution Date; provided, however, to the extent the Tax Disaffiliation Agreement provides for a longer period of retention of Tax Records, such longer period as provided in the Tax Disaffiliation Agreement shall control.

ARTICLE VII

CONFIDENTIALITY; ACCESS TO INFORMATION

Section 7.1 Provision of Corporate Records. Other than in circumstances in which indemnification is sought pursuant to Article VI (in which event the provisions of such Article will govern) or for matters related to provision of Tax records (in which event the provisions of the Tax Disaffiliation Agreement will govern), and subject to appropriate restrictions for classified, privileged or Confidential Information:

(a) After the Relevant Time, upon the prior written request by Spinco for specific and identified Information which relates to (x) Spinco or the conduct of the Spinco Business up to the Distribution Date, or (y) any Ancillary Agreement to which Vector and Spinco are parties, Vector shall provide, as soon as reasonably practicable following the receipt of such request, appropriate copies of such Information (or the originals thereof if the Party making the request has a reasonable need for such originals) in the possession or control of Vector or any of its Affiliates or Subsidiaries, but only to the extent such items so relate and are not already in the possession or control of Spinco.

(b) After the Relevant Time, upon the prior written request by Vector for specific and identified Information which relates to (x) Vector or the conduct of the Vector Retained Business up to the Distribution Date, or (y) any Ancillary Agreement to which Spinco and Vector are parties, Spinco shall provide, as soon as reasonably practicable following the receipt of such request, appropriate copies of such Information (or the originals thereof if the Party making the request has a reasonable need for such originals) in the possession or control of Spinco or any of its Subsidiaries, but only to the extent such items so relate and are not already in the possession or control of Vector.

Section 7.2 Access to Information. Other than in circumstances in which indemnification is sought pursuant to Article VI (in which event the provisions of such Article will govern) or for access with respect to Tax matters (in which event the provisions of the Tax Disaffiliation Agreement will govern), from and after the Relevant Time, each of Vector and Spinco shall afford to the other and its authorized accountants, counsel and other designated representatives reasonable access during normal business hours, subject to appropriate restrictions for classified, privileged or Confidential Information, to the personnel, properties, and Information of such Party and its Subsidiaries insofar as such access is reasonably required by the other Party and relates to (x) such other Party or the conduct of its business prior to the Relevant Time or

(y) any Ancillary Agreement to which each of the Party requesting such access and the Party requested to grant such access are parties. Nothing in this Section 7.2 shall require any Party to violate any agreement with any third party regarding the confidentiality of confidential and proprietary information relating to that third party or its business; provided, however, that in the event that a Party is required to disclose any such Information, such Party shall use reasonable best efforts to seek to obtain such third party Consent to the disclosure of such Information. Nothing herein shall alter or affect any confidentiality provisions of any of the Ancillary Agreements, or any Commercial Arrangement.

Section 7.3 Witness Services. At all times from and after the Relevant Time, each of Vector and Spinco shall use its reasonable best efforts to make available to the others, upon reasonable written request, its and its Subsidiaries' officers, directors, employees, consultants and agents as witnesses to the extent that (i) such Persons may reasonably be required to testify in connection with the prosecution or defense of any Action in which the requesting Party may from time to time be involved (except for claims, demands or Actions between members of each Group) and (ii) there is no conflict in the Action between the requesting Party and the other Party. A Party providing a witness to the other Party under this Section 7.3 shall be entitled to receive from the recipient of such services, upon the presentation of invoices therefor, payments for such amounts, relating to disbursements and other out-of-pocket expenses (which shall not include the costs of salaries and benefits of employees who are witnesses or any pro rata portion of overhead or other costs of employing such employees which would have been incurred by such employees' employer regardless of the employees' service as witnesses), as may be reasonably incurred and properly paid under applicable Law.

Section 7.4 Reimbursement; Other Matters. Except to the extent otherwise contemplated by this Agreement or any Ancillary Agreement a Party providing Information or access to Information to the other Party under this Article VII shall be entitled to receive from the recipient, upon the presentation of invoices therefor, payments for such amounts, relating to supplies, disbursements and other out-of-pocket expenses, as may be reasonably incurred in providing such Information or access to such Information.

Section 7.5 Confidentiality.

(a) Notwithstanding any termination of this Agreement, for a period of three (3) years from the Relevant Time the Parties shall hold, and shall cause each of their respective Subsidiaries to hold, and shall each cause their respective officers, employees, agents, consultants and advisors to hold, in strict confidence, and not to disclose or release or use, without the prior written consent of the other Party (which may be withheld in such Party's sole and absolute discretion, except where disclosure is required by applicable Law), any and all Confidential Information (as defined herein) concerning the other Party; provided, however, that the Parties may disclose, or may permit disclosure of, Confidential Information (i) to their respective auditors, attorneys, financial advisors, bankers and other appropriate consultants and advisors who have a need to know such Information and are informed of their obligation to hold such Information confidential to the same extent as is applicable to the Parties and in respect of whose failure to comply with such obligations, the applicable Party will be responsible, (ii) if the Parties or any of their respective Subsidiaries are required or compelled to disclose any such Confidential Information by

judicial or administrative process or by other requirements of Law or stock exchange rule, (iii) as required in connection with any legal or other proceeding by one Party against the other Party, or (iv) as necessary in order to permit a Party to prepare and disclose its financial statements, Tax Returns or other required disclosures. Notwithstanding the foregoing, in the event that any demand or request for disclosure of Confidential Information is made pursuant to clause (ii) above, each Party, as applicable, shall promptly notify the other of the existence of such request or demand and shall provide the other a reasonable opportunity to seek an appropriate protective order or other remedy, which such Party will cooperate in obtaining. In the event that such appropriate protective order or other remedy is not obtained, the Party whose Confidential Information is required to be disclosed shall or shall cause the other Party to furnish, or cause to be furnished, only that portion of the Confidential Information that is legally required to be disclosed and shall take commercially reasonable steps to ensure that confidential treatment is accorded such Information.

(b) Notwithstanding anything to the contrary set forth herein, (i) the Parties shall be deemed to have satisfied their obligations hereunder with respect to Confidential Information if they exercise the same degree of care (but no less than a reasonable degree of care) as they take to preserve confidentiality for their own similar Information and (ii) confidentiality obligations provided for in any agreement between each Party or its Subsidiaries and their respective employees shall remain in full force and effect. Notwithstanding anything to the contrary set forth herein, Confidential Information of a Party in the possession of and used by the other Party as of the Relevant Time may continue to be used by such Party in possession of the Confidential Information in and only in the operation of the Spinco Business or the Vector Retained Business, as the case may be; provided, however, that such use is not competitive in nature, and may be used only so long as the Confidential Information is maintained in confidence and not disclosed in violation of Section 7.5(a). Such continued right to use may not be transferred (directly or indirectly) to any third party without the prior written consent of the applicable Party, except pursuant to Section 9.9.

(c) Each of the Parties acknowledges that it and the other members of its respective Group may have in their possession confidential or proprietary Information of third parties that was received under confidentiality or non-disclosure agreements with such third party while a subsidiary of Vector. Each of the Parties will hold, and will cause the other members of their respective Groups and their respective representatives to hold, in strict confidence the confidential and proprietary Information of third parties to which they or any other member of their respective Groups has access, in accordance with the terms of any agreements entered into prior to the Relevant Time between one or more subsidiaries of Vector (whether acting through, on behalf of, or in connection with, the Vector Retained Business or the Spinco Business) and such third parties.

Section 7.6 Privileged Matters.

(a) Pre-Separation Services. The Parties recognize that legal and other professional services that have been and will be provided prior to the Relevant Time have been and will be rendered for the collective benefit of each of the members of the Vector Group and the Spinco Group, including with regard to the transactions contemplated herein, and that each of the members of the Vector Group and the Spinco Group should be deemed to be the client with respect to such pre-separation services for the purposes of asserting all privileges which may be asserted under applicable Law.

(b) Post-Separation Services. The Parties recognize that legal and other professional services will be provided following the Relevant Time which will be rendered solely for the benefit of Vector or Spinco, as the case may be. With respect to such post-separation services, the Parties agree as follows:

(i) Vector shall be entitled, in perpetuity, to control the assertion or waiver of all privileges in connection with privileged Information which relates solely to the Vector Retained Business, whether or not the privileged Information is in the possession of or under the control of Vector or Spinco. Vector shall also be entitled, in perpetuity, to control the assertion or waiver of all privileges in connection with privileged Information that relates solely to the subject matter of any claims constituting Vector Retained Liabilities, now pending or which may be asserted in the future, in any lawsuits or other proceedings initiated against or by Vector, whether or not the privileged Information is in the possession of or under the control of Vector or Spinco; and

(ii) Spinco shall be entitled, in perpetuity, to control the assertion or waiver of all privileges in connection with privileged Information which relates solely to the Spinco Business, whether or not the privileged Information is in the possession of or under the control of Vector or Spinco. Spinco shall also be entitled, in perpetuity, to control the assertion or waiver of all privileges in connection with privileged Information that relates solely to the subject matter of any claims constituting Spinco Liabilities, now pending or which may be asserted in the future, in any lawsuits or other proceedings initiated against or by Spinco, whether or not the privileged Information is in the possession of or under the control of Vector or Spinco.

(c) The Parties agree that they shall have a shared privilege, with equal right to assert or waive, subject to the restrictions in this Section 7.6, with respect to all privileges not allocated pursuant to the terms of Section 7.6(b). All privileges relating to any claims, proceedings, litigation, disputes, or other matters which involve both of Vector or Spinco in respect of which both Parties retain any responsibility or Liability under this Agreement, shall be subject to a shared privilege among them.

(d) No Party may waive any privilege which could be asserted under any applicable Law, and in which the other Party has a shared privilege, without the consent of the other Party, with such consent not to be unreasonably withheld, delayed or conditioned, or as provided in subsections (e) or (f) below. Consent shall be in writing, or shall be deemed to be granted unless written objection is made within twenty (20) days after notice upon the other Party requesting such consent.

(e) In the event of any litigation or dispute between the Parties, or any members of their respective Groups, either such Party may waive a privilege in which the other Party or member of such Group has a shared privilege, with regard to the matters at issue in the litigation or dispute, without obtaining the consent of the other Party; provided, however, that such waiver of a shared privilege shall be effective only as to the use of Information with respect to the litigation or dispute between the relevant Parties and/or the applicable members of their respective Groups, and (i) shall not constitute a subject matter waiver with regard to all topic similar to topics at issue in the litigation or dispute, and (ii) shall not operate as a waiver of the shared privilege with respect to third parties.

(f) In the event of any litigation or dispute between or among any of the Parties, or any members of their respective Groups, neither internal nor external counsel for the members of the Vector Group and the Spinco Group, including with regard to the transactions contemplated herein, will be subject to disqualification. For the avoidance of doubt, in the event of any litigation or dispute between or among the Parties, or any members of their respective Groups, each Party agrees not to request disqualification of any employee of any Party from providing legal services to its employer on the basis that it was a former employee of Vector.

(g) If a dispute arises between or among the Parties or their respective Subsidiaries regarding whether a privilege should be waived to protect or advance the interest of any Party, each Party agrees that it shall negotiate in good faith, shall endeavor to minimize any prejudice to the rights of the other Party, and shall not unreasonably withhold consent to any request for waiver by the other Party. Each Party specifically agrees that it will not withhold consent to waiver for any purpose except to protect its own legitimate interests.

(h) Upon receipt by any Party or by any Subsidiary thereof of any subpoena, discovery or other request which arguably calls for the production or disclosure of Information subject to a shared privilege or as to which the other Party has the sole right hereunder to assert a privilege, or if any Party obtains knowledge that any of its or any of its Subsidiaries' current or former directors, officers, agents or employees have received any subpoena, discovery or other requests which arguably calls for the production or disclosure of such privileged Information, such Party shall promptly notify the other Party of the existence of the request and shall provide the other Party a reasonable opportunity to review the Information and to assert any rights it or they may have under this Section 7.6 or otherwise to prevent the production or disclosure of such privileged Information.

(i) The transfer of all Information pursuant to this Agreement is made in reliance on the agreement of Vector or Spinco as set forth in Section 7.5 and this Section 7.6, to maintain the confidentiality of privileged Information and to assert and maintain all applicable privileges. The access to Information being granted pursuant to Sections 6.5, 7.1 and 7.2 hereof, the agreement to provide witnesses and individuals pursuant to Sections 6.5 and 7.3 hereof, the furnishing of notices and documents and other cooperative efforts contemplated by Section 6.5 hereof, and the transfer of privileged Information between and among the Parties and their respective Subsidiaries pursuant to this Agreement shall not be deemed a waiver of any privilege that has been or may be asserted under this Agreement or otherwise.

(j) Notwithstanding any provision to the contrary in this Section 7.6, the Controlling Party (as defined in the Tax Disaffiliation Agreement) shall have the authority to disclose or not disclose, in its sole discretion, any and all privileged Information to (i) any Tax Authority (as defined in the Tax Disaffiliation Agreement) conducting a Tax Contest or (ii) to third parties in connection with connection with the defense of a Tax Contest, including, expert witnesses, accountants and other advisors, potential witnesses and other parties whose assistance is deemed, in the sole discretion of the Controlling Party, to be necessary or beneficial to representing the interests of the Parties hereunder.

Section 7.7 Ownership of Information. Any Information owned by one Party or any of its Subsidiaries that is provided to a requesting Party pursuant to this Article VII shall be deemed to remain the property of the providing Party. Unless specifically set forth herein, nothing contained in this Agreement shall be construed as granting or conferring rights of license or otherwise in any such Information.

Section 7.8 Record Retention.

(a) To facilitate the possible exchange of Information pursuant to this Article VII and other provisions of this Agreement, from and after the Relevant Time, the Parties agree to use their commercially reasonable efforts to retain all Information in their respective possession or control in accordance with Vector's current Record Retention Policy in effect on the date hereof and attached hereto as Schedule 7.8 or ordinary course practices of Vector in effect as of the Relevant Time (including any Information that is subject to a "Litigation Hold" issued by any Party prior to the Relevant Time) or such other document retention policies as may be reasonably adopted by the applicable Party from the Relevant Time until the fifth (5th) anniversary of the Distribution Date (provided that such other document retention policies at least provide for the retention of documents until the expiration of any applicable statute of limitations and as otherwise required by applicable Law).

(b) Notwithstanding anything to the contrary herein, no Party will destroy, or permit any of its Subsidiaries to destroy, any Information contemplated by Section 7.2 without first offering to deliver such Information to the other Party, at the other Party's cost and expense; provided that (i) in the case of any Information relating to a pending or threatened Action that is known to a member of the Group in possession of such Information, the Parties shall comply with the requirements of the applicable "Litigation Hold" (provided that with respect to any pending or threatened Action arising after the Relevant Time, the requirements of this clause (i) shall apply only to the extent that the member of the Vector Group or Spinco Group that is in possession of such Information has been notified in writing pursuant to a "Litigation Hold" of such pending or threatened Action); and (ii) in no event shall a Party destroy, or permit any of its Subsidiaries to destroy, any Information required to be retained by applicable Law.

(c) In the event of any Party's or any of its Subsidiaries' inadvertent failure to comply with its applicable document retention policies as required under this Section 7.8, such Party shall be liable to the other Party solely for the amount of any monetary fines or penalties imposed or levied against such other party by a governmental authority (which fines or penalties shall not include any Liabilities asserted in connection with the claims underlying the applicable Action, other than fines or penalties resulting from any claim of spoliation) as a result of such other Party's inability to produce Information caused by such inadvertent failure and shall not be liable to such other party for any other Liabilities in connection therewith. Notwithstanding the foregoing, no party shall have any Liability to the other party if any Information is destroyed, provided that such party has used its reasonable best efforts to comply with Sections 7.8(a) and 7.8(b).

Section 7.9 Liability for Information Provided. No Party shall have any Liability to the other Party in the event that any Information exchanged or provided pursuant to this Agreement is found to be inaccurate, in the absence of willful misconduct by the Party providing such Information.

Section 7.10 Other Agreements. The rights and obligations granted under this Article VII are subject to any specific limitations, qualifications or additional provisions on the sharing, exchange or confidential treatment of Information set forth in any Ancillary Agreement.

ARTICLE VIII

DISPUTE RESOLUTION

Section 8.1 Negotiation. In the event of a controversy, dispute or claim arising out of, in connection with, or in relation to the interpretation, performance, nonperformance, validity or breach of this Agreement or otherwise arising out of, or in any way related to this Agreement or the transactions contemplated hereby, including any claim based on contract, tort, statute or constitution (but excluding any controversy, dispute or claim arising out of any Contract relating to the use or lease of real property if any third party is a necessary party to such controversy, dispute or claim) (collectively, "Agreement Disputes"), the Party claiming such Agreement Dispute shall give written notice to the other Party setting forth the Agreement Dispute and a brief description thereof (a "Dispute Notice") pursuant to the terms of the notice provisions of Section 9.6 hereof. Following delivery of a Dispute Notice, the general counsel of the other Party and/or such other executive officer designated by the other Party shall negotiate for a reasonable period of time to settle such Agreement Dispute; provided, however, that such reasonable period shall not, unless otherwise agreed by the Parties in writing, exceed forty-five (45) calendar days from the time of receipt by a Party of a Dispute Notice; provided further, that in the event of any arbitration in accordance with Section 8.3 hereof, the Parties shall not assert the defenses of statute of limitations and laches arising during the period beginning after the date of receipt of the Dispute Notice, and any contractual time period or deadline under this Agreement to which such Agreement Dispute relates occurring after the Dispute Notice is received shall not be deemed to have passed until such Agreement Dispute has been resolved.

Section 8.2 Mediation. If, within forty-five (45) calendar days (or such longer period as may be agreed in writing between the Parties) after receipt by a Party of a Dispute Notice, the Parties have not succeeded in negotiating a resolution of the Agreement Dispute, the Parties agree to submit the Agreement Dispute at the earliest possible date to mediation conducted in accordance with the Commercial Mediation Rules of the American Arbitration Association (“AAA”), and to bear equally the costs of the mediation; provided, however, that each Party shall bear its own costs in connection with such mediation. The Parties agree to participate in good faith in the mediation and negotiations related thereto for a period of thirty (30) days or such longer period as they may mutually agree following the initial mediation session (the “Mediation Period”).

Section 8.3 Arbitration. If the Agreement Dispute has not been resolved for any reason after the Mediation Period, such Agreement Dispute shall be determined, at the request of either Party, by arbitration conducted in New York City, New York, before and in accordance with the then-existing Commercial Arbitration Rules of the AAA, except as modified herein (the “Rules”). There shall be three arbitrators. Each Party shall appoint one arbitrator within twenty (20) calendar days of receipt by respondent of a copy of the demand for arbitration. The two party-appointed arbitrators shall have twenty (20) calendar days from the appointment of the second arbitrator to agree on a third arbitrator who shall chair the arbitral tribunal. Any arbitrator not timely appointed by the Parties under this Section 8.3 shall be appointed by the AAA in accordance with the listing, ranking and striking method in the Rules, and in any such procedure, each Party shall be given a limited number of strikes, excluding strikes for cause. Any controversy concerning whether an Agreement Dispute is an arbitrable Agreement Dispute, whether arbitration has been waived, whether an assignee of this Agreement is bound to arbitrate, or as to the interpretation of enforceability of this Article VIII shall be determined by the arbitrators. In resolving any Agreement Dispute, the Parties intend that the arbitrators shall apply the substantive laws of the State of New York, without regard to any choice of law principles thereof that would mandate the application of the laws of another jurisdiction. The Parties intend that the provisions to arbitrate set forth herein be valid, enforceable and irrevocable, and any award rendered by the arbitrators shall be final and binding on the Parties. The Parties agree to comply with any award made in any such arbitration proceedings and agree to enforcement of or entry of judgment upon such award in the United States District Court for the Southern District of New York. The arbitrators shall be entitled, if appropriate, to award any remedy in such proceedings, including monetary damages, specific performance and all other forms of legal and equitable relief; provided, however, the arbitrators shall not be entitled to award punitive, exemplary, treble or any other form of non-compensatory damages except in connection with indemnification for a Third Party Claim (and in such a case, only to the extent awarded in such Third Party Claim).

Section 8.4 Arbitration Period. Any arbitration proceeding shall be concluded in a maximum of six (6) months from the commencement of the arbitration. The Parties may agree in writing to extend the arbitration period if necessary to appropriately resolve the Agreement Dispute.

Section 8.5 Treatment of Negotiations, Mediation and Arbitration. Without limiting the provisions of the Rules, unless otherwise agreed in writing by the Parties or permitted by this Agreement, the Parties shall keep confidential all matters relating to and any negotiation, mediation, conference, arbitration, discussion or arbitration award pursuant to this Article VIII shall be treated as compromise and settlement negotiations for purposes of Rule 408 of the Federal Rules of Evidence and comparable state rules; provided, however, that such matters may be disclosed (i) to the extent reasonably necessary in any proceeding brought to enforce the award or for entry of a judgment upon the award and (ii) to the extent otherwise required by Law or stock exchange rules. Nothing said or disclosed, nor any document produced, in the course of any negotiations, conferences and discussions that is not otherwise independently discoverable shall be offered or received as evidence or used for impeachment or for any other purpose in any current or future arbitration. Nothing contained herein is intended to or shall be construed to prevent any Party from applying to any court of competent jurisdiction for interim measures or other provisional relief in connection with the subject matter of any Agreement Disputes. Without prejudice to such provisional remedies as may be available under the jurisdiction of a court, the arbitral tribunal shall have full authority to grant provisional remedies and to direct the parties to request that any court modify or vacate any temporary or preliminary relief issued by such court, and to award damages for the failure of any Party to respect the arbitral tribunal's orders to that effect.

Section 8.6 Continuity of Service and Performance. Unless otherwise agreed in writing, the Parties will continue to provide services and honor all other commitments under this Agreement and each Ancillary Agreement during the course of dispute resolution pursuant to the provisions of this Article VIII with respect to all matters not subject to such dispute resolution.

Section 8.7 Consolidation. The arbitrators may consolidate any Agreement Disputes under this Agreement if the subject of the Agreement Disputes thereunder arise out of or relate essentially to the same set of facts or transactions. Such consolidated arbitration shall be determined by the arbitrator appointed for the arbitration proceeding that was commenced first in time.

ARTICLE IX

MISCELLANEOUS

Section 9.1 Complete Agreement; Construction. This Agreement, including the Schedules and the Ancillary Agreements hereto, shall constitute the entire agreement between the Parties with respect to the subject matter hereof and shall supersede all previous negotiations, commitments and writings with respect to such subject matter. In the event of any inconsistency between this Agreement and any Schedule hereto, the Schedule shall prevail. In the event and to the extent that there shall be a conflict between the provisions of this Agreement and the provisions of any Ancillary Agreement or continuing arrangement, such Ancillary Agreement or continuing arrangement shall control; provided, however, that with respect to any Conveyancing and Assumption Instrument, except as provided in Section 9.2, this Agreement shall control unless specifically stated otherwise in such Conveyancing and Assumption Instrument. Except as expressly set forth in this Agreement or any Ancillary Agreement: (a) all matters relating to Taxes and Tax Returns of the Parties and their respective Subsidiaries shall be governed exclusively by the Tax Disaffiliation Agreement; (b) for the avoidance of doubt, in the event of any conflict between this Agreement or any Ancillary Agreement, on the one hand, and

the Tax Disaffiliation Agreement, on the other hand, with respect to such matters, the terms and conditions of the Tax Disaffiliation Agreement shall govern and (c) for the avoidance of doubt, in the event of any conflict between this Agreement or any Ancillary Agreement, on the one hand, and the Employee Matters Agreement, on the other hand, with respect to such matters, the terms and conditions of the Employee Matters Agreement shall govern. The rights and remedies of the Parties herein provided shall be cumulative and in addition to any other or further remedies provided by law or equity.

Section 9.2 Ancillary Agreements. This Agreement is not intended to address, and should not be interpreted to address, the matters specifically and expressly covered by the Ancillary Agreements. Notwithstanding anything to the contrary in this Agreement, (a) only the Spinco Intellectual Property Agreement, and not this Agreement or any of the other Ancillary Agreements other than the Spinco Intellectual Property Agreement, shall govern any matter relating to the Transfer, recordation or registration of Transfer, maintenance, enforcement (including in any litigation, adversarial matter, interference or administrative proceeding), licensing or other rights to use or exploit all Intellectual Property of the type that is addressed in the Spinco Intellectual Property Agreement, and (b) no such Intellectual Property shall be Transferred or licensed (or other rights to use or exploit granted) pursuant to this Agreement (including for the avoidance of doubt, pursuant to Section 2.6).

Section 9.3 Counterparts. This Agreement may be executed in more than one counterparts, all of which shall be considered one and the same agreement, and shall become effective when one or more such counterparts have been signed by each of the Parties and delivered to the other Party. This Agreement may be executed and delivered by electronic means, including “.pdf” or “.tiff” files, and any electronic signature shall constitute an original for all purposes.

Section 9.4 Survival of Agreements. Except as otherwise contemplated by this Agreement or any Ancillary Agreement, all covenants and agreements of the Parties contained in this Agreement and each Ancillary Agreement shall survive the Relevant Time and remain in full force and effect in accordance with their applicable terms.

Section 9.5 Expenses. Except as otherwise provided (i) in this Agreement, or (ii) in any Ancillary Agreement, the Parties agree that all out-of-pocket fees and expenses incurred, or to be incurred and directly related to the Plan of Reorganization and transactions contemplated hereby (including third-party professional fees, fees and expenses incurred in connection with the execution and delivery of this Agreement, such other third-party fees and expenses incurred on a non-recurring basis directly as result of the Plan of Reorganization, and the fees and expenses payable to any Person listed on Schedule 9.5) (“Separation Expenses”) shall (A) to the extent incurred and payable prior to the Distribution Date be paid by Vector and (B) to the extent any such Separation Expenses arise and are payable by any Party following the Distribution Date be paid by such Party.

Section 9.6 Notices. All notices, requests, claims, demands and other communications under this Agreement and, to the extent applicable and unless otherwise provided therein, under each of the Ancillary Agreements, shall be in English, shall be in writing and shall be given or made (and shall be deemed to have been duly given or made upon receipt) by delivery

in person, by overnight courier service, by facsimile (at a facsimile number to be provided by such Party to the other Party pursuant to the notice provisions of this Section 9.6) with receipt confirmed (followed by delivery of an original via overnight courier service), by email (at an email address to be provided by such Party to the other Party pursuant to the notice provisions of this Section 9.6) or by registered or certified mail (postage prepaid, return receipt requested) to the respective Party at the following addresses (or at such other address for a Party as shall be specified in a notice given in accordance with this Section 9.6):

To Vector:

Vector Group Ltd.
4400 Biscayne Boulevard
Miami, Florida 33137
Attention: General Counsel

To Spinco:

Douglas Elliman Inc.
4400 Biscayne Boulevard
Miami, Florida 33137
Attention: General Counsel

Section 9.7 Waivers and Consents. The failure of any Party to require strict performance by the other Party of any provision in this Agreement will not waive or diminish that Party's right to demand strict performance thereafter of that or any other provision hereof. Any consent required or permitted to be given by any Party to the other Party under this Agreement shall be in writing and signed by the Party giving such consent.

Section 9.8 Amendments. Subject to the terms of Section 9.11 hereof, this Agreement may not be modified or amended except by an agreement in writing signed by a duly authorized representative of each of the Parties.

Section 9.9 Assignment. Except as otherwise provided for in this Agreement, this Agreement shall not be assignable, in whole or in part, directly or indirectly, by any Party without the prior written consent of the other Party, and any attempt to assign any rights or obligations arising under this Agreement without such consent shall be void; provided, however, that a Party may assign this Agreement in connection with a merger transaction in which such Party is not the surviving entity or the sale by such Party of all or substantially all of its Assets; provided, however, that the surviving entity of such merger or the transferee of such Assets shall agree in writing, reasonably satisfactory to the other Party, to be bound by the terms of this Agreement as if named as a "Party" hereto.

Section 9.10 Successors and Assigns. The provisions of this Agreement and the obligations and rights hereunder shall be binding upon, inure to the benefit of and be enforceable by (and against) the Parties and their respective successors and permitted transferees and assigns.

Section 9.11 Certain Termination and Amendment Rights. This Agreement may be terminated and the Distribution may be amended, modified or abandoned at any time prior to the Distribution Date by and in the sole discretion of Vector without the approval of Spinco or the stockholders of Vector. In the event of such termination, no Party shall have any liability of any kind to the other Party or any other Person. After the Relevant Time, this Agreement may not be terminated except by an agreement in writing signed by Vector and Spinco.

Section 9.12 Payment Terms.

(a) Except as expressly provided to the contrary in this Agreement or in any Ancillary Agreement, any amount to be paid or reimbursed by any Party (and/or a member of such Party's Group), on the one hand, to the other Party (and/or a member of such Party's Group), on the other hand, under this Agreement shall be paid or reimbursed hereunder within thirty (30) days after presentation of an invoice or a written demand therefor and setting forth, or accompanied by, reasonable documentation or other reasonable explanation supporting such amount.

(b) Except as expressly provided to the contrary in this Agreement or in any Ancillary Agreement, any amount not paid when due pursuant to this Agreement (and any amount billed or otherwise invoiced or demanded and properly payable that is not paid within thirty (30) days of such bill, invoice or other demand) shall bear interest at a rate per annum equal to the Prime Rate plus three percent (3%) (or the maximum legal rate, whichever is lower), calculated for the actual number of days elapsed, accrued from the date on which such payment was due up to the date of the actual receipt of payment.

Section 9.13 No Circumvention. The Parties agree not to directly or indirectly take any actions, act in concert with any Person who takes an action (including the failure to take a reasonable action) such that the resulting effect is to materially undermine the effectiveness of any of the provisions of this Agreement or any Ancillary Agreement (including adversely affecting the rights or ability of any Party to successfully pursue indemnification, contribution or payment pursuant to Article VII).

Section 9.14 Subsidiaries. Each of the Parties shall cause to be performed, and hereby guarantees the performance of, all actions, agreements and obligations set forth herein to be performed by any Subsidiary of such Party or by any entity that becomes a Subsidiary of such Party on and after the effective Relevant Time.

Section 9.15 Third Party Beneficiaries. Except (i) as provided in Article VII relating to Indemnitees and for the release under Section 6.1 of any Person provided therein and (ii) as specifically provided in any Ancillary Agreement, this Agreement is solely for the benefit of the Parties and should not be deemed to confer upon third parties any remedy, claim, liability, reimbursement, claim of action or other right in excess of those existing without reference to this Agreement.

Section 9.16 Titles and Headings. Titles and headings to sections herein are inserted for the convenience of reference only and are not intended to be a part of or to affect the meaning or interpretation of this Agreement.

Section 9.17 Exhibits and Schedules. The Exhibits and Schedules shall be construed with and as an integral part of this Agreement to the same extent as if the same had been set forth verbatim herein.

Section 9.18 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of New York, without giving effect to any conflict-of-laws or other rule that would result in the application of the laws of a different jurisdiction.

Section 9.19 Consent to Jurisdiction. Subject to the provisions of Article VIII hereof, each of the Parties irrevocably submits to the jurisdiction of the courts of the State of New York located in the City and County of New York, Borough of Manhattan (and if the courts of the State of New York shall be unavailable, any New York State court or federal court sitting in the City and County of New York, Borough of Manhattan) (the "New York Courts"), for the purposes of any suit, Action or other proceeding to compel arbitration or for provisional relief in aid of arbitration in accordance with Article VIII or to prevent irreparable harm, and to the non-exclusive jurisdiction of the New York Courts for the enforcement of any award issued thereunder. Each of the Parties further agrees that service of any process, summons, notice or document by U.S. registered mail to such Party's respective address set forth above shall be effective service of process for any Action, suit or proceeding in the New York Courts with respect to any matters to which it has submitted to jurisdiction in this Section 9.19. Each of the Parties irrevocably and unconditionally waives any objection to the laying of venue of any Action, suit or proceeding arising out of this Agreement or the transactions contemplated hereby in the New York Courts, and hereby further irrevocably and unconditionally waives and agrees not to plead or claim in any such court that any such Action, suit or proceeding brought in any such court has been brought in an inconvenient forum.

Section 9.20 Specific Performance. The Parties agree that irreparable damage would occur in the event that the provisions of this Agreement were not performed in accordance with their specific terms. Accordingly, it is hereby agreed that the Parties shall be entitled to an injunction or injunctions to enforce specifically the terms and provisions hereof in any court of the United States or any state having jurisdiction, this being in addition to any other remedy to which they are entitled at law or in equity.

Section 9.21 WAIVER OF JURY TRIAL. EACH OF THE PARTIES HEREBY WAIVES TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY WITH RESPECT TO ANY LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT. EACH OF THE PARTIES HEREBY (A) 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 LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT HAS BEEN INDUCED TO ENTER INTO THIS AGREEMENT AND THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT, AS APPLICABLE, BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION 9.21.

Section 9.22 Severability. In the event any one or more of the provisions contained in this Agreement should be held invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein and therein shall not in any way be affected or impaired thereby. The Parties shall endeavor in good-faith negotiations to replace the invalid, illegal or unenforceable provisions with valid provisions, the economic effect of which comes as close as possible to that of the invalid, illegal or unenforceable provisions.

Section 9.23 Force Majeure. No Party (or any Person acting on its behalf) shall have any liability or responsibility for failure to fulfill any obligation (other than a payment obligation) under this Agreement or, unless otherwise expressly provided therein, any Ancillary Agreement, so long as and to the extent to which the fulfillment of such obligation is prevented, frustrated, hindered or delayed as a consequence of circumstances of Force Majeure. A Party claiming the benefit of this provision shall, as soon as reasonably practicable after the occurrence of any such event: (a) notify the other Party of the nature and extent of any such Force Majeure condition and (b) use due diligence to remove any such causes and resume performance under this Agreement as soon as feasible.

Section 9.24 Interpretation. The Parties have participated jointly in the negotiation and drafting of this Agreement. This Agreement shall be construed without regard to any presumption or rule requiring construction or interpretation against the Party drafting or causing any instrument to be drafted.

Section 9.25 No Duplication; No Double Recovery. Nothing in this Agreement is intended to confer to or impose upon any Party a duplicative right, entitlement, obligation or recovery with respect to any matter arising out of the same facts and circumstances (including with respect to the rights, entitlements, obligations and recoveries that may arise out of one or more of the following Sections: Section 3.4, Section 6.2, Section 6.3 and Section 6.4).

[Signature Page Follows]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed as of the day and year first above written.

VECTOR GROUP LTD.

By: /s/ J. Bryant Kirkland III
Name: J. Bryant Kirkland III
Title: Senior Vice President, Treasurer and Chief Financial Officer

DOUGLAS ELLIMAN INC.

By: /s/ Richard J. Lampen
Name: Richard J. Lampen
Title: Executive Vice President and Chief Operating Officer

EMPLOYEE MATTERS AGREEMENT

BY AND BETWEEN

VECTOR GROUP LTD.

AND

DOUGLAS ELLIMAN, INC.

Dated as of December 21, 2021

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EMPLOYEE MATTERS AGREEMENT

THIS EMPLOYEE MATTERS AGREEMENT (this "Agreement"), dated as of December 21, 2021, is by and between Vector Group Ltd., a Delaware corporation ("Vector"), and Douglas Elliman Inc., a Delaware corporation ("Spinco" and, together with Vector, each, a "Party" and collectively, the "Parties").

RECITALS

WHEREAS, Vector, acting through its direct and indirect Subsidiaries, currently conducts a number of businesses, including (i) the Spinco Business (real estate brokerage and other services and property technology investment), and (ii) the Vector Retained Business (tobacco manufacturing, distribution and sale and real estate investments);

WHEREAS, the Board of Directors of Vector (the "Vector Board") has determined that it is appropriate, desirable and in the best interests of Vector and its stockholders to separate into two independent, publicly traded companies: Vector and Spinco, on the terms and subject to the conditions set forth in the Distribution Agreement (as defined below);

WHEREAS, in order to effectuate the foregoing, Vector and Spinco have entered into a Distribution Agreement, dated as of December 21, 2021, (the "Distribution Agreement"), pursuant to which and subject to the terms and conditions set forth therein, the Spinco Business shall be separated from the Vector Retained Business, and all of the issued and outstanding shares of Spinco Common Stock beneficially owned by Vector shall be distributed to the holders of the issued and outstanding Vector Common Stock; and

WHEREAS, Vector and Spinco have agreed to enter into this Agreement for the purpose of allocating Assets, Liabilities and responsibilities with respect to certain employee compensation and benefit plans, programs and arrangements, and certain employment matters between and among them.

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

ARTICLE I DEFINITIONS

Section 1.1 Definitions. As used in this Agreement, the following terms shall have the meanings set forth below:

"Action" means any claim, demand, complaint, charge, action, cause of action, suit, countersuit, arbitration, litigation, inquiry, proceeding or investigation by or before any Governmental Authority or any arbitration or mediation tribunal.

“Agreement” shall have the meaning ascribed thereto in the preamble to this Agreement, including all the exhibits hereto, and all amendments made hereto from time to time.

“Asset” means any right, property or asset, whether real, personal or mixed, tangible or intangible, of any kind, nature and description, whether accrued, contingent or otherwise, and wherever situated and whether or not carried or reflected, or required to be carried or reflected, on the books of any Person.

“COBRA” means the continuation coverage requirements for “group health plans” under Title X of the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended, and as codified in Section 4980B of the Code and Sections 601 through 608 of ERISA.

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

“Distribution” shall mean the distribution by Vector to holders of record of shares of Vector Common Stock (including Vector Common Stock underlying outstanding Vector Equity Awards) as of the Distribution Record Date of 100% of the Spinco Common Stock owned by Vector on the basis of one share of Spinco Common Stock for every two outstanding shares of Vector Common Stock.

“Distribution Agreement” shall have the meaning ascribed thereto in the recitals to this Agreement.

“Distribution Date” shall have the meaning ascribed thereto in the Distribution Agreement.

“DOL” means the U.S. Department of Labor.

“Employee Representative Body” means any union, works council, or other agency or representative body certified or otherwise recognized for the purposes of bargaining collectively or established for the purposes of notification of or consultation on behalf of any employees.

“ERISA” means the Employee Retirement Income Security Act of 1974, as amended.

“Former Spinco Employee” means any former employee who terminated employment with all members of the Vector controlled group of corporations before the Distribution Date and who was last employed by, or designated prior to the Distribution Date as having been employed by a member of the Spinco Group or any entity primarily carrying on the Spinco Business.

“Former Vector Employee” means any former employee who terminated employment with all members of the Vector controlled group of corporations before the Distribution Date and who was last employed by, or designated prior to the Distribution Date as having been employed by a member of the Vector Group or any entity primarily carrying on the Vector Retained Business.

“Governmental Authority” means any federal, state, local, foreign or international court, government, department, commission, board, bureau, agency, official, the NYSE, NASDAQ or other regulatory, administrative or governmental authority.

“Group” means the Vector Group and/or the Spinco Group, as the context requires.

“Information” shall mean all information, whether in written, oral, electronic or other tangible or intangible form, stored in any medium, including non-public financial information, studies, reports, records, books, accountants’ work papers, contracts, instruments, flow charts, data, communications by or to attorneys, memos and other materials prepared by attorneys and accountants or under their direction (including attorney work product) and other financial, legal, employee or business information or data.

“IRS” means the U.S. Internal Revenue Service.

“Law” means all laws, statutes and ordinances and all regulations, rules and other pronouncements of Governmental Authorities having the effect of law of the United States, any foreign country, or any domestic or foreign state, province, commonwealth, city, country, municipality, territory, protectorate, possession or similar instrumentality, or any Governmental Authority thereof.

“Liabilities” means all debts, liabilities, obligations, responsibilities, Losses, damages (whether compensatory, punitive, or treble), fines, penalties and sanctions, absolute or contingent, matured or unmatured, liquidated or unliquidated, foreseen or unforeseen, joint, several or individual, asserted or unasserted, accrued or unaccrued, known or unknown, whenever arising, including without limitation those arising under or in connection with any Law, Action, threatened Action, order or consent decree of any Governmental Authority or any award of any arbitration tribunal, and those arising under any contract, guarantee, commitment or undertaking, whether sought to be imposed by a Governmental Authority, private party, or a Party, whether based in contract, tort, implied or express warranty, strict liability, criminal or civil statute, or otherwise, and including any costs, expenses, interest, attorneys’ fees, disbursements and expense of counsel, expert and consulting fees, fees of third-party administrators and costs related thereto or to the investigation or defense thereof.

“Loss” means any claim, demand, complaint, damages (whether compensatory, punitive, consequential, treble or other), fines, penalties, loss, liability, payment, cost or expense arising out of, relating to or in connection with any Action.

“NASDAQ” means The NASDAQ Stock Market LLC.

“NYSE” means the New York Stock Exchange.

“Participating Company” means Vector and any Person (other than a natural person) participating in a Vector Plan.

“Party” and “Parties” shall have the meanings ascribed thereto in the preamble to this Agreement.

“Person” means any natural person, corporation, business trust, limited liability company, joint venture, association, company, partnership or governmental, or any agency or political subdivision thereof.

“Plan” means, with respect to an entity, each plan, program, arrangement, agreement or commitment that is an employment, consulting, non-competition or deferred compensation agreement, or an executive compensation, incentive bonus or other bonus, employee pension, profit-sharing, savings, retirement, supplemental retirement, stock option, stock purchase, stock appreciation rights, restricted stock, other equity-based compensation, severance pay, salary continuation, life, health, hospitalization, sick leave, vacation pay, disability or accident insurance plan, corporate-owned or key-man life insurance or other employee benefit plan, program, arrangement, agreement or commitment, including any “employee benefit plan” (as defined in Section 3(3) of ERISA), entered into, sponsored or maintained by such entity (or to which such entity contributes or is required to contribute).

“Record Date” shall have the meaning ascribed thereto in the Distribution Agreement.

“Spinco” shall have the meaning ascribed thereto in the preamble to this Agreement.

“Spinco 401(k) Plan” means the Douglas Elliman LLC 401(k) Retirement Savings Plan.

“Spinco Business” shall have the meaning ascribed thereto in the Distribution Agreement.

“Spinco Common Stock” shall have the meaning ascribed thereto in the Distribution Agreement.

“Spinco Employee” means any individual who, immediately following the Distribution Date, will be employed by Spinco or any member of the Spinco Group in a capacity considered by Spinco to be common law employment, including active employees and employees on vacation and approved leaves of absence (including maternity, paternity, family, sick, short-term or long-term disability leave, qualified military service under the Uniformed Services Employment and Reemployment Rights Act of 1994, and leave under the Family Medical Leave Act and other approved leaves).

“Spinco Group” means, as of the Distribution Date, Spinco and each of its former and current Subsidiaries (or any predecessor organization thereof), and any corporation or entity that may become part of such Group from time to time thereafter. The Spinco Group shall not include any member of the Vector Group.

“Spinco Health & Welfare Plans” shall have the meaning ascribed thereto in Section 6.2 of this Agreement.

“Spinco Liabilities” shall have the meaning ascribed thereto in the Distribution Agreement.

“Spinco Participant” means any individual who, immediately following the Distribution Date, is a Spinco Employee, a Former Spinco Employee or a beneficiary, dependent or alternate payee of any of the foregoing.

“Spinco Plan” means any Plan sponsored, maintained or contributed to by any member of the Spinco Group, including, without limitation, the Spinco Health & Welfare Plans.

“Subsidiary” has the same meaning ascribed thereto in the Distribution Agreement.

“Taxes” has the same meaning ascribed thereto in the Distribution Agreement.

“U.S.” means the United States of America.

“Vector” shall have the meaning ascribed thereto in the preamble to this Agreement.

“Vector 401(k) Plan” means the Liggett Vector Brands Savings Plan.

“Vector Board” shall have the meaning ascribed thereto in the recitals to this Agreement.

“Vector Common Stock” means the issued and outstanding shares of Vector common stock, par value \$0.01 per share, of Vector.

“Vector Compensation Committee” means the Compensation Committee of the Board of Directors of Vector.

“Vector Director” means any individual who is a current or former non-employee director of Vector as of the Distribution Date.

“Vector Employee” means any individual who, immediately following the Distribution Date, will be employed by Vector or any member of the Vector Group in a capacity considered by Vector to be common law employment, including active employees and employees on vacation and approved leaves of absence (including maternity, paternity, family, sick, short-term or long-term disability leave, qualified military service under the Uniformed Services Employment and Reemployment Rights Act of 1994, and leave under the Family Medical Leave Act and other approved leaves).

“Vector Equity Award” means, collectively, the Vector Option Awards, Vector Time-Based Restricted Stock Awards and Vector Performance-Based Restricted Stock Awards.

“Vector Group” means, as of the Distribution Date, Vector and each of its former and current Subsidiaries (or any predecessor organization thereof), and any corporation or entity that may become part of such Group from time to time thereafter. The Vector Group shall not include any member of the Spinco Group.

“Vector Health & Welfare Plans” shall have the meaning ascribed thereto in Section 6.1 of this Agreement.

“Vector Labor Agreements” means any agreement with any Employee Representative Body to which Vector or a member of the Vector Group is a party or bound that pertains to any Vector Employees.

“Vector Retained Liabilities” shall have the meaning ascribed thereto in the Distribution Agreement.

“Vector Option Award” means an option to buy Vector Common Stock granted pursuant to a Vector Share Plan.

“Vector Participant” means any individual who, immediately following the Distribution Date, is a Vector Employee, a Former Vector Employee or a beneficiary, dependent or alternate payee of any of the foregoing.

“Vector Performance-Based Restricted Stock Award” shall have the meaning ascribed thereto in Section 7.3 of this Agreement.

“Vector Plan” means any Plan sponsored, maintained or contributed to by Vector or any of its Subsidiaries, including, without limitation, the Vector Share Plans, Vector Supplemental Retirement Plan and Vector Health & Welfare Plans.

“Vector Retained Business” shall have the meaning ascribed thereto in the Distribution Agreement.

“Vector Retained Defined Benefit Pension Plans” means the Retirement Plan of Liggett Group Inc. for Salaried Non-Bargaining Unit Employees and Retirement Plan of Liggett Group Inc. for Bargaining Unit and Hourly Employees.

“Vector Share Plans” means, collectively, the Amended & Restated 1999 Long-Term Incentive Plan, the Amended & Restated 2014 Management Incentive Plan and any other equity incentive compensation plan or arrangement maintained by Vector as of immediately before the Distribution.

“Vector Supplemental Retirement Plan” shall have the meaning ascribed thereto in Section 5.1 of this Agreement.

“Vector Time-Based Restricted Stock Award” shall have the meaning ascribed thereto in Section 7.2 of this Agreement.

Section 1.2 General Interpretive Principles. Words in the singular shall include the plural and vice versa, and words of one gender shall include the other gender, in each case, as the context requires. The words “hereof,” “herein,” “hereunder,” and “herewith” and words of similar import shall, unless otherwise stated, be construed to refer to this Agreement and not to any particular provision of this Agreement, and references to Article, Section, paragraph and Exhibit are references to the Articles, Sections, paragraphs and Exhibits to this Agreement unless otherwise specified. The word “including” and words of similar import when used in this Agreement shall mean “including, without limitation,” unless otherwise specified. Any reference to any federal, state, local or non-U.S. statute or Law shall be deemed to also refer to all rules and regulations promulgated thereunder, unless the context otherwise requires.

**ARTICLE II
GENERAL PRINCIPLES**

Section 2.1 Employees. Except as set forth on Exhibit A attached hereto, (i) the Parties intend that there shall be continuity of employment with respect to the Vector Employees and Spinco Employees following the Distribution Date and (ii) each Vector Employee shall continue to be employed by the Vector Group on and after the Distribution Date, and each Spinco Employee shall continue to be employed by the Spinco Group on and after the Distribution Date.

Section 2.2 Assumption and Retention of Liabilities; Related Assets.

(a) As of the Distribution Date, except as otherwise expressly provided for in this Agreement, Vector shall, or shall cause one or more members of the Vector Group to, assume or retain and Vector hereby agrees to pay, perform, fulfill and discharge, in due course in full (i) all Liabilities under all Vector Plans, (ii) all Liabilities with respect to the employment, retirement, service, termination of employment or termination of service of all Vector Employees, Former Vector Employees, Vector Directors, their dependents and beneficiaries and other service providers (including any individual who is, or was, an independent contractor, temporary employee, temporary service worker, consultant, freelancer, agency employee, leased employee, on-call worker, incidental worker, or non-payroll worker of any member of the Vector Group or in any other employment, non-employment, or retainer arrangement or relationship with any member of the Vector Group), in each case to the extent arising in connection with or as a result of employment with or the performance of services for any member of the Vector Group, and (iii) any other Liabilities expressly assumed by or retained by Vector or any of its Subsidiaries under this Agreement. For purposes of clarification and the avoidance of doubt, the Liabilities assumed or retained by the Vector Group as provided for in this Section 2.2(a) are intended to be Vector Retained Liabilities as such term is defined in the Distribution Agreement.

(b) As of the Distribution Date, except as otherwise expressly provided for in this Agreement, Spinco shall, or shall cause one or more members of the Spinco Group to, assume or retain and Spinco hereby agrees to pay, perform, fulfill and discharge, in due course in full (i) all Liabilities under all Spinco Plans, (ii) all Liabilities with respect to the employment, service, retirement, termination of employment or termination of service of all Spinco Employees, Former Spinco Employees, their dependents and beneficiaries and other service providers (including any individual who is, or was, an independent contractor, temporary employee, temporary service worker, consultant, freelancer, agency employee, leased employee, on-call worker, incidental worker, or non-payroll worker of any member of the Spinco Group or in any other employment, non-employment, or retainer arrangement or relationship with any member of the Spinco Group), and (iii) any other Liabilities expressly assumed or retained by Spinco or any of its Subsidiaries under this Agreement. For purposes of clarification and the avoidance of doubt, the Liabilities assumed or retained by the Spinco Group as provided for in this Section 2.2(b) are intended to be Spinco Liabilities as such term is defined in the Distribution Agreement.

(c) From time to time after the Distribution, Spinco shall promptly reimburse Vector, upon Vector's presentation of such substantiating documentation as Spinco shall reasonably request, for the cost of any Liabilities satisfied by Vector or its Subsidiaries that are, or that have been made pursuant to this Agreement, the responsibility of Spinco or any of its Subsidiaries.

(d) From time to time after the Distribution, Vector shall promptly reimburse Spinco, upon Spinco's presentation of such substantiating documentation as Vector shall reasonably request, for the cost of any Liabilities satisfied by Spinco or its Subsidiaries that are, or that have been made pursuant to this Agreement, the responsibility of Vector or any of its Subsidiaries.

Section 2.3 Spinco Participation in Vector Plans.

(a) Except as otherwise expressly provided for in this Agreement, effective as of the Distribution Date, the Vector Group shall take any and all action as shall be necessary or appropriate so that participation in the Vector Plans by all Spinco Participants, if any, shall terminate as of the close of business on the date immediately prior to the Distribution Date and each member of the Spinco Group shall cease to be a Participating Company in the corresponding Vector Plans as of such time.

Section 2.4 Service Recognition. Spinco shall give each Spinco Participant full credit for purposes of eligibility, vesting, determination of level of benefits, and, to the extent applicable, benefit accruals under any Spinco Plan for such Spinco Participant's service with any member of the Vector Group or Spinco Group prior to the Distribution Date to the same extent such service was recognized by the corresponding Vector Plans immediately prior to the Distribution Date; provided, however, that such service shall not be recognized to the extent that such recognition would result in the duplication of benefits.

**ARTICLE III
U.S. QUALIFIED DEFINED BENEFIT PLAN**

Section 3.1 Defined Benefit Pension Plans. As of the Distribution Date, Vector or a member of the Vector Group shall retain all of the assets in the trust underlying the Vector Retained Defined Benefit Pension Plans, and remain responsible for all Liabilities under the Vector Retained Defined Benefit Pension Plans.

**ARTICLE IV
U.S. QUALIFIED DEFINED CONTRIBUTION PLANS**

Section 4.1 Vector 401(k) Plan. As of the Distribution Date, Vector or a member of the Vector Group shall retain sponsorship of and responsibility for the Vector 401(k) Plan, including Liabilities associated with the accounts of each Vector Participant under the Vector 401(k) Plan. Each Vector Participant who immediately prior to the Distribution Date was a participant in, or entitled to future benefits under, the Vector 401(k) Plan shall continue to have such rights, privileges and obligations under the Vector 401(k) Plan as is provided thereunder following the Distribution Date.

Section 4.2 Spinco 401(k) Plan. As of the Distribution Date, Spinco or a member of the Spinco Group shall retain sponsorship of and responsibility for the Spinco 401(k) Plan, including Liabilities associated with the accounts of each Spinco Participant under the Spinco 401(k) Plan. Each Spinco Participant who immediately prior to the Distribution Date was a participant in, or entitled to future benefits under, the Spinco 401(k) Plan shall continue to have such rights, privileges and obligations under the Spinco 401(k) Plan as is provided thereunder following the Distribution Date.

**ARTICLE V
NONQUALIFIED PLANS**

Section 5.1 Vector Supplemental Retirement Plan. As of the Distribution Date, Vector or a member of the Vector Group shall assume or retain all Liabilities under the Vector Group Ltd. Supplemental Retirement Plan (as amended or restated, the "Vector Supplemental Retirement Plan") relating to Vector Employees and Former Vector Employees.

Section 5.2 No Separation from Service. The transactions provided for under this Agreement shall not constitute a separation from service or a termination of employment under the Vector Supplemental Retirement Plan, and no distribution of retirement benefits shall be made to any Vector Employee or Spinco Employee on account of these transactions.

**ARTICLE VI
U.S. HEALTH AND WELFARE PLANS**

Section 6.1 Vector Health and Welfare Plans. Vector or one or more of its Subsidiaries maintain each of the health and welfare plans set forth on Exhibit B attached hereto (the "Vector Health & Welfare Plans") for the benefit of eligible Vector Participants. Effective as of the Distribution Date, Vector shall, or shall cause one of its Subsidiaries to, retain sponsorship of and responsibility for the Vector Health & Welfare Plans and all of the Liabilities thereunder, including, without limitation, responsibility for compliance with the health care continuation coverage requirements of COBRA.

Section 6.2 Spinco Health & Welfare Plans. Spinco or one or more of its Subsidiaries maintain each of the health and welfare plans set forth on Exhibit C attached hereto (the "Spinco Health & Welfare Plans") for the benefit of eligible Spinco Participants. Effective as of the Distribution Date, Spinco shall, or shall cause one of its Subsidiaries to, retain sponsorship of and responsibility for the Spinco Health & Welfare Plans and all of the Liabilities thereunder, including, without limitation, responsibility for compliance with the health care continuation

Section 6.3 Time-Off Benefits. Spinco shall credit each Spinco Participant with the amount of accrued but unused vacation time, sick time and other time-off benefits as such Spinco Participant had with the Vector Group or the Spinco Group, as applicable, as of the Distribution Date.

Section 6.4 Severance Pay Plans. The Parties acknowledge and agree that the transactions contemplated by the Distribution Agreement will not constitute a termination of employment of any Vector Participant or Spinco Participant for purposes of any policy, plan, program or agreement of Vector or Spinco or any member of the Vector Group or Spinco Group that provides for the payment of severance, separation pay, salary continuation or similar benefits in the event of a termination of employment.

ARTICLE VII
TREATMENT OF OUTSTANDING EQUITY AWARDS

Section 7.1 Vector Option Awards. In connection with the Distribution, each holder of a Vector Option Award, whether vested or unvested, that is outstanding on the Record Date will receive one share of Spinco Common Stock for every two shares of Vector Common Stock underlying such Vector Option Award. The Distribution will be made to such holder, less any required withholding Taxes, at the same time that the Distribution is made to the Vector stockholders. Except as set forth in the immediately preceding sentence, there will be no other actions or adjustments with respect to the existing Vector Option Awards in connection with the Distribution and the Vector Option Awards will continue to be governed by the same terms and conditions (including vesting terms, the number of shares of Vector Common Stock underlying the Vector Option Awards and the exercise price of such Vector Option Awards), as were applicable to the Vector Option Awards immediately prior to the Distribution.

Section 7.2 Vector Time-Based Restricted Stock Awards.

In connection with the Distribution, each holder of a Vector Restricted Stock Award subject to time vesting conditions (a "Vector Time-Based Restricted Stock Award") that is outstanding on the Record Date will receive one share of Spinco Common Stock for every two shares of Vector Common Stock underlying such Vector Time-Based Restricted Stock Award. The Distribution will be made to such holder, less any required withholding Taxes, at the same time that the Distribution is made to the Vector stockholders. Except as set forth in the immediately preceding sentence, there will be no other actions or adjustments with respect to the Vector Time-Based Restricted Stock Awards in connection with the Distribution and the Vector Time-Based Restricted Stock Awards will continue to be governed by the same terms and conditions (including vesting terms and the number of shares of Vector Common Stock underlying the Vector Time-Based Restricted Stock Awards), as were applicable to the Vector Time-Based Restricted Stock Awards immediately prior to the Distribution.

Section 7.3 Vector Performance-Based Restricted Stock Awards.

In connection with the Distribution, each holder of a Vector Restricted Stock Award subject to performance vesting conditions (a "Vector Performance-Based Restricted Stock Award") that is outstanding on the Record Date will receive one share of Spinco Common Stock for every two shares of Vector Common Stock underlying such Vector Performance-Based Restricted Stock Award, provided that (i) for the Vector Performance-Based Restricted Stock Award granted on November 10, 2015, the Distribution will be subject to the same restrictions as the underlying Vector Performance-Based Restricted Stock Award, and when the underlying Vector Performance-Based Restricted Stock Award vests, the Distribution will be made, less any required withholding Taxes and (ii) for the Vector Performance-Based Restricted Stock Award granted on February 24, 2021, the Distribution will be made to such holder, less any required withholding Taxes, at the same time that the Distribution is made to the Vector stockholders. Except as set forth in the immediately preceding sentence, there will be no other actions or adjustments with respect to the Vector Performance-Based Restricted Stock Awards in connection with the Distribution and the Vector Performance-Based Restricted Stock Awards will continue to be governed by the same terms and conditions (including vesting terms and the number of shares of Vector Common Stock underlying the Vector Performance-Based Restricted Stock Awards) as were applicable to the Vector Performance-Based Restricted Stock Awards immediately prior to the Distribution.

Section 7.4 Fractional Shares. No fractional shares of Spinco Common Stock will be issued in connection with the Distribution. If a holder of an outstanding Vector Equity Award would be entitled to receive a fractional share, such amount will be paid in cash at the time provided in Section 7.1, 7.2 or 7.3, as applicable, less any required withholding Taxes.

Section 7.5 Taxes and Withholding. Vector shall have sole responsibility for (i) ensuring the satisfaction of all applicable Tax payments (including the funding of any employer taxes) and withholding requirements relating to the Distribution made in respect of Vector Equity Awards and (ii) ensuring the collection and remittance of applicable Taxes to the applicable Governmental Entity. Vector shall claim any federal, state and/or local tax deductions in connection therewith, and Spinco shall not claim such deductions. The employee portion of applicable Taxes relating the Distribution in respect of Vector Equity Awards shall be satisfied by employees holding Vector Equity Awards via net share withholding. In connection therewith, a number of shares of Spinco Common Stock equal to each employee's maximum Tax obligation will not be distributed to such employee, the shares of Spinco Common Stock so withheld shall not be issued by Spinco and Vector shall pay such employee's Tax obligation to the applicable Governmental Entity.

ARTICLE VIII ADDITIONAL COMPENSATION AND BENEFITS MATTERS

Section 8.1 Cash Incentive Awards.

(a) Effective as of the Distribution Date, Spinco shall assume or retain, as applicable, responsibilities for all Liabilities, and fully perform, pay and discharge all Liabilities when such Liabilities become due, relating to any annual cash incentive awards, or portion of any such incentive awards that any Spinco Participant is eligible to receive with respect to any performance period that ends after the Distribution Date and, effective as of the Distribution Date, Vector shall have no obligations with respect to any such incentive awards. Notwithstanding the foregoing, Vector shall retain all Liabilities, and fully perform, pay and discharge all Liabilities when such Liabilities become due, relating to any annual cash incentive award established with respect to the fiscal year ending December 31, 2021 to a Vector Participant or Spinco Participant who, immediately prior to the Distribution, was a "corporate" employee of Vector.

(b) Vector acknowledges and agrees that, except as otherwise provided herein, it shall have full responsibility with respect to any Liabilities and the payment or performance of any obligations arising out of or relating to any incentive, commission or other similar compensatory arrangement previously provided by any member of the Vector Group or Spinco Group to any Vector Participant.

(c) Spinco acknowledges and agrees that, except as otherwise provided herein, it shall have full responsibility with respect to any Liabilities and the payment or performance of any obligations arising out of or relating to any incentive, commission or other similar compensatory arrangement previously provided by any member of the Vector Group or Spinco Group to any Spinco Participant.

Section 8.2 Individual Arrangements.

(a) Vector Individual Arrangements. Vector acknowledges and agrees that, except as otherwise provided herein, it shall have full responsibility with respect to any Liabilities and the payment or performance of any obligations arising out of or relating to any employment, separation, severance, consulting, non-competition, retention or other compensatory arrangement previously provided by any member of the Vector Group or Spinco Group to any Vector Participant.

(b) Spinco Individual Arrangements. Spinco acknowledges and agrees that, except as otherwise provided herein, it shall have full responsibility with respect to any Liabilities and the payment or performance of any obligations arising out of or relating to any employment, separation, severance, consulting, non-competition, retention or other compensatory arrangement previously provided by any member of the Vector Group or Spinco Group to any Spinco Participant.

Section 8.3 Labor Matters. As of the Distribution Date, Vector or a member of the Vector Group shall assume or retain all Liabilities under the Vector Labor Agreements relating to Vector Employees and Former Vector Employees.

Section 8.4 Director Programs. Vector shall retain responsibility for the payment of any compensation payable in respect of service on the Vector Board that are payable but not yet paid as of the Distribution Date, and Spinco shall have no responsibility for any such payments (to an individual who is a member of the Spinco Board of Directors as of the Distribution Date or otherwise).

**ARTICLE IX
INDEMNIFICATION**

Section 9.1 Indemnification. All Liabilities retained or assumed by or allocated to Vector or the Vector Group pursuant to this Agreement shall be deemed to be “Vector Retained Liabilities” (as defined in the Distribution Agreement) for purposes of Article II of the Distribution Agreement, and all Liabilities retained or assumed by or allocated to Spinco or the Spinco Group pursuant to this Agreement shall be deemed to be “Spinco Liabilities” (as defined in the Distribution Agreement) for purposes of Article II of the Distribution Agreement.

**ARTICLE X
GENERAL AND ADMINISTRATIVE**

Section 10.1 Sharing of Information. Vector and Spinco (acting directly or through their respective Subsidiaries) shall provide to the other and their respective agents and vendors all Information as the other may reasonably request to enable the requesting Party to administer efficiently and accurately each of its Plans, to assist Spinco in obtaining its own insurance policies to provide benefits under Spinco Plans, and to determine the scope of, as well as fulfill,

its obligations under this Agreement; provided, however, that, in the event that any Party reasonably determines that any such provision of Information could be commercially detrimental to such Party or any member of its Group, violate any Law or agreement to which such Party or member of its Group is a party, or waive any attorney-client privilege applicable to such Party or member of its Group, the Parties shall provide any such Information and the Parties shall take all reasonable measures to comply with the obligations pursuant to this Section 10.1 in a manner that mitigates any such harm or consequence to the extent practicable, and the Parties agree to cooperate with each other and take such commercially reasonable steps as may be practicable to preserve the attorney-client privilege with respect to the disclosure of any such Information. Such Information shall, to the extent reasonably practicable, be provided in the format and at the times and places requested, but in no event shall the Party providing such Information be obligated to incur any out-of-pocket expenses not reimbursed by the Party making such request or make such Information available outside of its normal business hours and premises. Any Information shared or exchanged pursuant to this Agreement shall be subject to the same confidentiality requirements set forth in Section 8.5 of the Distribution Agreement.

Section 10.2 Reasonable Efforts/Cooperation. Each of the Parties hereto will use its commercially reasonable efforts to promptly take, or cause to be taken, all actions and to do, or cause to be done, all things necessary, proper or advisable under applicable Laws and regulations to consummate the transactions contemplated by this Agreement, including adopting plans or plan amendments. Each of the Parties hereto shall cooperate fully on any issue relating to the transactions contemplated by this Agreement for which the other Party seeks a determination letter or private letter ruling from the IRS, an advisory opinion from the DOL or any other filing, consent or approval with respect to or by a Governmental Authority.

Section 10.3 Non-Termination of Employment; No Third-Party Beneficiaries. No provision of this Agreement or the Distribution Agreement shall be construed to create any right, or accelerate entitlement, to any compensation or benefit whatsoever on the part of any Vector Employee or Spinco Employee or other future, present, or former employee of any member of the Vector Group or Spinco Group under any Vector Plan or Spinco Plan or otherwise. This Agreement is solely for the benefit of the Parties hereto and their respective successors and permitted assigns. Nothing in this Agreement, express or implied, is intended to or shall confer upon any other person or persons (including any employee or former employee of Vector or Spinco or either of their respective Subsidiaries or any beneficiary or dependent thereof) any rights, benefits or remedies of any nature whatsoever under or by reason of this Agreement. No provision in this Agreement shall modify or amend any other agreement, plan, program, or document unless this Agreement explicitly states that the provision "amends" that other agreement, plan, program, or document. This shall not prevent the Parties entitled to enforce this Agreement from enforcing any provision in this Agreement, but no other person shall be entitled to enforce any provision in this Agreement on the grounds that it is an amendment to another agreement, plan, program, or document unless the provision is explicitly designated as such in this Agreement, and the person is otherwise entitled to enforce the other agreement, plan, program, or document. If a person not entitled to enforce this Agreement brings a lawsuit or other action to enforce any provision in this Agreement as an amendment to another agreement, plan, program, or document, and that provision is construed to be such an amendment despite not being explicitly designated as one in this Agreement, that provision in this Agreement shall be void ab initio, thereby precluding it from having any amendatory effect. Furthermore, nothing in this Agreement is intended to confer upon any employee or former employee of Vector, Spinco or either of their respective Subsidiaries any right to continued employment, or any recall or similar rights to an individual on layoff or any type of approved leave.

Section 10.4 Consent of Third Parties. If any provision of this Agreement is dependent on the consent of any third party and such consent is withheld, the Parties hereto shall use their reasonable best efforts to implement the applicable provisions of this Agreement to the fullest extent practicable. If any provision of this Agreement cannot be implemented due to the failure of such third party to consent, the Parties hereto shall negotiate in good faith to implement the provision in a mutually satisfactory manner.

Section 10.5 Access to Employees. Following the Distribution Date, Vector and Spinco shall, or shall cause each of their respective Subsidiaries to, make available to each other those of their employees who may reasonably be needed in order to defend or prosecute any legal or administrative action (other than a legal action between any member of the Vector Group and any member of the Spinco Group) to which any employee, director or Plan of the Vector Group or Spinco Group is a party and which relates to their respective Plans prior to the Distribution Date.

Section 10.6 Beneficiary Designation/Release of Information/Right to Reimbursement. To the extent permitted by applicable Law and except as otherwise provided for in this Agreement, all beneficiary designations, authorizations for the release of information and rights to reimbursement made by or relating to Spinco Participants under Vector Plans shall be transferred to and be in full force and effect under the corresponding Spinco Plans until such beneficiary designations, authorizations or rights are replaced or revoked by, or no longer apply to, the relevant Spinco Participant.

Section 10.7 Not a Change in Control. The Parties hereto acknowledge and agree that the transactions contemplated by the Distribution Agreement and this Agreement do not constitute a “change in control” for purposes of any Vector Plan or Spinco Plan.

ARTICLE XI MISCELLANEOUS

Section 11.1 Effect If Distribution Does Not Occur. Notwithstanding anything in this Agreement to the contrary, if the Distribution Agreement is terminated prior to the Distribution Date, then all actions and events that are, under this Agreement, to be taken or occur effective immediately prior to or as of the Distribution Date, or otherwise in connection with the Distribution, shall not be taken or occur except to the extent specifically agreed to in writing by Vector and Spinco and neither Party shall have any Liability to the other Party under this Agreement.

Section 11.2 Complete Agreement; Construction. This Agreement, including the Exhibits, shall constitute the entire agreement between the Parties with respect to the subject matter hereof and shall supersede all previous negotiations, commitments and writings with respect to such subject matter.

Section 11.3 Counterparts. This Agreement may be executed in one or more counterparts, all of which shall be considered one and the same agreement, and shall become effective when one or more such counterparts have been signed by each of the Parties and delivered to the other Party.

Section 11.4 Survival of Agreements. Except as otherwise contemplated by this Agreement, all covenants and agreements of the Parties contained in this Agreement shall survive the Distribution Date.

Section 11.5 Notices. All notices and other communications hereunder shall be in writing, shall reference this Agreement and shall be hand delivered or mailed by registered or certified mail (return receipt requested) to the Parties at the following addresses (or at such other addresses for a Party as shall be specified by like notice) and will be deemed given on the date on which such notice is received:

To Vector:

Vector Group Ltd.
4400 Biscayne Boulevard
Miami, Florida 33137
Attention: General Counsel

To Spinco:

Douglas Elliman Inc.,
4400 Biscayne Boulevard
Miami, Florida 33137
Attention: General Counsel

Section 11.6 Waivers. The failure of any Party to require strict performance by any other Party of any provision in this Agreement will not waive or diminish that Party's right to demand strict performance thereafter of that or any other provision hereof.

Section 11.7 Amendments. Subject to the terms of Section 11.8 and 11.10 hereof, this Agreement may not be modified or amended except by an agreement in writing signed by each of the Parties.

Section 11.8 Assignment. This Agreement shall not be assignable, in whole or in part, directly or indirectly, by any Party without the prior written consent of the other Party, and any attempt to assign any rights or obligations arising under this Agreement without such consent shall be void; provided that either Party may assign this Agreement to a purchaser (by merger, sale of assets or otherwise) of all or substantially all of the properties and assets of such Party so long as such purchaser expressly assumes, in a written instrument in form reasonably satisfactory to the non-assigning Party, the due and punctual performance or observance of every agreement and covenant of this Agreement on the part of the assigning Party to be performed or observed. Any arrangement in violation of the provisions of this Section 11.8 shall be void.

Section 11.9 Successors and Assigns. The provisions to this Agreement shall be binding upon, inure to the benefit of and be enforceable by the Parties and their respective successors and permitted assigns.

Section 11.10 Subsidiaries. Each of the Parties shall cause to be performed, and hereby guarantees the performance of, all actions, agreements and obligations set forth herein to be performed by any entity that is contemplated to be a Subsidiary of such Party after the Distribution Date.

Section 11.11 Title and Headings. Titles and headings to Sections herein are inserted for convenience of reference only and are not intended to be a part of or to affect the meaning or interpretation of this Agreement.

Section 11.12 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of New York, without giving effect to any conflict of law or other rule that would result in the application of the law of a different jurisdiction.

Section 11.13 Waiver of Jury Trial. The Parties hereby irrevocably waive any and all right to trial by jury in any legal proceeding arising out of or related to this Agreement.

Section 11.14 Specific Performance. From and after the Distribution, in the event of any actual or threatened default in, or breach of, any of the terms, conditions and provisions of this Agreement, the Parties agree that the Party to this Agreement who is or is to be thereby aggrieved shall have the right to specific performance and injunctive or other equitable relief of its rights under this Agreement, in addition to any and all other rights and remedies at law or in equity, and all such rights and remedies shall be cumulative. The Parties agree that, from and after the Distribution, the remedies at law for any breach or threatened breach of this Agreement, including monetary damages, are inadequate compensation for any Loss, that any defense in any action for specific performance that a remedy at law would be adequate is hereby waived, and that any requirements for the securing or posting of any bond with such remedy are hereby waived.

Section 11.15 Severability. In the event any one or more of the provisions contained in this Agreement should be held invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein and therein shall not in any way be affected or impaired thereby. The Parties shall endeavor in good faith negotiations to replace the invalid, illegal or unenforceable provisions with valid provisions, the economic effect of which comes as close as possible to that of the invalid, illegal or unenforceable provisions.

[signature page follows]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed as of the date first above written.

VECTOR GROUP LTD.

By: /s/ J. Bryant Kirkland III
Name: J. Bryant Kirkland III
Title: Senior Vice President, Treasurer and Chief Financial Officer

DOUGLAS ELLIMAN INC.

By: /s/ Richard J. Lampen
Name: Richard J. Lampen
Title: Executive Vice President and Chief Operating Officer

TRANSITION SERVICES AGREEMENT

by and between

VECTOR GROUP LTD.

and

DOUGLAS ELLIMAN INC.

Dated as of December 21, 2021

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TRANSITION SERVICES AGREEMENT

This TRANSITION SERVICES AGREEMENT, dated as of December 21, 2021 (this “Agreement”), between Vector Group Ltd., a Delaware corporation (“Vector”), and Douglas Elliman Inc., a Delaware corporation (“Spinco”). Each of Vector and Spinco is referred to herein as a “Party” and, collectively, as the “Parties”.

WITNESSETH:

WHEREAS, Vector and Spinco have entered into a Distribution Agreement, dated as of the date hereof (the “Distribution Agreement”), which sets forth the terms pursuant to which Vector will transfer certain assets to Spinco and Vector will distribute the common stock of Spinco to the holders of Vector common stock on a pro rata basis (including Vector common stock underlying outstanding stock option awards and restricted stock awards) (the “Distribution”); and

WHEREAS, in connection with the Distribution, and in order to ensure an orderly transition under the Distribution Agreement, it will be necessary for each of the Parties to provide to the other the Services described herein for a transitional period.

NOW, THEREFORE, in consideration of the foregoing and the mutual agreements, provisions and covenants contained in this Agreement, the Parties hereby agree as follows:

ARTICLE I DEFINITIONS

Section 1.1. General. As used in this Agreement, the following terms have the respective meanings set forth below:

“AAA” shall have the meaning set forth in Section 9.2.

“Additional Services” shall have the meaning set forth in Section 2.3.

“Affiliate” shall, subject to the next succeeding sentence, have the meaning assigned to that term in the Distribution Agreement. For clarity, unless the context otherwise requires, a reference to a Person’s “Affiliates” shall be deemed to mean such Person’s Affiliates following the Distribution; provided that, for the avoidance of doubt, for purposes of this Agreement Spinco and Vector shall not be considered Affiliates.

“Agreement” shall have the meaning set forth in the preamble.

“Agreement Disputes” shall have the meaning set forth in Section 9.1.

“Applicable Privacy Laws” shall have the meaning set forth in Section 8.2.

“Applicable Rate” shall mean the Prime Rate plus three percent (3%) per annum.

“Bankruptcy Event” with respect to a Party shall mean the filing of an involuntary petition in bankruptcy or similar proceeding against such Party seeking its reorganization, liquidation or the appointment of a receiver, trustee or liquidator for it or for all or substantially all of its assets, whereupon such petition shall not be dismissed within sixty (60) days after the filing thereof, or if such Party shall (i) apply for or consent in writing to the appointment of a receiver, trustee or liquidator of all or substantially all of its assets, (ii) file a voluntary petition or admit in writing its inability to pay its debts as they become due, (iii) make a general assignment for the benefit of creditors, (iv) file a petition or an answer seeking reorganization or an arrangement with its creditors or take advantage of any insolvency law with respect to itself as debtor, or (v) file an answer admitting the material allegations of a petition filed against it in any bankruptcy, reorganization, insolvency proceedings or any similar proceedings.

“Business Day” shall mean any day other than a Saturday, a Sunday or a day on which banks in New York City, New York are authorized or obligated by law or executive order to close.

“Change of Control” of a company shall mean an event or series of events by which any person or group (so long as such “person” or “group” (as such terms are used in Sections 13(d) and 14(d) of Securities and Exchange Act of 1934, as amended (the “Exchange Act”)) beneficially owns (within the meaning of Rule 13d-3 (as in effect on the effective date of this Agreement) promulgated under the Exchange Act), in the aggregate, more than fifty percent (50%) of the shares of the capital stock of such company, having sufficient votes to elect (or otherwise designate) at such time a majority of the members of the board of directors of such company.

“Commencement Date” shall have the meaning ascribed to that term in Section 7.1.

“Dispute Notice” shall have the meaning set forth in Section 9.1.

“Distribution” shall have the meaning set forth in the preamble.

“Distribution Agreement” shall have the meaning set forth in the preamble.

“Existing Services” shall have the meaning set forth in Section 4.3.

“Fees” shall have the meaning set forth in Section 4.3.

“Indemnifying Party” shall have the meaning set forth in Section 5.3.

“Indemnitee” shall have the meaning set forth in Section 5.3.

“Information Security Incident” shall have the meaning set forth in Section 8.2.

“Loss” shall mean any and all damages, losses, deficiencies, Liabilities, obligations, penalties, judgments, settlements, claims, payments, fines, interest, costs and expenses (including the costs and expenses of any and all Actions and demands, assessments, judgments, settlements and compromises relating thereto and the reasonable costs and expenses of attorneys’, accountants’, consultants’ and other professionals’ fees and expenses incurred in the investigation or defense thereof or the enforcement of rights hereunder), excluding special, consequential, indirect and/or punitive damages (other than special, consequential, indirect and/or punitive damages awarded to any third party against an Indemnitee).

“Mediation Period” shall have the meaning set forth in Section 9.2.

“New York Courts” shall have the meaning set forth in Section 11.15.

“Outside Notice Date” shall have the meaning set forth in Section 5.3.

“Overlap Individuals” shall mean Persons who are directors of both Vector and Spinco or employees of both Vector and Spinco if such employee is compensated by both companies.

“Party” shall have the meaning set forth in the preamble.

“Person” shall mean any natural person, corporation, business trust, limited liability company, joint venture, association, company, partnership or government, or any agency or political subdivision thereof.

“Personal Information” shall mean any information that (i) identifies, relates to, describes, is reasonably capable of being associated with or could reasonably be linked, directly or indirectly, with, an individual, browser, device or household, or (ii) is considered “personally identifiable information,” “personal data” or a similar term under applicable law.

“Prime Rate” shall mean the rate per annum publicly announced by Citibank, N.A. (or successor thereto) from time to time as its prime rate in effect at its principal office in New York City. For purposes of this Agreement, any change in the Prime Rate shall be effective on the date such change in the Prime Rate is publicly announced as effective.

“Rules” shall have the meaning set forth in Section 9.3.

“Services” shall mean, collectively, the Spinco Services and the Vector Services.

“Spinco” shall have the meaning set forth in the preamble.

“Spinco Services” shall mean those transitional services, including any Additional Services, to be provided by Spinco to Vector set forth on Schedule A hereto to assist Vector in operating Vector’s business following the Distribution. Services or actions of Overlap Individuals shall not be considered to be Spinco Services under this Agreement unless expressly agreed in writing by both Parties.

“Third Party” shall mean any Person who is not a Party.

“Third Party Claim” shall have the meaning set forth in Section 5.3.

“Vector” shall have the meaning set forth in the preamble.

“Vector Services” shall mean those transitional services, including any Additional Services, to be provided by Vector to Spinco set forth on Schedule B hereto to assist Spinco in operating Spinco’s business following the Distribution. Services or actions of Overlap Individuals shall not be considered to be Vector Services under this Agreement unless expressly agreed in writing by both Parties.

Section 1.2. Reference; Interpretation. References in this Agreement to any gender include references to all genders, and references to the singular include references to the plural and vice versa. The words “*include*”, “*includes*” and “*including*” when used in this Agreement shall be deemed to be followed by the phrase “*without limitation*.” Unless the context otherwise requires, references in this Agreement to Articles, Sections and Schedules shall be deemed references to Articles and Sections of, and Schedules to, this Agreement. Unless the context otherwise requires, the words “*hereof*”, “*hereby*” and “*herein*” and words of similar meaning when used in this Agreement refer to this Agreement in its entirety and not to any particular Article, Section or provision of this Agreement. Any capitalized terms used but not defined in this Agreement have the meanings given to them in the Distribution Agreement.

ARTICLE II SERVICES

Section 2.1. Services. (a) Spinco shall provide to Vector each Spinco Service for the term set forth opposite the description of such Spinco Service in Schedule A. Upon conclusion of the term set forth opposite the description of such Spinco Service, this Agreement shall be deemed terminated with respect to such Spinco Service. Additional Services may be provided by Spinco to Vector as provided in Section 2.3. At its option, (i) Spinco may cause any Spinco Service it is required to provide hereunder to be provided by a Third Party that is providing, or may from time to time provide, the same or similar services for Spinco and/or (ii) to the extent any Spinco Service is already provided by a Third Party, Spinco shall have the right to change the Third Party that is providing such Spinco Service to any Third Party that is providing, or may from time to time provide, the same or similar services for Spinco, at any time upon reasonable notice to Vector. In the event of such a change as permitted in clauses (i) or (ii) above results in a change in cost of Spinco for the provision of such Spinco Service, the applicable schedules to this agreement shall be updated to reflect the revised fees as allocated to Vector, provided that if such a change results in an increase over 10% of the costs then currently contemplated by Schedule A such an amendment will require the consent (which consent shall not be unreasonably withheld, conditioned or delayed) of Vector.

(b) Vector shall provide to Spinco each Vector Service for the term set forth opposite the description of such Vector Service in Schedule B. Upon conclusion of the term set forth opposite the description of such Vector Service, this Agreement shall be deemed terminated with respect to such Vector Service. Additional Services may be provided to Spinco by Vector as provided in Section 2.3. At its option, (i) Vector may cause any Vector Service it is required to provide hereunder to be provided by a Third Party that is providing, or may from time to time provide, the same or similar services for Vector and/or (ii) to the extent any Vector Service is already provided by a Third Party, Vector shall have the right to change the Third Party that is providing such Vector Service to any Third Party that is providing, or may from time to time provide, the same or similar services for Vector, at any time upon reasonable notice to Spinco. In the event of such a change as permitted in clauses (i) or (ii) above results in a change in cost of Vector for the provision of such Vector Service, the applicable schedules to this agreement shall be updated to reflect the revised fees as allocated to Spinco, provided that if such a change results in an increase over 10% of the costs then currently contemplated by Schedule B such an amendment will require the consent (which consent shall not be unreasonably withheld, conditioned or delayed) of Spinco.

Section 2.2. Standard of Service. Spinco and Vector shall maintain sufficient resources to perform their respective obligations hereunder. In performing the Services, Spinco and Vector shall provide substantially the same level of service and use substantially the same degree of care as their respective personnel provided and used in providing such Services prior to completion of the Distribution for itself (but in no event less than a reasonable degree of care), subject in each case to any provisions set forth on Schedule A or Schedule B with respect to each such Service. Each Party shall provide reasonable assistance to the other Party in migrating the applicable Services to the recipient of such Services.

Section 2.3. Additional Services. From time to time after the date hereof, the Parties may identify additional services that one Party will provide to the other Party in accordance with the terms of this Agreement (the "Additional Services"). The Parties shall cooperate and act in good faith to agree on the terms pursuant to which any such Additional Service shall be provided and to amend Schedule A or Schedule B, as applicable, in accordance with such terms.

ARTICLE III LICENSES AND PERMITS

Each Party warrants and covenants that all duties and obligations (including with respect to Spinco, all Spinco Services, and with respect to Vector, all Vector Services) to be performed hereunder shall be performed in compliance with all material applicable federal, state and local laws, rules and regulations. Each Party shall obtain and maintain all material permits, approvals and licenses necessary or appropriate to perform its duties and obligations (including with respect to Spinco, the Spinco Services, and with respect to Vector, the Vector Services) hereunder and shall at all times comply with the terms and conditions of such permits, approvals and licenses.

ARTICLE IV PAYMENT

Section 4.1. General. (a) In consideration for the provision of each of the Spinco Services, Vector shall pay to Spinco the fee set forth for such Spinco Service on Schedule A.

(b) In consideration for the provision of each of the Vector Services, Spinco shall pay to Vector the fee as set forth for such Vector Service on Schedule B.

Section 4.2. Additional Expenses. (a) In addition to the fees payable in accordance with Section 4.1(a), Vector shall reimburse Spinco for all reasonable and necessary out-of-pocket costs and expenses incurred by Spinco with respect to Third Parties in connection with the provision of Spinco Services to Vector pursuant to the terms of this Agreement or paid by Spinco on behalf of Vector that are not already contemplated by Schedule A; provided that if Spinco expects to incur in respect of a Third Party in any month costs and expenses in excess of \$25,000 and not already contemplated by Schedule A, Spinco shall use commercially reasonable efforts to provide to Vector prior to the first day of such month a written notice setting forth Spinco's reasonable estimate of the expenses it expects to incur.

(b) In addition to the fees payable for expenses in accordance with Section 4.1(b), Spinco shall reimburse Vector for all reasonable and necessary out-of-pocket costs and expenses incurred by Vector with respect to Third Parties in connection with the provision of Vector Services to Spinco pursuant to the terms of this Agreement or paid by Vector on behalf of Spinco that are not already contemplated by Schedule B; provided that if Vector expects to incur in respect of a Third Party in any month costs and expenses in excess of \$25,000 and not already contemplated by Schedule B, Vector shall use commercially reasonable efforts to provide to Spinco prior to the first day of such month a written notice setting forth Vector's reasonable estimate of the expenses it expects to incur.

Section 4.3. Adjustments. Spinco and Vector shall review and evaluate the fees payable in accordance with Section 4.1 (the "Fees") for existing services contemplated on Schedule A or Schedule B (the "Existing Services") for reasonableness annually and work in good faith to equitably adjust such Fees for Existing Services as appropriate to reflect among other things changes in compensation due to promotions or replacement of personnel at a lower or higher compensation level, increases or decreases in the percentage of labor-based allocation based on increased or decreased efforts of a particular individual, or adjustments to percentage of non-labor allocations tied to headcounts or other reasonable metrics. Spinco and Vector shall work together in good faith to determine an appropriate date for such adjustments to take effect (which may be retroactive to the date of such changes).

Section 4.4. Invoices. (a) Spinco will invoice Vector in U.S. dollars: (i) as of the last day of each calendar month for any fees payable by Vector in accordance with Section 4.1(a) for Spinco Services listed on Schedule A provided pursuant to the terms of this Agreement during such month; (ii) as of the last day of each calendar month for any amounts payable by Vector in accordance with Section 4.2(a) (and enclosing invoices from the relevant Third Parties); and (iii) as of the last day of each calendar month for any taxes (excluding income taxes) accrued with respect to the provision of Spinco Services to Vector during such month. Spinco shall deliver or cause to be delivered to Vector each such invoice within thirty (30) days following the last day of the calendar month to which such invoice relates. Vector shall pay each such invoice received by electronic funds transfer as follows: in the case of clauses (i) and (ii), within forty-five (45) Business Days of the date on which such invoice was received, and in the case of clause (iii), not later than one (1) Business Day prior to the due date for such tax payments; provided that Spinco delivers such invoice not less than three (3) Business Days prior to the due date for such tax payments.

(b) Vector will invoice Spinco in U.S. dollars: (i) as of the last day of each calendar month for any fees payable by Spinco in accordance with Section 4.1(b) for Vector Services listed on Schedule B provided pursuant to the terms of this Agreement during such month; (ii) as of the last day of each calendar month for any amounts payable by Spinco in accordance with Section 4.2(b) (and enclosing invoices from such Third Parties); and (iii) as of the last day of each calendar month for any taxes (excluding income taxes) accrued with respect to the provision of Vector Services to Spinco during such month. Vector shall deliver or cause to be delivered to Spinco each such invoice within thirty (30) days following the last day of the calendar month to which such invoice relates. Spinco shall pay each such invoice received by electronic funds transfer: in the case of clauses (i) and (ii), within forty-five (45) Business Days of the date on which such invoice was received, and in the case of clause (iii), not later than one (1) Business Day prior to the due date for such tax payments; provided that Vector delivers such invoice not less than three (3) Business Days prior to the due date for such tax payments.

Section 4.5. Failure to Pay. Any undisputed amount not paid when due shall be subject to a late payment fee computed daily at a rate equal to the Applicable Rate from the due date of such amount to the date such amount is paid. Each Party agrees to pay the other Party's reasonable attorneys' fees and other costs incurred in collection of any amounts owed to such other Party hereunder and not paid when due. Notwithstanding anything to the contrary contained herein, in the event either Party fails to make a payment of any undisputed amount when due hereunder, and such failure continues for a period of thirty (30) days following delivery of notice to such non-paying Party of such failure, the other Party shall have the right to cease provision of such Services to such non-paying Party until such overdue payment (and any applicable late payment fee accrued with respect thereto) is paid in full. Such right of the Party providing services shall not in any manner limit or prejudice any of such Party's other rights or remedies in the event of the non-paying Party's failure to make payments when due hereunder, including without limitation any rights or remedies pursuant to Articles V, VII and IX.

Section 4.6. Termination of Services. In the event of a termination of Services pursuant to Article VII, with respect to the calendar month in which such Services cease to be provided, the recipient of such Services shall be obligated to pay a fee for such Services calculated as set forth on Schedule A or Schedule B, as applicable for the portion of the month prior to the termination. Where possible, the Parties agree to work together cooperatively to seek to have terminations occur as of month ends, but this Agreement shall not limit a Party's right to effect a termination in accordance with this Agreement other than as of a month end.

ARTICLE V INDEMNIFICATION

Section 5.1. Indemnification of Party Receiving Services. (a) Spinco agrees to indemnify, defend and hold Vector harmless from and against any Loss to which Vector may become subject arising out of, by reason of or otherwise in connection with the provision hereunder by Spinco of Spinco Services, other than Losses resulting from Vector's gross negligence, willful misconduct or breach of its obligations pursuant to this Agreement. Notwithstanding any provision in this Agreement to the contrary, Spinco shall not be liable under this Section 5.1 for any consequential, special or punitive damages (including but not limited to lost profits), except to the extent that such consequential, special or punitive damages relate to a Loss resulting from a Third Party Claim (as defined below).

(b) Vector agrees to indemnify, defend and hold Spinco harmless from and against any Loss to which Spinco may become subject arising out of, by reason of or otherwise in connection with the provision hereunder by Vector of Vector Services, other than Losses resulting from Spinco's gross negligence, willful misconduct or breach of its obligations pursuant to this Agreement. Notwithstanding any provision in this Agreement to the contrary, Vector shall not be liable under this Section 5.1 for any consequential, special or punitive damages (including but not limited to lost profits), except to the extent that such consequential, special or punitive damages relate to a Loss resulting from a Third Party Claim (as defined below).

Section 5.2. Indemnification of Party Providing Services. (a) Vector agrees to indemnify, defend and hold Spinco harmless from and against any Loss to which Spinco may become subject arising out of, by reason of or otherwise in connection with, the provision hereunder by Spinco of Spinco Services to Vector where such Losses resulted from Vector's gross negligence, willful misconduct or breach of its obligations pursuant to this Agreement. Notwithstanding any provision in this Agreement to the contrary, Vector shall not be liable under this Section 5.2 for any consequential, special or punitive damages (including but not limited to lost profits), except to the extent that such consequential, special or punitive damages relate to a Loss resulting from a Third Party Claim (as defined below).

(b) Spinco agrees to indemnify, defend and hold Vector harmless from and against any Loss to which Vector may become subject arising out of, by reason of or otherwise in connection with the provision hereunder by Vector of Vector Services to Spinco where such Losses resulted from Spinco's gross negligence, willful misconduct or breach of its obligations pursuant to this Agreement. Notwithstanding any provision in this Agreement to the contrary, Spinco shall not be liable under this Section 5.2 for any consequential, special or punitive damages (including but not limited to lost profits), except to the extent that such consequential, special or punitive damages relate to a Loss resulting from a Third Party Claim (as defined below).

Section 5.3. Third Party Claims. (a) If a claim or demand is made against Vector or Spinco (each, an "Indemnitee") by any Third Party (a "Third Party Claim") as to which such Indemnitee is entitled to indemnification pursuant to this Agreement, such Indemnitee shall notify the Party which is or may be required pursuant to Section 5.1 or Section 5.2 hereof to make such indemnification (the "Indemnifying Party") in writing, and in reasonable detail, of the Third Party Claim promptly and in any event by the date (the "Outside Notice Date") that is the fifteenth (15th) Business Day after receipt by such Indemnitee of written notice of the Third Party Claim; provided, however, that failure to give such notification shall not affect the indemnification provided hereunder except to the extent the Indemnifying Party shall have been actually prejudiced as a result of such failure (except that the Indemnifying Party shall not be liable for any expenses incurred during the period beginning immediately after the Outside Notice Date and ending on the date that the Indemnitee gives the required notice). Thereafter, the Indemnitee shall deliver to the Indemnifying Party, promptly (and in any event within ten Business Days) after the Indemnitee's receipt thereof, copies of all notices and documents (including court papers) received by the Indemnitee relating to the Third Party Claim. Notwithstanding anything to the contrary contained herein, neither Party shall be required to provide notice to the other Party for Third Party Claims for which a Party is providing legal support as part of the Services to the extent that such Party has received notice in such capacity.

(b) If a Third Party Claim is made against an Indemnitee, the Indemnifying Party shall be entitled to participate in the defense thereof and, if it so chooses and acknowledges in writing its obligation to indemnify the Indemnitee therefor, to assume the defense thereof with counsel selected by the Indemnifying Party, provided, however, that such counsel is not reasonably objected to by the Indemnitee. Should the Indemnifying Party so elect to assume the defense of a Third Party Claim, the Indemnifying Party shall, within thirty (30) days (or sooner if the nature of the Third Party Claim so requires), notify the Indemnitee of its intent to do so, and the Indemnifying Party shall thereafter not be liable to the Indemnitee for legal or other expenses subsequently incurred by the Indemnitee in connection with the defense thereof; provided, however, that such Indemnitee shall have the right to employ counsel to represent such Indemnitee if, in such Indemnitee's reasonable judgment, a conflict of interest between such Indemnitee and such Indemnifying Party exists in respect of such claim which would make representation of both such parties by one counsel inappropriate, and in such event the fees and expenses of such separate counsel shall be paid by such Indemnifying Party. If the Indemnifying Party assumes such defense, the Indemnitee shall have the right to participate in the defense thereof and to employ counsel, subject to the proviso of the preceding sentence, at its own expense, separate from the counsel employed by the Indemnifying Party, it being understood that the Indemnifying Party shall control such defense. The Indemnifying Party shall be liable for the fees and expenses of counsel employed by the Indemnitee for any period during which the Indemnifying Party has failed to assume the defense thereof (other than during the period prior to the time the Indemnitee shall have given notice of the Third Party Claim as provided above). If the Indemnifying Party so elects to assume the defense of any Third Party Claim, all of the Indemnitees shall cooperate with the Indemnifying Party in the defense or prosecution thereof, including by providing or causing to be provided agreements, documents, books, records, files and witnesses as soon as reasonably practicable after receiving any request therefor from or on behalf of the Indemnifying Party, except to the extent that providing or causing the foregoing to be provided would constitute a waiver of any Indemnitee's attorney-client privilege.

(c) If the Indemnifying Party acknowledges in writing responsibility under this Article V for a Third Party Claim, then in no event will the Indemnitee admit any liability with respect to, or settle, compromise or discharge, any Third Party Claim without the Indemnifying Party's prior written consent; provided, however, that the Indemnitee shall have the right to settle, compromise or discharge such Third Party Claim without the consent of the Indemnifying Party if the Indemnitee releases the Indemnifying Party from its indemnification obligation hereunder with respect to such Third Party Claim and such settlement, compromise or discharge would not otherwise adversely affect the Indemnifying Party. If the Indemnifying Party acknowledges in writing liability for a Third Party Claim, the Indemnitee will agree to any settlement, compromise or discharge of a Third Party Claim that the Indemnifying Party may recommend and that by its terms obligates the Indemnifying Party to pay the full amount of the liability in connection with such Third Party Claim and releases the Indemnitee completely in connection with such Third Party Claim and that would not otherwise adversely affect the Indemnitee. If an Indemnifying Party elects not to assume the defense of a Third Party Claim, or fails to notify an Indemnitee of its election to do so as provided herein, such Indemnitee may compromise, settle or defend such Third Party Claim.

(d) Notwithstanding the foregoing, the Indemnifying Party shall not be entitled to assume the defense of any Third Party Claim (and shall be liable for the fees and expenses of counsel incurred by the Indemnitee in defending such Third Party Claim) if the Third Party Claim seeks an order, injunction or other equitable relief or relief for other than money damages against the Indemnitee which the Indemnitee reasonably determines, after conferring with its counsel, cannot be separated from any related claim for money damages. If such equitable relief or other relief portion of the Third Party Claim can be so separated from that for money damages, the Indemnifying Party shall be entitled to assume the defense of the portion relating to money damages.

(e) In the event and to the extent of payment by an Indemnifying Party to any Indemnitee in connection with any Third Party Claim, such Indemnifying Party shall be subrogated to and shall stand in the place of such Indemnitee as to any events or circumstances in respect of which such Indemnitee may have any right or claim relating to such Third Party Claim against any claimant or plaintiff asserting such Third Party Claim. Such Indemnitee shall cooperate with such Indemnifying Party in a reasonable manner, and at the cost and expense of such Indemnifying Party, in prosecuting any subrogated right or claim.

(f) Spinco and Vector shall cooperate as may reasonably be required in connection with the investigation, defense and settlement of any Third Party Claim. In furtherance of this obligation, the Parties agree that if an Indemnifying Party chooses to defend or to compromise or settle any Third Party Claim, Vector or Spinco, as the case may be, shall use its commercially reasonable efforts to make available to the other Party, upon written request, their former and then current directors, officers, employees and agents and those of their subsidiaries as witnesses and any records or other documents within its control or which it otherwise has the ability to make available, to the extent that (i) any such Person, records or other documents may reasonably be required in connection with such defense, settlement or compromise and (ii) making such Person, records or other documents so available would not constitute a waiver of the attorney-client privilege of Vector or Spinco, as the case may be. At the request of an Indemnifying Party, an Indemnitee shall enter into a reasonably acceptable joint defense agreement.

(g) The remedies provided in this Article V shall be cumulative and shall not preclude assertion by any Indemnitee of any other rights or the seeking of any and all other remedies against any Indemnifying Party.

Section 5.4. Indemnification Payments. (a) Indemnification required by this Article V shall be made by periodic payments of the amount thereof during the course of the investigation or defense, as and when bills are received or any Loss is incurred. If the Indemnifying Party fails to make an indemnification payment required by this Article V within thirty (30) days after receipt of a bill therefor or notice that a Loss has been incurred, the Indemnifying Party shall also be required to pay interest on the amount of such indemnification payment, from the date of receipt of the bill or notice of the Loss to, but not including the date of payment, at the Applicable Rate.

(b) The amount of any claim by an Indemnitee under this Agreement shall be (i) reduced to reflect any actual tax savings or insurance proceeds received by any Indemnitee that result from the Losses that gave rise to such indemnity, and (ii) increased by an amount equal to any tax cost incurred by any Indemnitee that results from receipt of payments under this Article V.

Section 5.5. Survival. The Parties' obligations under this Article V shall survive the termination of this Agreement.

ARTICLE VI COOPERATION; CONFIDENTIALITY; TITLE

Section 6.1. Services Cooperation. Each Party shall use commercially reasonable efforts to cooperate with the other Party in all matters relating to the provision and receipt of the Services. Such cooperation shall include, but not be limited to, exchanging information, providing electronic access to systems used in connection with the Services, performing true-ups and adjustments and obtaining all consents, licenses, sublicenses or approvals necessary to permit each Party to perform its obligations hereunder. Vector and Spinco shall maintain reasonable documentation related to the Services and cooperate with each other in making such information available to the other Party as needed.

Section 6.2. Distribution Cooperation. For a period of up to two (2) years after the Commencement Date, except as otherwise set forth in the Distribution Agreement or a Commercial Arrangement, the Parties shall, and shall cause each of their respective Affiliates and employees to (i) provide reasonable cooperation and assistance to the other Party in connection with the completion of the Plan of Reorganization, (ii) provide knowledge transfer regarding its applicable Business or Vector's historical business and (iii) assist the other Party in the orderly and efficient transition in becoming an independent company; in each case, except as may otherwise be agreed to by the Parties in writing, at no additional cost to the Party requesting such assistance other than for the actual out-of-pocket costs (which shall not include the costs of salaries and benefits of employees of such Party or any pro rata portion of overhead or other costs of employing such employees which would have been incurred by such employees' employer regardless of the employees' service with respect to the foregoing) incurred by any such Party, if applicable. The cooperation and assistance provided for in this Section shall not be required to the extent such cooperation and assistance would result in an undue burden on any Party or would unreasonably interfere with any of its employees normal functions and duties.

Section 6.3. Confidentiality. Each Party shall keep confidential from Third Parties the Schedules to this Agreement and all non-public information received from the other Party regarding the Services, including, without limitation, any information received with respect to products and services of Vector or Spinco, and to use such information only for the purposes set forth in this Agreement unless (i) otherwise agreed to in writing by the Party from which such information was received or (ii) required by applicable law, regulation or any securities exchange (in which case the Parties shall cooperate in seeking to obtain a protective order or other arrangement pursuant to which the confidentiality of such information is preserved). The covenants in this Article VI shall survive any termination of this Agreement for a period of three (3) years from the date such termination becomes effective.

Section 6.4. Internal Use; Title, Copies, Return. Except to the extent inconsistent with the express terms of the Distribution Agreement and any Ancillary Agreement other than this Agreement, each Party agrees that:

(a) title to all systems used in performing any Service provided hereunder shall remain with the Party providing such Service or its Third Party vendors; and

(b) to the extent the provision of any Service involves intellectual property, including without limitation software programs or patented or copyrighted material, or material constituting trade secrets, the recipient of such Service shall not copy, modify, reverse engineer, decompile or in any way alter any of such material, or otherwise use such material in a manner inconsistent with the terms and provisions of this Agreement, without the express written consent of the Party providing such Service; and upon the termination of any Service, the recipient of such Service shall return to the Party providing such Service, as soon as practicable, any equipment or other property of the Party providing such Service relating to such Service which is owned or leased by the Party providing such Service and is or was in its possession or control.

ARTICLE VII TERM

Section 7.1. Duration. (a) Except as provided in Sections 4.6, 5.5, 6.2, 6.3, 7.2, 7.3, 7.4 and 7.5, the term of this Agreement shall commence on the date hereof (the "Commencement Date") and shall continue in full force and effect until the earlier of (i) the date that is the day prior to the third (3rd) anniversary of the Commencement Date, unless otherwise mutually agreed by the Parties and (ii) the earlier termination of all Services in accordance with Section 4.5 or 7.1(b).

(b) As Vector becomes self-sufficient or engages other sources to provide any Spinco Service, Vector shall be entitled to release Spinco from providing any or all of the Spinco Services hereunder by delivering a written notice thereof to Spinco at least twenty (20) Business Days prior to the effective date of release of such Spinco Service(s). At the end of such twenty (20) Business Day period (or such shorter period as may be agreed by the Parties), Spinco shall discontinue the provision of the Spinco Services specified in such notice and any such Spinco Services shall be excluded from this Agreement, Schedule A shall be deemed to be amended accordingly, and this Agreement shall be deemed to be terminated with respect to such Spinco Service. Spinco shall also be entitled to release Vector from providing any or all of the Vector Services hereunder by delivering a written notice thereof to Vector at least twenty (20) Business Days prior to the effective date of release of such Vector Service(s). At the end of such twenty (20) Business Day period (or such shorter period as may be agreed by the Parties), Vector shall discontinue the provision of the Vector Services specified in such notice and any such Vector Services shall be excluded from this Agreement, Schedule B shall be deemed to be amended accordingly, and this Agreement shall be deemed to be terminated with respect to such Vector Service.

Section 7.2. Early Termination by Spinco. Spinco may terminate this Agreement by giving written notice to Vector under the following circumstances:

(a) if Vector shall default in the performance of any of its material obligations under this Agreement, and such default or breach shall continue and not be remedied for a period of thirty (30) days after Spinco has given written notice to Vector specifying such default and requiring it to be remedied;

(b) if a Bankruptcy Event has occurred with respect to Vector; or

(c) if a Change of Control of Vector has occurred.

Section 7.3. Early Termination by Vector. Vector may terminate this Agreement by giving written notice to Spinco under the following circumstances:

(a) if Spinco shall default in the performance of any of its material obligations under this Agreement and such default shall continue and not be remedied for a period of thirty (30) days after Vector has given written notice to Spinco specifying such default and requiring it to be remedied;

(b) if a Bankruptcy Event has occurred with respect to Spinco; or

(c) if a Change of Control of Spinco has occurred.

Section 7.4. Suspension Due to Force Majeure. In the event the performance by either Vector or Spinco of its duties or obligations hereunder is interrupted or interfered with by reason of any Force Majeure, the Party affected by such Force Majeure shall not be deemed to be in default of this Agreement by reason of its non-performance due to such Force Majeure, but shall give notice to the other Party of the Force Majeure and the fee provided for in Section 4.1 shall be equitably adjusted to reflect the reduced performance. In such event, the Party affected by such Force Majeure shall resume the performance of its duties and obligations hereunder as soon as reasonably practicable after the end of the Force Majeure.

Section 7.5. Consequences of Termination. In the event this Agreement expires or is terminated in accordance with this Article VII, then (a) all Services to be provided will promptly cease, (b) each of Spinco and Vector shall, upon request of the other Party, promptly return or destroy all non-public confidential information and Personal Information received from the other Party in connection with this Agreement (including the return of all information received with respect to the Services or products of Vector or Spinco, as the case may be), without retaining a copy thereof (other than one copy for file purposes), and (c) each of Spinco and Vector shall honor all credits and make any accrued and unpaid payment to the other Party as required pursuant to the terms of this Agreement, and no rights already accrued hereunder shall be affected.

ARTICLE VIII RECORDS; DATA SECURITY

Section 8.1. Records Retention. Each of the Parties shall create and maintain full and accurate books in connection with the provision of the Services, and all other records relevant to this Agreement, and upon reasonable notice from the other Party shall make available for inspection and copy by such other Party's agents such records during reasonable business hours.

Section 8.2. Data Security. In their respective provision of the Services, each Party shall comply with all applicable federal, state, local and international laws, regulations and directives governing the collection, use, storage, processing, transmission, transfer, disclosure and protection of Personal Information ("Applicable Privacy Laws") and shall immediately inform the other Party if they believe that processing Personal Information as contemplated by this Agreement would violate Applicable Privacy Laws. Each Party shall process Personal Information only as instructed by the other Party as required to provide the applicable Services or as otherwise required by applicable law, and will not sell the Personal Information or process it for any other purpose. The Parties shall ensure that all personnel authorized to process Personal Information have agreed to maintain the confidentiality of the Personal Information and that access to Personal Information is limited to only those who need to know the Personal Information in order perform the specific Vector Services or Spinco Services under this Agreement. Each Party shall implement reasonable administrative, physical, technical and organizational measures designed to protect

Personal Information from any unauthorized access to or acquisition, disclosure, disposal, loss or use of such Personal Information (an “Information Security Incident”). Each Party shall notify the other Party within 72 hours following the discovery of any actual or suspected Information Security Incident and assist the other Party in any efforts to contain, investigate or remediate such Information Security Incident. Each Party shall assist the other Party in fulfilling its obligations to respond to data subjects’ requests for exercising their rights under Applicable Privacy Laws and shall make available all information necessary to demonstrate compliance with Applicable Privacy Laws. The Parties agree to enter into any further privacy or data security agreements as required to comply with Applicable Privacy Laws.

ARTICLE IX DISPUTE RESOLUTION

Section 9.1. Negotiation. In the event of a controversy, dispute or claim arising out of, in connection with, or in relation to the interpretation, performance, nonperformance, validity or breach of this Agreement or otherwise arising out of, or in any way related to this Agreement or the transactions contemplated hereby, including any claim based on contract, tort, statute or constitution (but excluding any controversy, dispute or claim arising out of any agreement relating to the use or lease of real property if any Third Party is a necessary party to such controversy, dispute or claim) (collectively, “Agreement Disputes”), the Party claiming such Agreement Dispute shall give written notice to the other Party setting forth the Agreement Dispute and a brief description thereof (a “Dispute Notice”) pursuant to the terms of the notice provisions of Article X hereof. Following delivery of a Dispute Notice, the general counsel of the other Party and/or such other executive officer designated by the other Party shall negotiate for a reasonable period of time to settle such Agreement Dispute; provided, however, that such reasonable period shall not, unless otherwise agreed by the Parties in writing, exceed forty-five (45) calendar days from the time of receipt by a Party of a Dispute Notice; provided, further, that in the event of any arbitration in accordance with Section 9.3 hereof, the Parties shall not assert the defenses of statute of limitations and laches arising during the period beginning after the date of receipt of the Dispute Notice, and any contractual time period or deadline under this Agreement to which such Agreement Dispute relates occurring after the Dispute Notice is received shall not be deemed to have passed until such Agreement Dispute has been resolved.

Section 9.2. Mediation. If, within forty-five (45) calendar days (or such longer period as may be agreed in writing between the Parties) after receipt by a Party of a Dispute Notice, the Parties have not succeeded in negotiating a resolution of the Agreement Dispute, the Parties agree to submit the Agreement Dispute at the earliest possible date to mediation conducted in accordance with the Commercial Mediation Rules of the American Arbitration Association (“AAA”), and to bear equally the costs of the mediation; provided, however, that each Party shall bear its own costs in connection with such mediation. The Parties agree to participate in good faith in the mediation and negotiations related thereto for a period of thirty (30) days or such longer period as they may mutually agree following the initial mediation session (the “Mediation Period”).

Section 9.3. Arbitration. If the Agreement Dispute has not been resolved for any reason after the Mediation Period, such Agreement Dispute shall be determined, at the request of either Party, by arbitration conducted in New York City, New York, before and in accordance with the then-existing Commercial Arbitration Rules of the AAA, except as modified herein (the “Rules”). There shall be three arbitrators. Each Party shall appoint one arbitrator within twenty (20) calendar days of receipt by respondent of a copy of the demand for arbitration. The two party-appointed arbitrators shall have twenty (20) calendar days from the appointment of the second arbitrator to agree on a third arbitrator who shall chair the arbitral tribunal. Any arbitrator not timely appointed by the Parties under this Section 9.3 shall be appointed by the AAA in accordance with the listing, ranking and striking method in the Rules, and in any such procedure, each Party shall be given a limited number of strikes, excluding strikes for cause. Any controversy concerning whether an Agreement Dispute is an arbitrable Agreement Dispute, whether arbitration has been waived, whether an assignee of this Agreement is bound to arbitrate, or as to the interpretation of enforceability of this Article IX shall be determined by the arbitrators. In resolving any Agreement Dispute, the Parties intend that the arbitrators shall apply the substantive laws of the State of New York, without regard to any choice of law principles thereof that would mandate the application of the laws of another jurisdiction. The Parties intend that the provisions to arbitrate set forth herein be valid, enforceable and irrevocable, and any award rendered by the arbitrators shall be final and binding on the Parties. The Parties agree to comply with any award made in any such arbitration proceedings and agree to enforcement of or entry of judgment upon such award in the United States

District Court for the Southern District of New York. The arbitrators shall be entitled, if appropriate, to award any remedy in such proceedings, including monetary damages, specific performance and all other forms of legal and equitable relief; provided, however, the arbitrators shall not be entitled to award punitive, exemplary, treble or any other form of non-compensatory damages except in connection with indemnification for a Third Party Claim (and in such a case, only to the extent awarded in such Third Party Claim).

Section 9.4. Arbitration Period. Any arbitration proceeding shall be concluded in a maximum of six (6) months from the commencement of the arbitration. The Parties may agree in writing to extend the arbitration period if necessary to appropriately resolve the Agreement Dispute.

Section 9.5. Treatment of Negotiations, Mediation and Arbitration. Without limiting the provisions of the Rules, unless otherwise agreed in writing by the Parties or permitted by this Agreement, the Parties shall keep confidential all matters relating to and any negotiation, mediation, conference, arbitration, discussion or arbitration award pursuant to this Article IX shall be treated as compromise and settlement negotiations for purposes of Rule 408 of the Federal Rules of Evidence and comparable state rules; provided, however, that such matters may be disclosed (i) to the extent reasonably necessary in any proceeding brought to enforce the award or for entry of a judgment upon the award and (ii) to the extent otherwise required by Law or stock exchange rules. Nothing said or disclosed, nor any document produced, in the course of any negotiations, conferences and discussions that is not otherwise independently discoverable shall be offered or received as evidence or used for impeachment or for any other purpose in any current or future arbitration. Nothing contained herein is intended to or shall be construed to prevent any Party from applying to any court of competent jurisdiction for interim measures or other provisional relief in connection with the subject matter of any Agreement Disputes. Without prejudice to such provisional remedies as may be available under the jurisdiction of a court, the arbitral tribunal shall have full authority to grant provisional remedies and to direct the parties to request that any court modify or vacate any temporary or preliminary relief issued by such court, and to award damages for the failure of any Party to respect the arbitral tribunal's orders to that effect.

Section 9.6. Continuity of Service and Performance. Except as provided in Sections 4.5, 7.4 or 7.5 or otherwise agreed in writing, the Parties will continue to provide Services and honor all other commitments under this Agreement and each Ancillary Agreement during the course of dispute resolution pursuant to the provisions of this Article IX with respect to all matters not subject to such dispute resolution.

Section 9.7. Consolidation. The arbitrators may consolidate any Agreement Disputes under this Agreement if the subject of the Agreement Disputes thereunder arise out of or relate essentially to the same set of facts or transactions. Such consolidated arbitration shall be determined by the arbitrator appointed for the arbitration proceeding that was commenced first in time.

ARTICLE X NOTICES

All notices and other communications hereunder shall be in writing, shall reference this Agreement and shall be emailed, hand delivered or mailed by registered or certified mail (return receipt requested) to the Parties at the following addresses (or at such other address for a Party as shall be specified by like notice) and will be deemed given on the date on which such notice is received:

To Vector:

Vector Group Ltd.
4400 Biscayne Boulevard
Miami, Florida 33137
Attention: General Counsel

To Spinco:

Douglas Elliman Inc.
4400 Biscayne Boulevard
Miami, Florida 33137
Attention: General Counsel

ARTICLE XI
MISCELLANEOUS

Section 11.1. Taxes. Except as may otherwise be specifically provided herein, each party shall bear all taxes, duties and other similar charges (and any related interest and penalties) imposed as a result of its receipt of Services under this Agreement.

Section 11.2. Relationship of Parties. Nothing in this Agreement shall be deemed or construed by the Parties or any Third Party as creating the relationship of principal and agent, partnership or joint venture between the Parties, it being understood and agreed that no provision contained herein, and no act of the Parties, shall be deemed to create any relationship between the Parties other than the relationship of independent contractor nor be deemed to vest any rights, interest or claims in any Third Parties.

Section 11.3. Complete Agreement; Construction. This Agreement, including the Schedules hereto, shall constitute the entire agreement between the Parties with respect to the subject matter hereof and shall supersede all previous negotiations, commitments and writings with respect to such subject matter. In the event of any inconsistency between this Agreement and any Schedule hereto, the Schedule shall prevail. The rights and remedies of the Parties herein provided shall be cumulative and in addition to any other or further remedies provided by law or equity.

Section 11.4. Other Agreements. This Agreement is not intended to address, and should not be interpreted to address, the matters specifically and expressly covered by the Distribution Agreement or the other Ancillary Agreements.

Section 11.5. Counterparts. This Agreement may be executed in more than one counterparts, all of which shall be considered one and the same agreement, and shall become effective when one or more such counterparts have been signed by each of the Parties and delivered to the other Party. This Agreement may be executed and delivered by electronic means, including “.pdf” or “.tiff” files, and any electronic signature shall constitute an original for all purposes.

Section 11.6. Survival of Agreements. Except as otherwise contemplated by this Agreement, the Distribution Agreement or any other Ancillary Agreement, all covenants and agreements of the Parties contained in this Agreement, the Distribution Agreement and each Ancillary Agreement shall survive the Distribution and remain in full force and effect in accordance with their applicable terms.

Section 11.7. Waivers and Consents. The failure of any Party to require strict performance by the other Party of any provision in this Agreement will not waive or diminish that Party’s right to demand strict performance thereafter of that or any other provision hereof. Any consent required or permitted to be given by any Party to the other Party under this Agreement shall be in writing and signed by the Party giving such consent.

Section 11.8. Amendments. This Agreement may not be modified or amended except by an agreement in writing signed by a duly authorized representative of each of the Parties.

Section 11.9. Assignment. This Agreement shall not be assignable, in whole or in part, directly or indirectly, by any Party without the prior written consent of the other Party, and any attempt to assign any rights or obligations arising under this Agreement without such consent shall be void; provided, however, that a Party may assign this Agreement in connection with a merger transaction in which such Party is not the surviving entity or the sale by such Party of all or substantially all of its Assets; provided, however, that the surviving entity of such merger or the transferee of such Assets shall agree in writing, reasonably satisfactory to the other Party, to be bound by the terms of this Agreement as if named as a “Party” hereto.

Section 11.10. Successors and Assigns. The provisions of this Agreement and the obligations and rights hereunder shall be binding upon, inure to the benefit of and be enforceable by (and against) the Parties and their respective successors and permitted transferees and assigns.

Section 11.11. No Circumvention. The Parties agree not to directly or indirectly take any actions, act in concert with any Person who takes an action (including the failure to take a reasonable action) such that the resulting effect is to materially undermine the effectiveness of any of the provisions of this Agreement or any Ancillary Agreement (including adversely affecting the rights or ability of any Party to successfully pursue indemnification, contribution or payment pursuant to Article V).

Section 11.12. Subsidiaries. Each of the Parties shall cause to be performed, and hereby guarantees the performance of, all actions, agreements and obligations set forth herein to be performed by any Subsidiary of such Party or by any entity that becomes a Subsidiary of such Party on and after the effective Commencement Date.

Section 11.13. Third Party Beneficiaries. This Agreement is solely for the benefit of the Parties and should not be deemed to confer upon third parties any remedy, claim, liability, reimbursement, claim of action or other right in excess of those existing without reference to this Agreement.

Section 11.14. Titles and Headings. Titles and headings to sections herein are inserted for the convenience of reference only and are not intended to be a part of or to affect the meaning or interpretation of this Agreement.

Section 11.15. Exhibits and Schedules. The Exhibits and Schedules shall be construed with and as an integral part of this Agreement to the same extent as if the same had been set forth verbatim herein.

Section 11.16. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of New York, without giving effect to any conflict-of-laws or other rule that would result in the application of the laws of a different jurisdiction.

Section 11.17. Consent to Jurisdiction. Subject to the provisions of Article IX hereof, each of the Parties irrevocably submits to the jurisdiction of the courts of the State of New York located in the City and County of New York, Borough of Manhattan (and if the courts of the State of New York shall be unavailable, any New York State court or federal court sitting in the City and County of New York, Borough of Manhattan) (the "New York Courts"), for the purposes of any suit, Action or other proceeding to compel arbitration or for provisional relief in aid of arbitration in accordance with Article IX or to prevent irreparable harm, and to the non-exclusive jurisdiction of the New York Courts for the enforcement of any award issued thereunder. Each of the Parties further agrees that service of any process, summons, notice or document by U.S. registered mail to such Party's respective address set forth above shall be effective service of process for any Action, suit or proceeding in the New York Courts with respect to any matters to which it has submitted to jurisdiction in this Section. Each of the Parties irrevocably and unconditionally waives any objection to the laying of venue of any Action, suit or proceeding arising out of this Agreement or the transactions contemplated hereby in the New York Courts, and hereby further irrevocably and unconditionally waives and agrees not to plead or claim in any such court that any such Action, suit or proceeding brought in any such court has been brought in an inconvenient forum.

Section 11.18. Specific Performance. The Parties agree that irreparable damage would occur in the event that the provisions of this Agreement were not performed in accordance with their specific terms. Accordingly, it is hereby agreed that the Parties shall be entitled to an injunction or injunctions to enforce specifically the terms and provisions hereof in any court of the United States or any state having jurisdiction, this being in addition to any other remedy to which they are entitled at law or in equity.

Section 11.19. WAIVER OF JURY TRIAL. EACH OF THE PARTIES HEREBY WAIVES TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY WITH RESPECT TO ANY LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT. EACH OF THE PARTIES HEREBY (A) 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 LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT HAS BEEN INDUCED TO ENTER INTO THIS AGREEMENT AND THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT, AS APPLICABLE, BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

Section 11.20. Severability. In the event any one or more of the provisions contained in this Agreement should be held invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein and therein shall not in any way be affected or impaired thereby. The Parties shall endeavor in good-faith negotiations to replace the invalid, illegal or unenforceable provisions with valid provisions, the economic effect of which comes as close as possible to that of the invalid, illegal or unenforceable provisions.

Section 11.21. Interpretation. The Parties have participated jointly in the negotiation and drafting of this Agreement. This Agreement shall be construed without regard to any presumption or rule requiring construction or interpretation against the Party drafting or causing any instrument to be drafted.

Section 11.22. No Duplication; No Double Recovery. Nothing in this Agreement is intended to confer to or impose upon any Party a duplicative right, entitlement, obligation or recovery with respect to any matter arising out of the same facts and circumstances (including with respect to the rights, entitlements, obligations and recoveries that may arise out of Section 5.1 or Section 5.2).

Section 11.23. DISCLAIMER OF WARRANTIES. EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT OR THE SCHEDULES ATTACHED HERETO, THE PARTIES ACKNOWLEDGE AND AGREE THAT THE SERVICES ARE PROVIDED AS-IS, THAT EACH RECIPIENT ASSUMES ALL RISKS AND LIABILITIES ARISING FROM OR RELATING TO ITS USE OF AND RELIANCE UPON THE SERVICES AND EACH PROVIDER, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, MAKES NO REPRESENTATION OR WARRANTY WITH RESPECT THERETO. EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, EACH PROVIDER HEREBY EXPRESSLY DISCLAIMS ALL REPRESENTATIONS AND WARRANTIES REGARDING THE SERVICES, WHETHER EXPRESS OR IMPLIED, EITHER IN FACT OR BY OPERATION OF LAW, BY STATUTE OR OTHERWISE, INCLUDING ANY REPRESENTATION OR WARRANTY IN REGARD TO QUALITY, PERFORMANCE, NONINFRINGEMENT, COMMERCIAL UTILITY, MERCHANTABILITY OR FITNESS OF ANY SERVICE FOR A PARTICULAR PURPOSE.

IN WITNESS WHEREOF, this Agreement has been duly executed and delivered on behalf of the Parties as of the date first herein above written.

VECTOR GROUP LTD.

By: /s/ J. Bryant Kirkland III
Name: J. Bryant Kirkland III
Title: Senior Vice President, Treasurer and Chief Financial Officer

DOUGLAS ELLIMAN INC.

By: /s/ Richard J. Lampen
Name: Richard J. Lampen
Title: Executive Vice President and Chief Operating Officer

[Signature Page to Transition Services Agreement]

TAX DISAFFILIATION AGREEMENT

BETWEEN

VECTOR GROUP LTD.

AND

DOUGLAS ELLIMAN INC.

dated as of December 21, 2021

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TAX DISAFFILIATION AGREEMENT

THIS TAX DISAFFILIATION AGREEMENT (the “*Agreement*”) is dated as of December 21, 2021, by and between Vector Group Ltd., a Delaware corporation (“*Parent*”), and Douglas Elliman Inc., a Delaware corporation and a wholly-owned subsidiary of Parent (“*Spinco*” and, together with Parent, the “*Parties*”, and each, a “*Party*”). Unless otherwise indicated, all “*Section*” references in this Agreement are to sections of the Agreement.

RECITALS

WHEREAS, the Board of Directors of Parent determined that, based on the Corporate Business Purposes, it is in the best interests of Parent and its stockholders to separate the businesses of Spinco, all as more fully described in Spinco’s registration statement on Form 10, from Parent’s other businesses on the terms and conditions set forth in the Distribution Agreement between Parent and Spinco dated on or about the date hereof (the “*Distribution Agreement*”);

WHEREAS, pursuant to the Distribution Agreement, Parent intends to complete (or cause to be completed) the Contribution;

WHEREAS, the Board of Directors of Parent has authorized the distribution to the holders (as of the record date) of the issued and outstanding shares of common stock, par value \$0.01 per share, of Parent (collectively, the “*Parent Shares*”) of the issued and outstanding shares of common stock, par value \$0.01 per share, of Spinco (each, a “*Spinco Share*” and collectively, the “*Spinco Shares*”), on the basis of one Spinco Share for every two Parent Shares (the “*Distribution*”);

WHEREAS, Parent and Spinco intend the Contribution and Distribution to qualify for the Tax-Free Status;

WHEREAS, the Boards of Directors of Parent and Spinco have each determined that the Distribution and the other transactions contemplated by the Distribution Agreement and the Ancillary Agreements are in furtherance of and consistent with the Corporate Business Purposes and, as such, are in the best interests of their respective companies and stockholders or sole stockholder, as applicable, and have approved the Distribution Agreement and each of the Ancillary Agreements;

WHEREAS, the Parties set forth in the Distribution Agreement the principal arrangements between them regarding the separation of the Spinco Group from the Parent Group; and

WHEREAS, the Parties desire to provide for and agree upon the allocation between the Parties of liabilities for Taxes arising prior to, as a result of, and subsequent to the Distribution, and to provide for and agree upon other matters relating to Taxes;

NOW, THEREFORE, in consideration of the mutual covenants contained in this Agreement, the Parties hereby agree as follows:

SECTION 1. Definition of Terms. For purposes of this Agreement (including the recitals hereof), the following terms have the following meanings:

“Affiliate” has the meaning set forth in the Distribution Agreement. For the avoidance of doubt, the term “Affiliate” as it applies to Spinco shall include members of the Spinco Group.

“Agreed Treatment” means the treatment of the Contribution and the Distribution in accordance with the Tax-Free Status.

“Agreement” has the meaning set forth in the preamble hereof.

“Ancillary Agreements” means the agreements encompassed by such term in the Distribution Agreement but excluding, for the avoidance of doubt, the reference therein to the “Tax Disaffiliation Agreement”.

“Business Day” has the meaning set forth in the Distribution Agreement.

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

“Combined Return” means a consolidated, combined or unitary Tax Return that includes, by election or otherwise, one or more members of the Parent Group and one or more members of the Spinco Group.

“Companies” means Parent and Spinco.

“Company” means Parent or Spinco, as the context requires.

“Compensatory Equity Interests” means options, stock appreciation rights, restricted stock, restricted stock units or other rights with respect to Parent Shares or Spinco Shares that are granted by Parent, Spinco or any of their respective Subsidiaries in connection with employee or director compensation or other employee benefits.

“Compensatory Equity Net Share Settlements” means “net share settlement” transactions with respect to Compensatory Equity Interests between either Party (or any of their respective Subsidiaries) on the one hand and the employee (or director, as the case may be) of such Party or the other Party (or any of their respective Subsidiaries) on the other hand, in each case pursuant to the terms of the relevant agreement with respect to such Compensatory Equity Interests.

“Contribution” means the contribution of Assets to, and the Assumption of Liabilities by (each as defined in the Distribution Agreement), Spinco.

“Controlling Party” means, with respect to a Tax Contest, the Person that has responsibility, control and discretion in handling, defending, settling or contesting such Tax Contest.

“Corporate Business Purposes” means the Corporate Business Purposes as set forth in the Tax Opinion Representations (including any appendices thereto) and the “Reasons for the Distribution” in Spinco’s registration statement on Form 10, as amended.

“Deconsolidation Taxes” means any Taxes imposed on any member of the Parent Group or the Spinco Group as a result of or in connection with the Contribution and the Distribution (or any portion thereof), but excluding any Transfer Taxes, Distribution Taxes, and, for the avoidance of doubt, Taxes arising from the Equity Award Transfer.

“Disclosing Party” has the meaning set forth in Section 6.3.

“Distribution” has the meaning set forth in the recitals hereof, it being understood that, for the avoidance of doubt, the Distribution excludes the Equity Award Transfer.

“Distribution Agreement” has the meaning set forth in the recitals hereof.

“Distribution Date” has the meaning set forth in the Distribution Agreement.

“Distribution Taxes” means any Taxes arising from a Final Determination that the Contribution and the Distribution failed to be tax-free to Parent in accordance with the requirements of section 355 or section 368(a)(1)(D) of the Code (including any Taxes resulting from the application of section 355(d) or (e) of the Code to the Distribution), or that any stock of Spinco failed to qualify as “qualified property” within the meaning of section 355(c)(2) or 361(c)(2) of the Code (including as a result of the application of section 355(d) or 355(e) of the Code to the Distribution) or where applicable, failed to be stock permitted to be received without recognition of gain or loss under section 361(a) of the Code, and shall include any Taxes resulting from an election under section 336(e) of the Code in the circumstances set forth in Section 4.6 hereof. For the avoidance of doubt, “Distribution Taxes” does not include any Taxes arising from the Equity Award Transfer.

“Due Date” has the meaning set forth in Section 4.3.

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

“Employee Matters Agreement” means the Employee Matters Agreement by and between Parent and Spinco entered into on or about the date hereof.

“Equity Award Transfer” means the transfer of Spinco Shares with respect to Parent Equity Awards, which transfer shall not exceed 3.5% of the total outstanding shares of Spinco.

“Escheat Liability” means any unclaimed property or escheat liability, including any interest, penalty, administrative charge, or addition thereto and further including all costs of responding to or defending against an audit, examination, or controversy with respect to such liability, imposed by or on behalf of a governmental entity with respect to any property or obligation (including, without limitation, uncashed checks to vendors, customers, or employees and non-refunded overpayments).

“Excess Taxes” means the excess of (x) the Taxes for which Parent Group is liable if an election is made pursuant to section 336(e) of the Code under Section 4.6 of this Agreement, over (y) the Taxes for which Parent Group is liable if such an election is not made, in each case taking into account the allocation of Taxes that is otherwise applicable in this Agreement but without regard to Section 4.6 hereof.

“Expert Law Firm” means a law firm nationally recognized for its expertise in the matter for which its opinion is sought.

“Thirty-Five-Percent Equity Interest” means, in respect of any corporation (within the meaning of the Code), stock or other equity interests of such corporation possessing (i) at least thirty-five percent (35%) of the total combined voting power of all classes of stock or equity interests entitled to vote, or (ii) at least thirty-five percent (35%) of the total value of shares of all classes of stock or of the total value of all equity interests.

“Filer” means the Company that is responsible for filing the applicable Tax Return pursuant to Sections 3.1 or 3.2.

“Final Determination” means a determination within the meaning of section 1313 of the Code or any similar provision of state or local Tax Law.

“Group” means the Parent Group or the Spinco Group, as the context requires.

“Income Tax” or “Income Taxes” means any Tax that is imposed on or measured by or referred to as income, gross income, gross receipts, profits, capital stock, franchise or other similar Tax.

“Indemnified Party” has the meaning set forth in Section 4.5.

“Indemnifying Party” has the meaning set forth in Section 4.5.

“Interest Rate” means (x) the “Prime Rate” as set forth in the Distribution Agreement, or (y) if higher and if with respect to a payment to indemnify for a Tax to which the “large corporate underpayment” provision within the meaning of section 6621(c) of the Code applies, such interest rate that would be applicable at such time to such “large corporate underpayment.”

“IRS” means the Internal Revenue Service.

“Parent” has the meaning set forth in the preamble hereof.

“Parent Business” has the meaning ascribed to the term “Distributing Business” in the Tax Opinion Representations that constitutes an active trade or business (within the meaning of section 355(b) of the Code) of the separate affiliated group (as defined in section 355(b)(3)(B) of the Code) of Parent.

“Parent Equity Award” has the meaning ascribed to the term “Vector Equity Award” in the Employee Matters Agreement.

“Parent Group” has the meaning ascribed to the term “Parent Group” in the Distribution Agreement.

“Parent Indemnified Party” includes each member of the Parent Group, each of their representatives and Affiliates, each of their respective directors, officers, managers and employees, and each of their heirs, executors, trustees, administrators, successors and assigns.

“Parent Restricted Action” means any action by Parent or any of its Subsidiaries inconsistent with the covenants set forth in Section 7.4(a); and, for the avoidance of doubt, an action shall be and remain a Parent Restricted Action even if Parent or any of its Subsidiaries is permitted to take such an action pursuant to Section 7.5(b).

“Parent Shares” has the meaning set forth in the recitals to this Agreement.

“Parent Tainting Act” means any breach of a representation or covenant made by Parent in Section 7.1 of this Agreement or the taking of a Parent Restricted Action, if as a result of such breach or taking of a Parent Restricted Action a Final Determination is made that the Contribution and the Distribution (excluding, for the avoidance of doubt, the Equity Award Transfer) failed to be tax-free by reason of (i) failing to qualify as a transaction described in section 355 and section 368(a)(1)(D) of the Code, or (ii) any stock of Spinco failing to qualify as “qualified property” within the meaning of section 355(c)(2) or 361(c)(2) of the Code (including as a result of the application of section 355(d) or 355(e) of the Code to the Distribution) or where applicable, failing to be stock permitted to be received without recognition of gain or loss under section 361(a) of the Code. It is understood and agreed that the Equity Award Transfer does not constitute, by itself, a Parent Restricted Action or a Parent Tainting Act, although it may be taken into account in determining whether some other Parent Tainting Act has resulted.

“Non-Controlling Party” has the meaning set forth in Section 5.3(a).

“Non-Filer” means any Company that is not responsible for filing the applicable Tax Return pursuant to Sections 3.1 or 3.2.

“Non-Income Tax” or “Non-Income Taxes” means any Tax that is not an Income Tax.

“Other Party” has the meaning set forth in Section 4.6(b).

“Party” has the meaning set forth in the preamble hereof.

“Parties” has the meaning set forth in the preamble hereof.

“Payment Date” means (x) with respect to any U.S. federal income tax return, the date on which any required installment of estimated taxes determined under section 6655 of the Code is due, the date on which (determined without regard to extensions) filing the return determined under section 6072 of the Code is required, and the date the return is filed, and (y) with respect to any other Tax Return, the corresponding dates determined under the applicable Tax Law.

“Periodic Taxes” means Taxes imposed on a periodic basis that are not based upon or related to income or receipts. Periodic Taxes include property Taxes and similar Taxes.

“Permitted Acquisition” means any acquisition (as a result of the Distribution but excluding, for the avoidance of doubt, as a result of the Equity Award Transfer) of Spinco Shares solely by reason of holding Parent Shares, but does not include such an acquisition if such Parent Shares, before such acquisition, were themselves acquired in a manner to which the flush language of section 355(e)(3)(A) of the Code applies (thus causing, for the avoidance of doubt, section 355(e)(3)(A)(i), (ii), (iii) or (iv) of the Code not to apply).

“Person” means any individual, corporation, company, limited liability company, partnership, trust, incorporated or unincorporated association, joint venture or other entity of any kind.

“Post-Distribution Period” means any Tax Year or other taxable period beginning after the Distribution Date and, in the case of any Straddle Period, that part of the Tax Year or other taxable period that begins at the beginning of the day after the Distribution Date.

“Pre-Distribution Period” means any Tax Year or other taxable period that ends on or before the Distribution Date and, in the case of any Straddle Period, that part of the Tax Year or other taxable period through the end of the day on the Distribution Date.

“Preparer” means the Company that is responsible for the preparation and filing of the applicable Tax Return pursuant to Sections 3.1 or 3.2.

“Receiving Party” has the meaning set forth in Section 6.3.

“Responsible Party” has the meaning set forth in Section 4.6(b).

“Restriction Period” means the period beginning on the Distribution Date and ending twenty-four (24) months after the Distribution Date.

“Satisfactory Guidance” means either a ruling from the IRS or an Unqualified Opinion, in either case reasonably satisfactory to Parent or Spinco (as the context dictates) in both form and substance.

“Separate Return” means (a) in the case of any Tax Return required under relevant Tax Law to be filed by any member of the Parent Group (including any consolidated, combined or unitary Tax Return), any such Tax Return that does not include any member of the Spinco Group, and (b) in the case of any Tax Return required under relevant Tax Law to be filed by any member of the Spinco Group (including any consolidated, combined or unitary Tax Return), any such Tax Return that does not include any member of the Parent Group.

“Spinco” has the meaning set forth in the preamble hereof.

“Spinco Business” has the meaning ascribed to the term “Controlled Business” in the Tax Opinion Representations that constitutes an active trade or business (within the meaning of section 355(b) of the Code) of the separate affiliated group (as defined in section 355(b)(3)(B) of the Code) of Spinco.

“Spinco Share” or “Spinco Shares” has the meaning set forth in the recitals to this Agreement.

“Spinco Group” has the meaning ascribed to the term “Spinco Group” in the Distribution Agreement.

“Spinco Indemnified Party” includes each member of the Spinco Group, each of their representatives and Affiliates, each of their respective directors, officers, managers and employees, and each of their heirs, executors, trustees, administrators, successors and assigns.

“Spinco Restricted Action” means any action by Spinco or any of its Subsidiaries inconsistent with the covenants set forth in Section 7.3; and, for the avoidance of doubt, an action shall be and remain a Spinco Restricted Action even if Spinco or any of its Subsidiaries is permitted to take such an action pursuant to Section 7.5(a).

“Spinco Shares” has the meaning set forth in the recitals to this Agreement.

“Spinco Tainting Act” means any breach of a representation or covenant made by Spinco in Section 7.1 of this Agreement or the taking of a Spinco Restricted Action, if as a result of such breach or taking of a Spinco Restricted Action a Final Determination is made that the Contribution and the Distribution (excluding, for the avoidance of doubt, the Equity Award Transfer) failed to be tax-free by reason of (i) failing to qualify as a transaction described in section 355 and section 368(a)(1)(D) of the Code, or (ii) any stock of Spinco failing to qualify as “qualified property” within the meaning of section 355(c)(2) or 361(c)(2) of the Code (including as a result of the application of section 355(d) or 355(e) of the Code to the Distribution) or where applicable, failing to be stock permitted to be received without recognition of gain or loss under section 361(a) of the Code. It is understood and agreed that the Equity Award Transfer does not constitute, by itself, a Spinco Restricted Action or a Spinco Tainting Act, although it may be taken into account in determining whether some other Spinco Tainting Act has resulted.

“Straddle Period” means any taxable period beginning on or prior to, and ending after, the Distribution Date.

“Subsidiary” when used with respect to any Person, means (i)(A) a corporation a majority in voting power of whose share capital or capital stock with voting power, under ordinary circumstances, to elect directors is at the time, directly or indirectly, owned by such Person, by one or more Subsidiaries of such Person, or by such Person and one or more Subsidiaries of such Person, whether or not such power is subject to a voting agreement or similar encumbrance, (B) a partnership or limited liability company in which such Person or a Subsidiary of such Person is, at the date of determination, (1) in the case of a partnership, a general partner of such partnership with the power affirmatively to direct the policies and management of such partnership or (2) in the case of a limited liability company, the managing member or, in the absence of a managing member, a member with the power affirmatively to direct the policies and management of such limited liability company, or (C) any other Person (other than a corporation) in which such Person, one or more Subsidiaries of such Person or such

Person and one or more Subsidiaries of such Person, directly or indirectly, at the date of determination thereof, has or have (1) the power to elect or direct the election of a majority of the members of the governing body of such Person, whether or not such power is subject to a voting agreement or similar encumbrance, or (2) in the absence of such a governing body, at least a majority ownership interest or (ii) any other Person of which an aggregate of 50% or more of the equity interests are, at the time, directly or indirectly, owned by such Person and/or one or more Subsidiaries of such Person. For the avoidance of doubt, the term "Subsidiary" as it applies to Spinco shall include the members of the Spinco Group.

"Tax" or "Taxes" means any income, gross income, gross receipts, profits, capital stock, franchise, withholding, payroll, social security, workers' compensation, employment, unemployment, disability, property, ad valorem, stamp, excise, severance, occupation, service, sales, use, license, lease, transfer, import, export, value added, alternative minimum, estimated or other similar tax (including any fee, assessment, or other charge in the nature of or in lieu of any tax) imposed by any Tax Authority, any Escheat Liability, abandoned, or unclaimed property law, and any interest, penalties, additions to tax, or additional amounts in respect of the foregoing, together with any reasonable expenses, including attorneys' fees, incurred in defending against any such tax.

"Tax Adjustment" has the meaning set forth in Section 4.7.

"Tax Authority" means, with respect to any Tax, the governmental entity or political subdivision, agency, commission or authority thereof that imposes such Tax, and the agency, commission or authority (if any) charged with the assessment, determination or collection of such Tax for such entity or subdivision.

"Tax Benefit" means a reduction in the Tax liability of a taxpayer (or of the Group of which it is a member) for any taxable period. Except as otherwise provided in this Agreement, a Tax Benefit shall be deemed to have been realized or received from a Tax Item in a taxable period only if and to the extent that the Tax liability of the taxpayer (or of the Group of which it is a member) for such period, after taking into account the effect of the Tax Item on the Tax liability of such taxpayer in the current period and all prior periods, is less than it would have been if such Tax liability were determined without regard to such Tax Item.

"Tax Contest" means an audit, review, examination, or any other administrative or judicial proceeding with the purpose, potential or effect of redetermining Taxes of any member of either Group (including any administrative or judicial review of any claim for refund).

"Tax Counsel" means Sullivan & Cromwell LLP.

"Tax-Free Status" means the qualification of the Contribution and the Distribution (a) as a transaction described in section 355 and section 368(a)(1)(D) of the Code, (b) as a transaction in which the stock of Spinco distributed by Parent is "qualified property" for purposes of sections 355(c)(2), 355(d), 355(e) and 361(c) of the Code, and (c) a transaction in which shareholders of Parent will not recognize income, gain or loss upon the Distribution under section 355(a) of the Code (except with respect to cash received in lieu of fractional shares). For the avoidance of doubt, "Tax-Free Status" does not relate to (x) any Taxes arising from the Equity Award Transfer or (y) any qualification of the Equity Award Transfer for any particular tax treatment.

“Tax Item” means, with respect to any Tax, any item of income, gain, loss, deduction, credit, adjustment in basis, or other attribute that may have the effect of increasing or decreasing any Tax.

“Tax Law” means the law of any governmental entity or political subdivision thereof, and any controlling judicial or administrative interpretations of such law, relating to any Tax.

“Tax Opinion” means the opinion (or opinions) to be delivered by Tax Counsel to Parent in connection with the Distribution to the effect that (i) Parent will not recognize gain or loss upon the Distribution (excluding, for the avoidance of doubt, the Equity Award Transfer) under section 355(c) or section 361(c) of the Code, and (ii) shareholders of Parent will not recognize gain or loss upon the Distribution (excluding, for the avoidance of doubt, the Equity Award Transfer) under section 355(a) of the Code, and no amount will be included in such shareholders’ income, except in respect of cash received in lieu of fractional Spinco Shares.

“Tax Opinion Representations” means the written and signed representations delivered to Tax Counsel in connection with the Tax Opinion.

“Tax Records” means Tax Returns, Tax Return work papers, documentation relating to any Tax Contests, and any other books of account or records required to be maintained under applicable Tax Laws (including but not limited to section 6001 of the Code) or under any record retention agreement with any Tax Authority.

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

“Tax Year” means, with respect to any Tax, the year, or shorter period, if applicable, for which the Tax is reported as provided under applicable Tax Law.

“Transactions” means the transactions contemplated by the Distribution Agreement (excluding the Equity Award Transfer) and includes, for the avoidance of doubt, (i) the Contribution and (ii) the Distribution.

“Transfer Taxes” means all U.S. federal, state, local or foreign sales, use, privilege, transfer, documentary, gains, stamp, duties, recording, and similar Taxes and fees (including any penalties, interest or additions thereto) imposed upon any Party hereto or any of its Affiliates in connection with the Distribution.

“Transition Services Agreement” means the transition services agreement between Parent and Spinco dated on or about the date hereof.

“Treasury Regulations” means the regulations promulgated from time to time under the Code as in effect for the relevant Tax Year.

“Unqualified Opinion” means an unqualified “will” opinion of an Expert Law Firm that permits reliance by Parent or Spinco (as the context dictates). For the avoidance of doubt, an Unqualified Opinion must be based on factual representations and assumptions that are reasonably satisfactory to Parent or Spinco (as the context dictates).

SECTION 2. Allocation of Taxes and Tax-Related Losses.

2.1 *Allocation of Taxes.* Except as provided in Section 2.2, Taxes shall be allocated as follows:

(a) Parent shall be liable for and shall be allocated (i) any Taxes attributable to members of the Parent Group for all periods, and (ii) any Taxes attributable to members of the Spinco Group for any Pre-Distribution Period, in each case including, for the avoidance of doubt, Taxes attributable to or arising in connection with the matters set forth in Schedule A.

(b) Spinco shall be liable for and shall be allocated any Taxes attributable to members of the Spinco Group for any Post-Distribution Period.

(c) In applying the provisions of Sections 2.1(a) and 2.1(b) (but subject to the provisions of Section 2.2):

(i) Any Taxes, other than Periodic Taxes, in respect of a Straddle Period shall be allocated between the Pre-Distribution Period and the Post-Distribution Period on a “closing of the books” basis by assuming that the books of the members of the Parent Group and the members of the Spinco Group were closed on the Distribution Date. For purposes of the foregoing, depreciation and amortization deductions with respect to property placed in service after the Distribution Date shall be allocated to the Post-Distribution Period, and all other depreciation and amortization deductions shall be allocated on a per diem basis.

(ii) Any Periodic Taxes in respect of a Straddle Period shall be allocated to the Pre-Distribution Period in an amount equal to such Periodic Taxes for the entire Straddle Period multiplied by a fraction the numerator of which is the number of calendar days in the period ending on the Distribution Date and the denominator of which is the number of calendar days in the entire period. The portion of any Periodic Taxes in respect of a Straddle Period not allocated to the Pre-Distribution Period shall be allocated to the Post-Distribution Period. For the avoidance of doubt, if a Party has prepaid Periodic Taxes that are allocated to the other Party under any provisions of this Agreement, the second Party shall reimburse the first Party to the extent so allocated.

(iii) Taxes attributable to any transaction or action taken by or with respect to any member of the Spinco Group before the Effective Time on the Distribution Date shall be allocated to the Pre-Distribution Period, and Taxes attributable to any transaction or action taken by or with respect to any member of the Spinco Group after the Effective Time on the Distribution Date shall be allocated to the Post-Distribution Period.

(iv) In determining the allocation of any Escheat Liability, the liability shall be allocated to the Party whose Group members actually hold (or are required to hold) the property subject to the Escheat Liability at the time a payment or remittance in respect of such liability is required to be made to the applicable governmental entity.

(v) Any Taxes arising from the Equity Award Transfer shall be treated as Taxes described in Section 2.1(a) hereof, except to the extent such Taxes are specifically addressed by the Employee Matters Agreement.

2.2 Special Allocation of Certain Taxes. Notwithstanding any other provision of this Agreement:

(a) Any and all Deconsolidation Taxes shall be borne by Parent.

(b) Spinco shall indemnify and hold harmless each Parent Indemnified Party from and against any liability of Parent for Distribution Taxes to the extent such Distribution Taxes are attributable to a Spinco Tainting Act, provided, however, that Spinco shall have no obligation to indemnify any Parent Indemnified Party hereunder if there has occurred, prior to such Spinco Tainting Act, a Parent Tainting Act and such Distribution Taxes are attributable to such Parent Tainting Act. It is understood and agreed that, in determining the amounts payable under this Section 2.2(b), there shall be included all costs, expenses and damages associated with shareholders litigation or controversies and any amount paid by Parent in respect of the liability of its shareholders, whether paid to its shareholders or to any Tax Authority, in connection with liability that may arise to shareholders as a result of receiving or accruing an amount payable under this Section 2.2(b), and all reasonable costs and expenses associated with such payments.

(c) Parent shall indemnify and hold harmless each Spinco Indemnified Party from and against any liability of Spinco for Distribution Taxes to the extent that Spinco is not liable for such Taxes pursuant to Section 2.2(b).

(d) The Companies shall cooperate with each other and use their commercially reasonable efforts to reduce and/or eliminate any Transfer Taxes. If any Transfer Tax remains payable after application of the first sentence of this Section 2.2(d) and notwithstanding any other provision in this Section 2, all Transfer Taxes shall be allocated to Parent.

2.3 Tax Payments. Each Company shall be liable for and shall pay the Taxes allocated to it by this Section 2 either to the applicable Tax Authority or to the other Company in accordance with Section 4 and the other applicable provisions of this Agreement.

SECTION 3. Preparation and Filing of Tax Returns.

3.1 Combined Returns.

(a) Parent shall be responsible for preparing and filing (or causing to be prepared or filed) all Combined Returns for any Tax Year. For any such return, Spinco shall furnish any relevant information, including pro forma returns, disclosures, apportionment data and supporting schedules, relating to any member of the Spinco Group necessary for completing any such return in a format suitable for inclusion in such return, provided that Spinco shall have the right to review and approve items on such returns if and to the extent such items directly relate to Taxes for which Spinco would be liable under Section 2, such approval not to be unreasonably delayed, conditioned or withheld by Spinco.

(b) For the period in which the Transition Services Agreement is in effect, Spinco shall assist in the preparation of any Tax Returns which may be requested by Parent in accordance with the terms of the Transition Services Agreement (even if, for the avoidance of doubt, the responsibility for preparation such Tax Return may be allocated to Parent under other provisions of this Agreement). Nothing in this Section 3.1(b) shall be construed to affect Parent's right or responsibility to file the Tax Returns whose filing is allocated to Parent under other provisions of this Agreement.

3.2 Separate Returns.

(a) *Tax Returns to be Prepared by Parent.* Parent shall be responsible for preparing and filing (or causing to be prepared and filed) all Separate Returns which relate to one or more members of any Group and for which Spinco is not responsible under Section 3.2(b), provided, however, that in the case of such returns which relate to one or more members of the Spinco Group for any Pre-Distribution Period or Straddle Period, Spinco shall have the right to review and approve such returns, such approval not to be unreasonably delayed, conditioned or withheld by Spinco.

(b) *Tax Returns to be Prepared by Spinco.* Spinco shall be responsible for preparing and filing (or causing to be prepared and filed) all Separate Returns which relate to one or more members of the Spinco Group for any Post-Distribution Period.

3.3 *Agent.* Subject to the other applicable provisions of this Agreement (including, without limitation, Section 5), Parent and Spinco (and their respective Affiliates) shall designate the other Party as its agent and attorney-in-fact to take such action (including execution of documents) as such other Party may deem reasonably appropriate in matters relating to the preparation or filing of any Tax Return described in Sections 3.1 and 3.2.

3.4 Provision of Information.

(a) Parent shall provide to Spinco, and Spinco shall provide to Parent, any information about members of the Parent Group or the Spinco Group, respectively, that the Preparer reasonably requires to determine the amount of Taxes due on any Payment Date with respect to a Tax Return for which the Preparer is responsible pursuant to Section 3.1 or 3.2 and to properly and timely file all such Tax Returns.

(b) If a member of the Spinco Group supplies information to a member of the Parent Group, or a member of the Parent Group supplies information to a member of the Spinco Group, and an officer of the requesting member intends to sign a statement or other document under penalties of perjury in reliance upon the accuracy of such information, then a duly authorized officer of the member supplying such information shall certify, to the best of such officer's knowledge, the accuracy of the information so supplied.

3.5 *Special Rules Relating to the Preparation of Tax Returns.*

(a) *In General.* All Tax Returns that include any members of the Parent Group or Spinco Group, or any of their respective Affiliates, shall be prepared in a manner that is consistent with the Tax Opinion (including, for the avoidance doubt, the Tax Opinion Representations). Except as otherwise set forth in this Agreement, all Tax Returns for which Parent has the right to prepare, review, approve or file under Sections 3.1 and 3.2 shall be prepared (x) in accordance with elections, Tax accounting methods and other practices used with respect to such Tax Returns filed prior to the Distribution Date (unless such past practices are not permissible under applicable law), or (y) to the extent any items are not covered by past practices (or in the event such past practices are not permissible under applicable Tax Law), in any reasonable manner, in accordance with the preparation, review, approval and filing responsibilities of Sections 3.1 and 3.2; provided, however, that in each case of (x) and (y) to the extent that a change in such elections, methods or practices could not reasonably be expected to result in any adverse impact on Parent and would not be inconsistent with applicable law, such Tax Returns shall be prepared in accordance with reasonable practices selected by Spinco.

(b) *Election to File Consolidated, Combined or Unitary Tax Returns.* Subject to Spinco's reasonable approval, Parent shall elect to file any Tax Return on a consolidated, combined or unitary basis, if such Tax Return would include at least one member of each Group and the filing of such Tax Return is elective under the relevant Tax Law.

3.6 *Refunds, Credits, Offsets, Tax Benefits*

(a) Any refunds, credits, or offsets with respect to Taxes allocated to Parent pursuant to this Agreement shall be for the account of Parent. Any refunds, credits or offsets with respect to Taxes allocated to Spinco pursuant to this Agreement shall be for the account of Spinco.

(b) Parent shall forward to Spinco, or reimburse Spinco for, any such refunds, credits or offsets, plus any interest received thereon, net of any Taxes incurred with respect to the receipt or accrual thereof and any expenses incurred in connection therewith, that are for the account of Spinco within fifteen (15) Business Days from receipt thereof by Parent or any of its Affiliates. Spinco shall forward to Parent, or reimburse Parent for, any refunds, credits or offsets, plus any interest received thereon, net of any Taxes incurred with respect to the receipt or accrual thereof and any expenses incurred in connection therewith, that are for the account of Parent within fifteen (15) Business Days from receipt thereof by Spinco or any of its Affiliates. Any refunds, credits or offsets, plus any interest received thereon, or reimbursements not forwarded or made within the fifteen (15) Business Day period specified above shall bear interest from the date received by the refunding or reimbursing party (or its Affiliates) through and including the date of payment at the Interest Rate (treating the date received as the Due Date for purposes of determining such interest). If, subsequent to a Tax Authority's allowance of a refund, credit or offset, such Tax Authority reduces or eliminates such allowance, any refund, credit or offset, plus any interest received thereon, forwarded or reimbursed under this Section 3.6 shall be returned to the party who had forwarded or reimbursed such refund, credit or offset and interest upon the request of such forwarding party in an amount equal to the applicable reduction, including any interest received thereon.

3.7 *Carrybacks*. To the extent permitted under applicable Tax Laws, the Spinco Group shall make the appropriate elections in respect of any Tax Returns to waive any option to carry back any net operating loss, any credits or any similar item from a Post-Distribution Period to any Pre-Distribution Period or to any Straddle Period. Any refund of or credit for Taxes resulting from any such carryback by a member of the Spinco Group that cannot be waived shall be payable to Spinco net of any Taxes incurred with respect to the receipt or accrual thereof and any expenses incurred in connection therewith.

3.8 *Amended Returns*. Any amended Tax Return or claim for Tax refund, credit or offset with respect to any member of the Parent Group or Spinco Group may be made only by the Company (or its Affiliates) responsible for filing the original Tax Return with respect to such member pursuant to Sections 3.1 or 3.2 (and, for the avoidance of doubt, subject to the same preparation, review, approval and filing rights set forth in Sections 3.1 or 3.2, to the extent applicable). Such Company (or its Affiliates) shall not, without the prior written consent of the other Company (which consent shall not be unreasonably withheld or delayed), file, or cause to be filed, any such amended Tax Return or claim for Tax refund, credit or offset to the extent that such filing, if accepted, is likely to increase the Taxes allocated to, or the Tax indemnity obligations under this Agreement of, such other Company for any Tax Year (or portion thereof).

SECTION 4. Tax Payments.

4.1 *Payment of Taxes to Tax Authority*. Parent shall be responsible for remitting to the proper Tax Authority the Tax shown on any Tax Return for which it is responsible for filing pursuant to Section 3.1 or Section 3.2, and Spinco shall be responsible for remitting to the proper Tax Authority the Tax shown on any Tax Return for which it is responsible for filing pursuant to Section 3.2.

4.2 *Indemnification Payments*.

(a) *Tax Payments Made by the Parent Group*. If any member of the Parent Group is required to make a payment to a Tax Authority for Taxes allocated to Spinco under this Agreement, Spinco will pay the amount of Taxes allocated to it to Parent not later than the later of (i) five (5) Business Days after receiving notification requesting such amount, and (ii) five (5) Business Days prior to the date such payment is required to be made to such Tax Authority. Notwithstanding the preceding sentence, if any member of the Parent Group has made a prepayment of Periodic Taxes that are allocated to Spinco under this Agreement, Spinco will pay the amount of such Taxes allocated to it to Parent not later than thirty (30) Business Days after the Distribution Date.

(b) *Tax Payments Made by the Spinco Group.* If any member of the Spinco Group is required to make a payment to a Tax Authority for Taxes allocated to Parent under this Agreement, Parent will pay the amount of Taxes allocated to it to Spinco not later than the later of (i) five (5) Business Days after receiving notification requesting such amount, and (ii) five (5) Business Days prior to the date such payment is required to be made to such Tax Authority. Notwithstanding the preceding sentence, if any member of the Spinco Group has made a prepayment of Periodic Taxes that are allocated to Parent under this Agreement, Parent will pay the amount of such Taxes allocated to it to Spinco not later than thirty (30) Business Days after the Distribution Date.

4.3 *Interest on Late Payments.* Payments pursuant to this Agreement that are not made by the date prescribed in this Agreement or, if no such date is prescribed, not later than five (5) Business Days after demand for payment is made (the “*Due Date*”) shall bear interest for the period from and including the date immediately following the Due Date through and including the date of payment at the Interest Rate. Such interest will be payable at the same time as the payment to which it relates. Interest will be calculated on the basis of a year of 365 days and the actual number of days for which due. Any payments of interest made under this Section 4.3 shall be treated as taxable or deductible, as the case may be, to the Party entitled under this Agreement to retain such payment or required under this Agreement to make such payment, in either case except as otherwise required by applicable law.

4.4 *Tax Consequences of Payments.* For all Tax purposes and to the extent permitted by applicable Tax Law, and pursuant to *Arrowsmith v. Commissioner*, 344 U.S. 6 (1952), the parties hereto shall treat any payment (except as provided in Section 4.3) made pursuant to this Agreement as a capital contribution or a distribution, as the case may be, immediately prior to the Distribution or as payments of an assumed or retained liability.

4.5 *Adjustments to Payments.* The amount of any payment made pursuant to this Agreement shall be adjusted as follows:

(a) If the receipt or accrual of any indemnity amounts for which any Party hereto (the “*Indemnifying Party*”) is required to pay another Party (the “*Indemnified Party*”) under this Agreement causes, directly or indirectly, an increase in the taxable income of the Indemnified Party under one or more applicable Tax Laws, such payment shall be increased so that, after the payment of any Taxes with respect to the payment, the Indemnified Party shall have realized the same net amount it would have realized had the payment not resulted in taxable income. For the avoidance of doubt, any liability for Taxes due to an increase in taxable income described in the immediately preceding sentence shall be governed by this Section 4.5(a) and not by Section 2.2.

(b) To the extent that Taxes for which the Indemnifying Party is required to pay to the Indemnified Party pursuant to this Agreement gives rise to a deduction, credit or other Tax Benefit (including as a result of any election set forth in Section 4.6) to the Indemnified Party or any of its Affiliates, the amount of any payment made to the Indemnified Party by the Indemnifying Party shall be decreased by taking into account any resulting reduction in Taxes actually realized by the Indemnified Party or any of its Affiliates resulting from such Tax Benefit (including as a result of any election set forth in Section 4.6). If such a reduction in Taxes of the Indemnified Party occurs following the payment made to the Indemnified Party with respect to the relevant indemnified Taxes, the Indemnified Party shall promptly repay the Indemnifying Party the amount of such reduction when actually realized. If the Tax Benefit arising from the foregoing reduction of Taxes described in this Section 4.5(b) is subsequently decreased or eliminated, then the Indemnifying Party shall promptly pay the Indemnified Party the amount of the decrease in such Tax Benefit. This Section 4.5(b) shall not apply to the extent that Section 3.6(b) would also apply to cause recovery of the same amounts to the Indemnifying Party.

4.6 Section 336(e) Election.

(a) Upon request by Parent, Spinco shall join with Parent in making a protective election under section 336(e) of the Code (and any similar election under state or local law) (collectively, a “Section 336(e) Election”) with respect to the Distribution in accordance with Treasury Regulations section 1.336-2(h) and (j) (and any applicable provisions under state and local law), provided that Spinco shall indemnify Parent for any cost to the Parent Group of making such an election (but it being understood that any such cost arising from Taxes shall be limited to Excess Taxes). Parent and Spinco shall cooperate in the timely completion and/or filings of such elections and any related filings or procedures (including filing or amending any Tax Returns to implement an election that becomes effective).

(b) If the Contribution and/or the Distribution fails to qualify (in whole or in part) for the Tax-Free Status and Spinco or any member of the Spinco Group realizes an increase in Tax basis as a result of the Section 336(e) Election (the “Section 336(e) Tax Basis”), then the cash Tax savings realized by Spinco and each member of the Spinco Group as a result of the Section 336(e) Tax Basis shall be shared between Parent and Spinco in the same proportion as the Taxes giving rise to the Section 336(e) Tax Basis were borne by Parent and Spinco (after giving effect to the indemnification obligations in this Agreement).

4.7 *Certain Final Determinations.* If an adjustment (a “*Tax Adjustment*”) pursuant to a Final Determination in a Tax Contest initiated by a Tax Authority results in a Tax greater than the Tax shown on the relevant Tax Return for any Pre-Distribution Period, the Indemnified Party shall pay to the Indemnifying Party an amount equal to any Tax Benefit as and when actually realized by such Indemnified Party as a result of such Tax Adjustment. The Parties agree that if an Indemnified Party is required to make a payment to an Indemnifying Party pursuant to this Section 4.7, the Parties shall negotiate in good faith to set off the amount of such payment against any indemnity payments owed by the Indemnifying Party to the Indemnified Party, taking into account time value and similar concepts as appropriate.

SECTION 5. Cooperation and Tax Contests.

5.1 *Cooperation.* In addition to the obligations enumerated in Sections 3.4 and 5.4, Parent and Spinco will cooperate (and cause their respective Subsidiaries and Affiliates to cooperate) with each other and with each other’s agents, including accounting firms and legal counsel, in connection with Tax matters, including provision of relevant documents and information in their possession and making available to each other, as reasonably requested and available, personnel (including officers, directors, employees and agents of the Parties or their respective Subsidiaries or Affiliates) responsible for preparing, maintaining, and interpreting information and documents relevant to Taxes, and personnel reasonably required as witnesses or for purposes of providing information or documents in connection with any administrative or judicial proceedings relating to Taxes.

5.2 *Notices of Tax Contests.* Each Company shall provide prompt notice to the other Company of any pending or threatened Tax audit, assessment or proceeding or other Tax Contest of which it becomes aware relating to (i) Taxes for which it is or may be indemnified by such other Company hereunder or (ii) Tax Items that may affect the amount or treatment of Tax Items of such other Company. Such notice shall contain factual information (to the extent known) describing any asserted Tax liability in reasonable detail and shall be accompanied by copies of any notice and other documents received from any Tax Authority in respect of any such matters; provided, however, that failure to give such notification shall not affect the indemnification provided hereunder except, and only to the extent that, the indemnifying Company shall have been actually prejudiced as a result of such failure. Thereafter, the indemnified Company shall deliver to the indemnifying Company such additional information with respect to such Tax Contest in its possession that the indemnifying Company may reasonably request.

5.3 *Control of Tax Contests.*

(a) *Controlling Party.* Subject to the limitations set forth in Section 5.3(b), each Filer (or the appropriate member of its Group) shall, at its own cost and expense, be the Controlling Party with respect to any Tax Contest involving a Tax reported (or that, it is asserted, should have been reported) on a Tax Return for which such Company is responsible for filing (or causing to be filed) pursuant to Section 3 of this Agreement (it being understood, for the avoidance of doubt but subject to the other provisions of this Section 5.3(a), that Parent shall be the Controlling Party with respect to any Tax Contest involving Distribution Taxes), in which case any Non-Filer that could have liability under this Agreement for a Tax to which such Tax Contest relates shall be treated as the “*Non-Controlling Party.*” Notwithstanding the immediately preceding sentence, if a Non-Filer (x) acknowledges to the Filer in writing its full liability under this Agreement to indemnify for any Tax, and (y) provides to the Filer evidence (that is satisfactory to the Filer as determined in the Filer’s reasonable discretion) of the Non-Filer’s financial readiness and capacity to make such indemnity payment, then thereafter with respect to the Tax Contest relating solely to such Tax the Non-Filer shall be the Controlling Party (subject to Section 5.3(b)) and the Filer shall be treated as the Non-Controlling Party. For the avoidance of doubt, Parent shall, at its own cost and expense, be the Controlling Party with respect to the matters set forth in Schedule A.

(b) *Non-Controlling Party Participation Rights.* With respect to a Tax Contest of any Tax Return that could result in a Tax liability that is allocated under this Agreement, (i) the Non-Controlling Party shall, at its own cost and expense, be entitled to participate in such Tax Contest and to provide comments and suggestions to the Controlling Party, such comments and suggestions not to be unreasonably rejected, (ii) the Controlling Party shall keep the Non-Controlling Party updated and informed, and shall consult with the Non-Controlling Party, (iii) the Controlling Party shall act in good faith with a view to the merits in connection with the Tax Contest, and (iv) the Controlling Party shall not settle or compromise such Tax Contest without the prior written consent of the Non-Controlling Party (which consent shall not be unreasonably withheld).

5.4 *Cooperation Regarding Tax Contests.* The Parties shall provide each other with all information relating to a Tax Contest which is needed by the other Party or Parties to handle, participate in, defend, settle or contest the Tax Contest. At the request of any party, the other Parties shall take any action (e.g., executing a power of attorney) that is reasonably necessary in order for the requesting Party to exercise its rights under this Agreement in respect of a Tax Contest. Spinco shall assist Parent, and Parent shall assist Spinco, in taking any remedial actions that are necessary or desirable to minimize the effects of any adjustment made by a Tax Authority. The Indemnifying Party or Parties shall reimburse the Indemnified Party or Parties for any reasonable out-of-pocket costs and expenses incurred in complying with this Section 5.4.

SECTION 6. Tax Records.

6.1 *Retention of Tax Records.* Each of Parent and Spinco shall preserve, and shall cause their respective Subsidiaries to preserve, all Tax Records that are in their possession, and that could affect the liability of any member of the other Group for Taxes, for as long as the contents thereof may become material in the administration of any matter under applicable Tax Law, but in any event until the later of (x) the expiration of any applicable statute of limitations, as extended, and (y) seven years after the Distribution Date.

6.2 *Access to Tax Records.* Spinco shall make available, and cause its Subsidiaries to make available, to members of the Parent Group for inspection and copying the portion of any Tax Record in their possession that relates to a Pre-Distribution Period or Post-Distribution Period and which is reasonably necessary for the preparation, review, approval or filing of a Tax Return by a member of the Parent Group or any of their Affiliates or with respect to any Tax Contest with respect to such return. Parent shall make available, and cause its Subsidiaries to make available, to members of the Spinco Group for inspection and copying the portion of any Tax Record in their possession that relates to a Pre-Distribution Period and which is reasonably necessary for the preparation, review, approval or filing of a Tax Return by a member of the Spinco Group or any of their Affiliates or with respect to any Tax Contest with respect to such return.

6.3 *Confidentiality.* Each party hereby agrees that it will hold, and shall use its reasonable best efforts to cause its officers, directors, employees, accountants, counsel, consultants, advisors and agents to hold, in confidence all records and information prepared and shared by and among the Parties in carrying out the intent of this Agreement, except as may otherwise be necessary in connection with the filing of Tax Returns or any administrative or judicial proceedings relating to Taxes or unless disclosure is compelled by a governmental authority. Information and documents of one Party (the “*Disclosing Party*”) shall not be deemed to be confidential for purposes of this Section 6.3 to the extent that such information or document (i) is previously known to or in the possession of the other Party or Parties (the “*Receiving Party*”) and is not otherwise subject to a requirement to be kept confidential, (ii) becomes publicly available by means other than unauthorized disclosure under this Agreement by the Receiving Party or (iii) is received from a third party without, to the knowledge of the Receiving Party after reasonable diligence, a duty of confidentiality owed to the Disclosing Party.

SECTION 7. Representations and Covenants.

7.1 Covenants of Parent and Spinco.

(a) Parent hereby covenants that, to the fullest extent permissible under U.S. federal income and state Tax Laws, it will, and will cause the members of the Parent Group to, treat the applicable Transactions in accordance with the Agreed Treatment. Spinco hereby covenants that, to the fullest extent permissible under U.S. federal income and state Tax Laws, it will, and will cause each Subsidiary of Spinco to, treat the applicable Transactions in accordance with the Agreed Treatment.

(b) Parent further covenants that, as of and following the date hereof, Parent shall not and shall cause the members of the Parent Group not to take any action that (or fail to take any action the omission of which) would be inconsistent with the applicable Transactions qualifying for the Agreed Treatment or that would preclude the applicable Transactions from qualifying for the Agreed Treatment.

(c) Spinco further covenants that, as of and following the date hereof, Spinco shall not and shall cause its Subsidiaries not to take any action that (or fail to take any action the omission of which) would be inconsistent with the applicable Transactions qualifying for the Agreed Treatment or that would preclude the applicable Transactions from qualifying for the Agreed Treatment.

7.2 Covenants of Spinco.

(a) Without limiting the generality of the provisions of Section 7.1, Spinco, on behalf of itself and its Subsidiaries, agrees and covenants that Spinco and each of its Subsidiaries will not, directly or indirectly, during the Restriction Period, (i) take any action that would result in Spinco's ceasing to be engaged in the active conduct of the Spinco Business with the result that Spinco is not engaged in the active conduct of a trade or business within the meaning of section 355(b)(2) of the Code, (ii) redeem or otherwise repurchase (directly or through an Affiliate of Spinco) any of Spinco's outstanding stock, other than through stock purchases meeting the requirements of section 4.05(1)(b) of Revenue Procedure 96-30, 1996-1 C.B. 696 (but it being understood, for the avoidance of doubt, that no agreement or covenant under this Section 7.2(a)(ii) is being entered with respect to Compensatory Equity Net Share Settlements), (iii) amend the certificate of incorporation (or other organizational documents) of Spinco that would convert one class of Spinco's stock into another class of its stock or affect the relative voting rights of any class of Spinco's stock, (iv) liquidate or partially liquidate Spinco, (v) merge Spinco with any other corporation (other than in a transaction that does not affect the relative shareholding of Spinco shareholders), sell or otherwise dispose of (other than in the ordinary course of business) the assets of Spinco and its Subsidiaries, or take any other action or actions if such merger, sale, other disposition or other action or actions in the aggregate would have the effect that one or more Persons acquire (or have the right to acquire), directly or indirectly, as part of a plan or series of related transactions, assets representing one-half or more of the asset value of the Spinco Group, or (vi) take any other action or actions that in the aggregate would have the effect that one or more Persons acquire (or have the right to acquire), directly or indirectly, as part of a plan or series of related transactions, stock of Spinco (including by virtue of the Equity Award Transfer) representing a Thirty-Five-Percent Equity Interest in Spinco (as determined for purposes of section 355(e) of the Code), other than a Permitted Acquisition.

7.3 Covenants of Parent.

(a) Without limiting the generality of the provisions of Section 7.1, Parent, on behalf of itself and each member of the Parent Group, agrees and covenants that Parent and each member of the Parent Group will not, directly or indirectly, during the Restriction Period, (i) take any action that would result in Parent's ceasing to be engaged in the active conduct of the Parent Business with the result that Parent is not engaged in the active conduct of a trade or business within the meaning of section 355(b)(2) of the Code, (ii) redeem or otherwise repurchase (directly or through an Affiliate of Parent) any of Parent's outstanding stock, other than through stock purchases meeting the requirements of section 4.05(1)(b) of Revenue Procedure 96-30, 1996-1 C.B. 696 (but it being understood, for the avoidance of doubt, that no agreement or covenant under this Section 7.3(a)(ii) is being entered with respect to Compensatory Equity Net Share Settlements), (iii) amend the certificate of incorporation (or other organizational documents) of Parent that would convert one class of Parent's stock into another class of its stock or affect the relative voting rights of any class of Parent's stock, (iv) liquidate or partially liquidate Parent, (v) merge Parent with any other corporation (other than in a transaction that does not affect the relative shareholding of Parent shareholders), sell or otherwise dispose of (other than in the ordinary course of business) the assets of Parent and its Subsidiaries, or take any other action or actions if such merger, sale, other disposition or other action or actions in the aggregate would have the effect that one or more Persons acquire (or have the right to acquire), directly or indirectly, as part of a plan or series of related transactions, assets representing one-half or more of the asset value of the Parent Group, or (vi) take any other action or actions that in the aggregate would have the effect that one or more Persons acquire (or have the right to acquire), directly or indirectly, as part of a plan or series of related transactions, stock of Parent representing a Thirty-Five-Percent Equity Interest in Parent (as determined for purposes of section 355(e) of the Code).

(b) Nothing in this Section 7 shall be construed to give Spinco or any Affiliates of Spinco any right to remedies other than indemnification for any increase in the actual Tax liability (and/or decrease in Tax Benefit) of Spinco or any Affiliate of Spinco that results from Parent Group's failure to comply with the covenants and representations in this Section 7.

7.4 Exceptions.

(a) Exceptions with Respect to Spinco.

(i) Notwithstanding Section 7.2 above, Spinco or any of its Subsidiaries may take a Spinco Restricted Action if Parent consents in writing to such Spinco Restricted Action, or if Spinco provides Parent with Satisfactory Guidance concluding that such Spinco Restricted Action will not alter the Tax-Free Status of the Distribution in respect of Parent and Parent's shareholders.

(ii) Spinco and each of its Subsidiaries agree that Parent and each Parent Affiliate are to have no liability for any Tax resulting from any Spinco Restricted Actions permitted pursuant to this Section 7.4(a) and, subject to Section 2.2, agree to indemnify and hold harmless each Parent Indemnified Party against any such Tax. Spinco shall bear all costs incurred by it, and all reasonable costs incurred by Parent, in connection with requesting and/or obtaining any Satisfactory Guidance.

(b) Exceptions with Respect to Parent.

(i) Notwithstanding Section 7.3 above, Parent or any of its Subsidiaries may take a Parent Restricted Action if Spinco consents in writing to such Parent Restricted Action, or if Parent provides Spinco with Satisfactory Guidance concluding that such Parent Restricted Action will not alter the Tax-Free Status of the Distribution in respect of Spinco and Spinco's shareholders.

(ii) Parent and each of its Subsidiaries agree that Spinco and each Spinco Affiliate are to have no liability for any Tax resulting from any Parent Restricted Actions permitted pursuant to this Section 7.4(b) and, subject to Section 2.2, agree to indemnify and hold harmless each Spinco Indemnified Party against any such Tax. Parent shall bear all costs incurred by it, and all reasonable costs incurred by Spinco, in connection with requesting and/or obtaining any Satisfactory Guidance.

7.5 *Injunctive Relief*. For the avoidance of doubt, Parent shall have the right to seek injunctive relief to prevent Spinco or any of its Subsidiaries from taking any action that is not consistent with the covenants of Spinco or any of its Subsidiaries under Section 7.1 or 7.2.

7.6 *Further Assurances*. For the avoidance of doubt, (i) neither Parent nor a member of the Parent Group shall take any action on the Distribution Date that would result in an increase of the actual Tax liability (and/or decrease of any Tax Benefit) of Spinco or any of its Subsidiaries, other than in the ordinary course of business, except for actions undertaken in connection with the Distribution, which actions are described in the Tax Opinion or the Tax Opinion Representations, and (ii) neither Spinco nor any of its Subsidiaries shall take any action on the Distribution Date that would result in an increase of the actual Tax liability (and/or decrease of any Tax Benefit) of Parent or a member of the Parent Group, other than in the ordinary course of business, except for actions undertaken in connection with the Distribution, which actions are described in the Tax Opinion or the Tax Opinion Representations.

SECTION 8. General Provisions.

8.1 *General Provisions*. Without limiting any provision of this Agreement, the provisions of Article IX of the Distribution Agreement, except for Sections 9.12 (*Payment Terms*), 9.15 (*Third-Party Beneficiaries*), and 9.20 (*Specific Performance*) thereof, shall apply to this Agreement, *mutatis mutandis*.

8.2 *Third-Party Beneficiaries*. Except with respect to Parent Indemnified Parties and Spinco Indemnified Parties, and in each case, only where and as indicated herein, this Agreement is solely for the benefit of the Parties and their respective Subsidiaries and Affiliates and should not be deemed to confer upon any other Person any remedy, claim, liability, reimbursement, cause of action or other right in excess of those existing without reference to this Agreement. Notwithstanding anything in this Agreement to the contrary, this Agreement is not intended to confer upon any Spinco Indemnified Parties any rights or remedies against Spinco hereunder, and this Agreement is not intended to confer upon any Parent Indemnified Parties any rights or remedies against Parent hereunder.

[Signature page follows]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by the respective officers as of the date set forth above.

Vector Group Ltd.

By: /s/ J. Bryant Kirkland III
Name: J. Bryant Kirkland III
Title: Senior Vice President, Treasurer and Chief Financial Officer

Douglas Elliman Inc.

By: /s/ Richard J. Lampen
Name: Richard J. Lampen
Title: Executive Vice President and Chief Operating Officer

[Signature page to Tax Disaffiliation Agreement]

[Vector Letterhead]

December 21, 2021

Howard M. Lorber
At the Address on File with the Company

Dear Howard:

This letter confirms our mutual understanding regarding your employment with Vector Group Ltd. (the "Company") following the consummation of the transactions contemplated by the Distribution Agreement (the "Distribution Agreement") by and between the Company and Douglas Elliman Inc. ("Spinco") dated as of December 21, 2021. This letter becomes effective as of, and is conditioned upon the occurrence of, the Distribution Date (as defined in the Distribution Agreement) and your continued employment with the Company through that date. In the event the Distribution Date does not occur, or your employment with the Company terminates for any reason prior to the Distribution Date, then this letter will be null and void and of no force or effect.

Notwithstanding the requirements in your Employment Agreement with the Company dated as of January 27, 2006 (the "Employment Agreement") to devote substantially all of your working hours to performing services for the Company, the Company consents to the commencement of your service as Spinco's President and Chief Executive Officer and on its Board of Directors effective as of the Distribution Date, and recognizes that your responsibilities to Spinco will preclude you from devoting substantially all of your business time and attention to the Company's affairs.

In exchange for such consent, you agree to devote to the Company's affairs a sufficiently substantial portion of your business time and attention as may be reasonably necessary to accomplish the objectives of the Company. You also agree that, effective as of the Distribution Date, (i) the Company will pay you a base salary at the rate of \$1,800,000 per annum and (ii) the Company will provide you with a \$3,750 per month allowance for lodging and related business expenses and you will be entitled to a club membership and dues at one (1) club. You further acknowledge and agree that the foregoing changes to your compensation will not give rise to any rights to voluntarily termination your employment in connection with Section 6(e) of your Employment Agreement and collect severance.

Except as expressly set forth herein, the Employment Agreement shall remain in full force and effect in accordance with its terms. This letter may not be amended except by a writing executed by the parties hereto. This letter will be governed by and construed in accordance with the laws of the State of New York, without reference to principles of conflicts of law.

* * *

If you agree that this letter correctly memorializes our understanding, please sign and return this letter, which will become a binding agreement on our receipt.

Sincerely,

Vector Group Ltd.

By: /s/ James B. Kirkland III
Name: James B. Kirkland III
Title: Senior Vice President, Treasurer and Chief Financial Officer

Accepted and Agreed:

/s/ Howard M. Lorber
Howard M. Lorber

Date: December 21, 2021

[Vector Letterhead]

December 21, 2021

Richard J. Lampen
At the Address on File with the Company

Dear Richard:

This letter confirms our mutual understanding regarding your employment with Vector Group Ltd. (the "Company") following the consummation of the transactions contemplated by the Distribution Agreement (the "Distribution Agreement") by and between the Company and Douglas Elliman Inc. ("Spinco") dated as of December 21, 2021. This letter becomes effective as of, and is conditioned upon the occurrence of, the Distribution Date (as defined in the Distribution Agreement) and your continued employment with the Company through that date. In the event the Distribution Date does not occur, or your employment with the Company terminates for any reason prior to the Distribution Date, then this letter will be null and void and of no force or effect.

Notwithstanding the requirements in your Employment Agreement with the Company dated as of January 27, 2006 (the "Employment Agreement") to devote substantially all of your working hours to performing services for the Company, the Company consents to the commencement of your service as Spinco's Executive Vice President and Chief Operating Officer and on its Board of Directors effective as of the Distribution Date, and recognizes that your responsibilities to Spinco will preclude you from devoting substantially all of your business time and attention to the Company's affairs.

In exchange for such consent, you agree to devote to the Company's affairs a sufficiently substantial portion of your business time and attention as may be reasonably necessary to accomplish the objectives of the Company. You also agree that effective as of the Distribution Date, the Company will pay you a base salary at the rate of \$650,000 per annum. You further acknowledge and agree that the foregoing change to your compensation will not give rise to any rights to voluntarily termination your employment in connection with Section 6(e) of your Employment Agreement and collect severance.

Except as expressly set forth herein, the Employment Agreement shall remain in full force and effect in accordance with its terms. This letter may not be amended except by a writing executed by the parties hereto. This letter will be governed by and construed in accordance with the laws of the State of Florida, without reference to principles of conflicts of law.

* * *

If you agree that this letter correctly memorializes our understanding, please sign and return this letter, which will become a binding agreement on our receipt.

Sincerely,
Vector Group Ltd.

By: /s/ James B. Kirkland III

Name: James B. Kirkland III
Title: Senior Vice President, Treasurer and Chief
Financial Officer

Accepted and Agreed:

/s/ Richard J. Lampen

Richard J. Lampen

Date: December 21, 2021

[Vector Letterhead]

December 21, 2021

J. Bryant Kirkland III
At the Address on File with the Company

Dear Bryant:

This letter confirms our mutual understanding regarding your employment with Vector Group Ltd. (the "Company") following the consummation of the transactions contemplated by the Distribution Agreement (the "Distribution Agreement") by and between the Company and Douglas Elliman Inc. ("Spinco") dated as of December 21, 2021. This letter becomes effective as of, and is conditioned upon the occurrence of, the Distribution Date (as defined in the Distribution Agreement) and your continued employment with the Company through that date. In the event the Distribution Date does not occur, or your employment with the Company terminates for any reason prior to the Distribution Date, then this letter will be null and void and of no force or effect.

Notwithstanding the requirements in your Employment Agreement with the Company dated as of January 27, 2006 (the "Employment Agreement") to devote substantially all of your working hours to performing services for the Company, the Company consents to the commencement of your service as Spinco's Senior Vice President, Chief Financial Officer and Treasurer effective as of the Distribution Date, and recognizes that your responsibilities to Spinco will preclude you from devoting substantially all of your business time and attention to the Company's affairs.

In exchange for such consent, you agree to devote to the Company's affairs a sufficiently substantial portion of your business time and attention as may be reasonably necessary to accomplish the objectives of the Company.

Except as expressly set forth herein, the Employment Agreement shall remain in full force and effect in accordance with its terms. This letter may not be amended except by a writing executed by the parties hereto. This letter will be governed by and construed in accordance with the laws of the State of Florida, without reference to principles of conflicts of law.

* * *

If you agree that this letter correctly memorializes our understanding, please sign and return this letter, which will become a binding agreement on our receipt.

Sincerely,

Vector Group Ltd.

By: /s/ Howard M. Lorber

Name: Howard M. Lorber

Title: President and Chief Executive Officer

Accepted and Agreed:

/s/ J. Bryant Kirkland III

J. Bryant Kirkland III

Date: December 21, 2021

[Vector Letterhead]

December 21, 2021

Marc N. Bell
At the Address on File with the Company

Dear Marc:

This letter confirms our mutual understanding regarding your employment with Vector Group Ltd. (the "Company") following the consummation of the transactions contemplated by the Distribution Agreement (the "Distribution Agreement") by and between the Company and Douglas Elliman Inc. ("Spinco") dated as of December 21, 2021. This letter becomes effective as of, and is conditioned upon the occurrence of, the Distribution Date (as defined in the Distribution Agreement) and your continued employment with the Company through that date. In the event the Distribution Date does not occur, or your employment with the Company terminates for any reason prior to the Distribution Date, then this letter will be null and void and of no force or effect.

Notwithstanding the requirements in your Employment Agreement with the Company dated as of January 27, 2006 (the "Employment Agreement") to devote substantially all of your working hours to performing services for the Company, the Company consents to the commencement of your service as Spinco's Senior Vice President, Secretary and General Counsel effective as of the Distribution Date, and recognizes that your responsibilities to Spinco will preclude you from devoting substantially all of your business time and attention to the Company's affairs.

In exchange for such consent, you agree to devote to the Company's affairs a sufficiently substantial portion of your business time and attention as may be reasonably necessary to accomplish the objectives of the Company.

Except as expressly set forth herein, the Employment Agreement shall remain in full force and effect in accordance with its terms. This letter may not be amended except by a writing executed by the parties hereto. This letter will be governed by and construed in accordance with the laws of the State of Florida, without reference to principles of conflicts of law.

* * *

If you agree that this letter correctly memorializes our understanding, please sign and return this letter, which will become a binding agreement on our receipt.

Sincerely,

Vector Group Ltd.

By: /s/ James B. Kirkland III
Name: James B. Kirkland III
Title: Senior Vice President, Treasurer and Chief Financial Officer

Accepted and Agreed:

/s/ Marc N. Bell
Marc N. Bell

Date: December 21, 2021

[Vector Letterhead]

December 21, 2021

J. Bryant Kirkland III
At the Address on File with the Company

Dear Bryant:

This letter agreement constitutes the second amendment to the Employment Agreement, dated as of January 27, 2006, by and between Vector Group Ltd., a Delaware corporation (together with its successors and assigns, the "Company"), and J. Bryant Kirkland III (the "Executive"), as amended by the First Amendment to the Employment agreement, dated as of February 29, 2016 (collectively, the "Agreement"). The Company and Executive wish to amend the Agreement as set forth below. Unless otherwise defined herein, capitalized terms used herein shall have the meanings ascribed thereto in the Agreement.

In Section 6(a) of your Agreement, the parenthetical relating to the annual cash bonus payable during the Severance Period is amended to provide as follows:

“(which annual cash bonus shall be the bonus paid to the Executive for the performance period immediately prior to the year in which the Termination Notice is given but not greater than the Executive’s current target bonus opportunity)”.

This letter constitutes an amendment to your Agreement and forms a part of your Agreement. Except as amended by this letter, your Agreement is confirmed and ratified in all respects.

We look forward to your continued leadership.

* * *

Page 1 of 2

If you agree that this letter correctly memorializes our understanding, please sign and return this letter, which will become a binding agreement on our receipt.

Sincerely,

Vector Group Ltd.

By: /s/ Howard M. Lorber

Name: Howard M. Lorber

Title: President and Chief Executive Officer

Accepted and Agreed:

/s/ J. Bryant Kirkland III

J. Bryant Kirkland III

Date: December 21, 2021

[Form of Non-exclusive Aircraft Lease Agreement]

This **NON-EXCLUSIVE AIRCRAFT LEASE AGREEMENT** (this “Agreement”) is entered into as of this [] day of [] 2021 (the “Effective Date”), by and between **[VECTOR GROUP MEMBER]**, a Delaware limited liability company (“Lessor”), and **[DOUGLAS ELLIMAN GROUP MEMBER]**, a [Delaware] [corporation] (“Lessee”).

WITNESSETH:

WHEREAS, title to the Aircraft described and referred to herein is held by Lessor; and

WHEREAS, Lessee desires to lease from the Lessor, and Lessor desires to lease to Lessee, the Aircraft, without crew, upon and subject to the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the mutual promises herein contained and other good and valid consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

SECTION 1. DEFINITIONS

1.1. The following terms shall have the following meanings for all purposes of this Agreement:

“Additional Non-exclusive Lessee” means any person or entity, other than Lessee, possessing a non-exclusive leasehold interest in the Aircraft.

“Aircraft” means the Airframe, the Engines, the Parts, and the Aircraft Documents. The Engines shall be deemed part of the “Aircraft” whether or not from time to time attached to the Airframe or removed from the Airframe.

“Aircraft Documents” means all flight records, maintenance records, historical records, modification records, overhaul records, manuals, logbooks, authorizations, drawings and data relating to the Airframe, any Engine, or any Part, or that are required by Applicable Law to be created or maintained with respect to the maintenance and/or operation of the Aircraft.

“Airframe” means that certain [] aircraft bearing U.S. registration number [], and manufacturer’s serial number [], together with any and all Parts (including, but not limited to, landing gear and auxiliary power unit but excluding Engines or engines) so long as such Parts shall be either incorporated or installed in or attached to the Airframe.

“Applicable Law” means, without limitation, all applicable laws, treaties, international agreements, decisions and orders of any court, arbitration or governmental agency or authority and rules, regulations, orders, directives, licenses and permits of any governmental body, instrumentality, agency or authority, including, without limitation, the FAR and 49 U.S.C. § 41101, *et seq.*, as amended.

“Base Rent” means the base rent payable as consideration for the lease of the Aircraft.

“Business Day” means any day of the year in which banks are not authorized or required to close in the State of Florida.

“DOT” means the United States Department of Transportation or any successor agency.

“Engines” means [] engines bearing manufacturer’s serial numbers [], together with any and all Parts associated therewith so long as the same shall be either incorporated or installed in or attached to such Engine. Any engine which may be, from time to time, substituted for an Engine shall be deemed to be an Engine and subject to this Agreement for so long as it remains attached to the Airframe.

“FAA” means the Federal Aviation Administration or any successor agency.

“FAR” means collectively the Aeronautics Regulations of the FAA and the DOT, as codified at Title 14, Parts 1 to 399 of the United States Code of Federal Regulations.

“Flight Hour” means one (1) hour of use of the Aircraft in flight operations, measured in one-tenth (1/10th) of an hour increments from takeoff to landing, as recorded in the Aircraft records.

“Force Majeure Event” means an event that is out of the control of a party to this Agreement and that prevents such party from meeting an obligation arising under this Agreement (other than the payment of funds), including, without limitation, strikes, boycotts, labor disputes, embargoes, shortages of materials, acts of God, acts of a public enemy, terrorist acts, government regulation or authority, mechanical difficulty, war, civil commotion, weather conditions, weather conditions, floods, riots, rebellion, or public health crisis.

“FSDO Notice” means a FSDO Notification Letter in the form of Schedule B attached hereto.

“Lien” means any mortgage, security interest, lease, Lease or other charge or encumbrance or claim or right of others, including, without limitation, rights of others under any airframe or engine interchange or pooling agreement, except for mechanics liens to be discharged in the ordinary course of business.

“Operating Base” means [].

“Operational Control” has the same meaning given the term in Section 1.1 of the FAR.

“Parts” means all appliances, components, parts, instruments, appurtenances, accessories, furnishings or other equipment of whatever nature (other than complete Engines or engines) which may from time to time be incorporated or installed in or attached to the Airframe or any Engine and includes replacement parts.

“**Pilot in Command**” has the same meaning given the term in Section 1.1 of the FAR.

“**Reserved Use Period**” means a period of time during which Lessee shall have a first priority right to use of the Aircraft for the purpose of performing one (1) or more flights.

“**Schedule Keeper**” means the person designated by Lessor to maintain the scheduling log of the Aircraft. The name, address, telephone number, and other contact information for the Schedule Keeper are set forth in Section 10.1.

“**Lessee Event of Default**” has the meaning ascribed to the term in Section 9.1.

“**Lessor Event of Default**” has the meaning ascribed to the term in Section 9.3.

“**Taxes**” means all taxes of every kind (excluding any tax measured by or assessed against a taxpayer’s income, including, without limitation, any income tax, gross income tax, net income tax, franchise tax, gross receipts tax, capital tax, net worth tax, “margin” tax, or capital gains tax) assessed or levied by any federal, state, county, local, airport, district, foreign, or other governmental authority, including, without limitation, sales taxes, use taxes, retailer taxes, federal air transportation excise taxes, federal aviation fuel excise taxes, and other similar duties, fees, and excise taxes.

“**Term**” has the meaning ascribed to the term in Section 3.1.1.

SECTION 2. LEASE AND DELIVERY OF THE AIRCRAFT

- 2.1. **Lease.** Lessor hereby Leases to Lessee, and Lessee hereby Leases from Lessor, the Aircraft, on the terms and conditions of this Agreement.
- 2.2. **Quiet Enjoyment.** Provided that Lessee pays all amounts payable hereunder and performs and complies with all of the other terms and conditions hereof, neither Lessor nor any person acting on behalf of Lessor or in its stead, nor any person with rights granted by Lessor, will interfere with the peaceful and quiet use and enjoyment of the Aircraft by Lessee during any Reserved Use Period.
- 2.3. **Non-Exclusivity.** Lessee acknowledges that the Aircraft is leased to Lessee on a non-exclusive basis, and that during the Term the Aircraft may be otherwise subject to use by Lessor and/or Leased to one Additional Non-exclusive Lessee. Lessee shall have a right to possess and operate the Aircraft under this Agreement only during Reserved Use Periods and shall not have any right to possess or operate the Aircraft at any other time.

- 2.4. **Scheduling.** Lessee shall submit all requests to schedule Reserved Use Periods to the Schedule Keeper. Schedule Keeper shall approve or deny any request to schedule a Reserved Use Period within one (1) Business Day of Schedule Keeper's receipt thereof. Failure of Schedule Keeper to respond to any such request shall constitute denial thereof. Approval of any request to schedule a Reserved Use Period shall be in Schedule Keeper's reasonable discretion. Requests to schedule a Reserved Use Period shall be in a form, whether oral or written, specified by Schedule Keeper. Each request to schedule a Reserved Use Period shall include the date and time that the Reserved Use Period will commence and the date and time that the Reserved Use Period will terminate. In addition, for each flight to be performed during the Reserved Use Period, the request shall include the departure airport, the anticipated date and time of departure, the destination airport, the number of anticipated passengers, the nature and extent of luggage, and any other relevant information requested by Schedule Keeper.
- 2.5. **Delivery.** At the commencement of each approved Reserved Use Period, the Aircraft shall be delivered to the Lessee at the Operating Base, or such other location as the parties may mutually agree. The Aircraft at the time of each delivery to Lessee shall have, and be in compliance with, a current valid certificate of airworthiness issued by the FAA and shall be airworthy according to manufacturer's specifications and FAA regulations, shall have been maintained and repaired in accordance with the provisions of this Agreement. The foregoing notwithstanding, the Aircraft shall be delivered in "AS IS, WHERE IS" CONDITION, SUBJECT TO EACH AND EVERY DISCLAIMER OF WARRANTY AND REPRESENTATION AS SET FORTH IN SECTION 4 HEREOF. Lessor shall not be liable for any delay or failure to furnish the Aircraft pursuant to this Agreement when such failure is due to any Force Majeure Event.
- 2.6. **FSDO Notice.** At least 48 hours prior to the first flight to be conducted under this Agreement, Lessee shall complete the FSDO Notice attached hereto as Schedule B and deliver the completed FSDO Notice by facsimile to the FAA Flight Standards District Office located nearest to the departure airport of said first flight. Lessee shall provide a copy of the FSDO notice together with a copy of the facsimile confirmation sheet to Lessor prior to such first flight.

SECTION 3. TERM, RENT, EXPENSES AND TAXES

3.1. Term.

- 3.1.1. This Agreement shall become effective on the Effective Date and shall continue in effect for an initial period of one (1) year, unless terminated sooner pursuant to the express provisions herein contained (such one (1) year term the "Initial Term").
- 3.1.2. At the end of the Initial Term or any subsequent Renewal Term, this Agreement shall automatically be renewed for an additional one (1) year period (each such additional one (1) year term a "Renewal Term") unless either party shall have notified the other party at least thirty (30) prior to the last day of such Initial Term or Renewal Term, as the case may be, that this Agreement will not be renewed.

- 3.1.3. Each party shall have the right to terminate this Agreement without cause on thirty (30) days written notice to the other party.
- 3.2. **Rent.** Lessee shall pay rent in arrears in an amount equal to the Hourly Rent specified in Schedule A attached hereto for each Flight Hour of use of the Aircraft by Lessee. Within three (3) Business Days after the last day of each calendar month during the Term, Lessee shall provide to Lessor a written report of the total number of Flight Hours flown during the month just ended.
- 3.3. **Flight Crew Expenses; Fuel, Oil and Lubricants; and Incidental Expenses.** Lessee shall obtain and pay the costs for all fuel, oil, and lubricants required for Lessee's operations of the Aircraft. Lessee shall also obtain and pay for pilot services for Lessee's own operations of the Aircraft, and any and all incidental operating costs and expenses arising from Lessee's operations of the Aircraft, including, without limitation, airport fees, landing fees, ramp fees, handling fees, FBO fees, overnight hangar fees, de-icing costs, contaminant recovery costs, catering and commissary costs, in-flight entertainment and telecommunications charges, ground transportation, flight crew travel expenses (including accommodations, meals, travel expenses), local and state taxes, charts, manuals, and other publications obtained for the specific flight, and any other similar items.
- 3.4. **Fuel True-Up.** The parties shall record the quantity of fuel in the Aircraft's tanks at the beginning and end of each Reserved Use Period. If the quantity of fuel in the Aircraft's tanks at the end of a Reserved Use Period is less than the quantity of fuel in the Aircraft's tanks at the beginning of the Reserved Use Period, Lessee shall pay to Lessor the difference between the value of the fuel in the Aircraft's tanks at the beginning of the Reserved Use Period and the value of the fuel at the end of the Reserved Use Period. If the quantity of fuel in the Aircraft's tanks at the end of a Reserved Use Period is greater than the quantity of fuel in the Aircraft's tanks at the beginning of the Reserved Use Period, Lessee shall be entitled to a credit in an amount equal to the difference between the value of the fuel in the Aircraft's tanks at the beginning of the Reserved Use Period and the value of the fuel at the end of the Reserved Use Period, which credit shall be applied as an offset against future amounts payable by Lessee to Lessor. For purposes of this Section 3.7, fuel will be valued at Lessor's cost of fuel at the Operating Base on the date that the Aircraft is returned to the Operating Base at the end of a Reserved Use Period.
- 3.5. **Taxes.** Neither the Base Rent nor any other payments to be made by Lessee under this Agreement includes the amount of any Taxes which may be assessed or levied by any taxing jurisdictions as a result of the Lease of the Aircraft to Lessee, or the use of the Aircraft by Lessee, or the provision of a taxable transportation service by Lessee using the Aircraft. Lessee shall be responsible for, shall indemnify and hold harmless Lessor against, and Lessee shall pay all such Taxes when due. Without limiting the generality of the foregoing, Lessee shall pay to Lessor, together with each payment of Base Rent payment, any applicable Taxes due with respect to such payment. Except as expressly provided in this Section 3.3, as between Lessor and Lessee, Lessor shall be solely responsible for payment of all taxes incurred by reason of ownership or operation of the Aircraft during the Term of this Agreement, including but not limited to any ad valorem taxes levied against the Aircraft and any outstanding sales and/or use tax liability arising out of Lessor's lease or acquisition of the Aircraft.

- 3.6. **Excessive Wear and Tear.** Lessee shall be responsible for, and shall indemnify and hold Lessor harmless from and against, and will pay to Lessor upon demand, all costs and expenses for the repair (including, where appropriate costs of replacement) of: any damage to the interior of the Aircraft (including, without limitation, deep scratches in the cabinetry; stains on seats, carpets or sidewalls; rips in the seats or other fabric-covered items) caused by Lessee or Lessee's passengers.
- 3.7. **Payments.** At the end of each calendar month during the Term, Lessor shall invoice Lessee for all Rent and any other amounts due and payable by Lessee under this Agreement with respect to the calendar month just ended. To the extent Lessor shall have paid any of the costs otherwise payable by Lessee under the terms of this Agreement (e.g., WIFI and flight phone charges), Lessor's invoice shall include copies of invoices or receipts for such charges. Lessee shall pay the full amount of any invoice provided by Lessor within ten (10) business days of the date of such invoice. All payments of Base Rent, Maintenance Reserves, Taxes, and other amounts due hereunder shall be paid by wire transfer of free, clear and immediately available funds of the United States into an account designated by Lessor.
- 3.8. **Late Payments.** In the event Lessee fails to pay promptly when due the full amount of any Base Rent, Maintenance Reserves, Taxes, or any other amounts payable hereunder, then, in addition to any other rights or remedies to which Lessor may be entitled: (i) Lessee shall pay interest on the unpaid portion of the overdue amount at the rate of the lesser of 18% per annum or the highest rate of interest permitted by Applicable Law, for the period from and after the due date of such amount as specified in the applicable invoice until the date such amount, or part thereof, and any interest thereon, are paid in full; and (ii) Lessee shall reimburse Lessor for any and all costs (including reasonable attorney's fees) incurred by Lessor to collect such amounts and interest.

SECTION 4. REPRESENTATIONS AND WARRANTIES

- 4.1. **Representations and Warranties of Lessee.** Lessee represents and warrants as of the date hereof as follows:
- 4.1.1. Lessee is a validly organized limited liability company under the laws of the State of [], and the person executing on behalf of Lessor has full power and authority to execute this Agreement on behalf of Lessor and by such execution shall bind Lessor under this Agreement.
- 4.1.2. No action, suit, or proceeding is currently pending or threatened against Lessee which may in any way adversely affect Lessee's financial status as of the date thereof, or impair the execution, delivery, or performance by Lessee of this Agreement.

- 4.1.3. The execution and delivery of this Agreement by Lessee and the performance of its obligations hereunder have been duly authorized by all necessary corporate or limited liability company action, and do not conflict with any provision of Lessee's articles of organization, operating agreement, any governmental regulations, or any other agreements that Lessee may now have with other parties.
 - 4.1.4. Lessee is not subject to any restriction which, with or without the giving of notice, the passage of time, or both, prohibits or would be violated by or be in conflict with this Agreement.
 - 4.1.5. All pilots who operate the Aircraft for Lessee's flights shall have at least the minimum total pilot hours required by any policy of insurance covering the Aircraft and will meet or exceed all requirements under any policy of insurance covering the Aircraft, and all Applicable Law.
 - 4.1.6. Lessee will not permit the Aircraft to be operated in any unsafe manner or contrary to any manual or instructions for the Aircraft or in violation of the terms or conditions of any insurance policy covering the Aircraft or any Applicable Law.
 - 4.1.7. This Agreement constitutes the legal, valid and binding obligation of Lessee, and is enforceable against Lessee in accordance with the terms herein contained.
- 4.2. **Representations and Warranties of Lessor.** Lessor hereby represents and warrants as follows:
- 4.2.1. Lessor is a validly organized limited liability company under the laws of the State of Delaware, and the person executing on behalf of Lessor has full power and authority to execute this Agreement on behalf of Lessor and by such execution shall bind Lessor under this Agreement.
 - 4.2.2. No action, suit, or proceeding is currently pending or threatened against Lessor which may in any material way adversely affect or impair the execution, delivery, or performance by Lessor of this Agreement.
 - 4.2.3. The execution and delivery of this Agreement by Lessor and the performance of its obligations hereunder have been duly authorized by all necessary organizational action, and do not conflict with any provision of Lessor's articles of incorporation, bylaws, any governmental regulations, or any other agreements that Lessor may now have with other parties.
 - 4.2.4. Lessor is not subject to any restriction which, with or without the giving of notice, the passage of time, or both, prohibits or would be violated by or be in conflict with this Agreement.

4.2.5. This Agreement constitutes the legal, valid and binding obligation of Lessor, and is enforceable against Lessor in accordance with the terms herein contained.

4.3. **DISCLAIMER OF WARRANTIES.** THE AIRCRAFT IS BEING LEASED BY THE LESSOR TO THE LESSEE HEREUNDER ON A COMPLETELY "AS IS," "WHERE IS," BASIS, WHICH IS ACKNOWLEDGED AND AGREED TO BY THE LESSEE. THE WARRANTIES AND REPRESENTATIONS SET FORTH IN THIS SECTION 4 AND IN SECTION 12.16 ARE EXCLUSIVE AND IN LIEU OF ALL OTHER REPRESENTATIONS OR WARRANTIES WHATSOEVER, EXPRESS OR IMPLIED, AND LESSOR HAS NOT MADE AND SHALL NOT BE CONSIDERED OR DEEMED TO HAVE MADE (WHETHER BY VIRTUE OF HAVING LEASED THE AIRCRAFT UNDER THIS AGREEMENT, OR HAVING ACQUIRED THE AIRCRAFT, OR HAVING DONE OR FAILED TO DO ANY ACT, OR HAVING ACQUIRED OR FAILED TO ACQUIRE ANY STATUS UNDER OR IN RELATION TO THIS AGREEMENT OR OTHERWISE) ANY OTHER REPRESENTATION OR WARRANTY WHATSOEVER, EXPRESS OR IMPLIED, WITH RESPECT TO THE AIRCRAFT OR TO ANY PART THEREOF, AND SPECIFICALLY, WITHOUT LIMITATION, IN THIS RESPECT DISCLAIMS ALL REPRESENTATIONS AND/OR WARRANTIES AS TO THE TITLE, AIRWORTHINESS, VALUE, CONDITION, DESIGN, MERCHANTABILITY, COMPLIANCE WITH SPECIFICATIONS, CONSTRUCTION AND CONDITION OF THE AIRCRAFT, OR THE FITNESS FOR A PARTICULAR USE OF THE AIRCRAFT AND AS TO THE ABSENCE OF LATENT AND OTHER DEFECTS, WHETHER OR NOT DISCOVERABLE, AS TO THE ABSENCE OF ANY INFRINGEMENT OR THE LIKE, HEREUNDER OF ANY PATENT, TRADEMARK OR COPYRIGHT, AS TO THE ABSENCE OF OBLIGATIONS BASED ON STRICT LIABILITY IN TORT, OR AS TO THE QUALITY OF THE MATERIAL OR WORKMANSHIP OF THE AIRCRAFT OR ANY PART THEREOF OR ANY OTHER REPRESENTATION OR WARRANTY WHATSOEVER, EXPRESS OR IMPLIED (INCLUDING ANY IMPLIED WARRANTY ARISING FROM A COURSE OF PERFORMANCE OR DEALING OR USAGE OF TRADE), WITH RESPECT TO THE AIRCRAFT OR ANY PART THEREOF. THE LESSEE HEREBY WAIVES, RELEASES, DISCLAIMS AND RENOUNCES ALL EXPECTATION OF OR RELIANCE UPON ANY SUCH AND OTHER WARRANTIES, OBLIGATIONS AND LIABILITIES OF LESSOR AND RIGHTS, CLAIMS AND REMEDIES OF THE LESSEE AGAINST LESSOR, EXPRESS OR IMPLIED, ARISING BY LAW OR OTHERWISE, INCLUDING BUT NOT LIMITED TO (I) ANY IMPLIED WARRANTY OF MERCHANTABILITY OF FITNESS FOR ANY PARTICULAR USE, (II) ANY IMPLIED WARRANTY ARISING FROM COURSE OF PERFORMANCE, COURSE OF DEALING OR USAGE OF TRADE, (III) ANY OBLIGATION, LIABILITY, RIGHT, CLAIM OR REMEDY IN TORT, WHETHER OR NOT ARISING FROM THE NEGLIGENCE OF LESSOR, ACTUAL OR IMPUTED, AND (IV) ANY OBLIGATION, LIABILITY, RIGHT, CLAIM OR REMEDY FOR LOSS OF OR DAMAGE TO THE AIRCRAFT, FOR LOSS OF USE, REVENUE OR PROFIT WITH RESPECT TO THE AIRCRAFT, OR FOR ANY OTHER DIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES.

SECTION 5. OPERATIONS

5.1 **Use and Operation.** Lessee shall operate the Aircraft in accordance with the provisions of Part 91 of the FAR and shall not operate the Aircraft in commercial service, as a common carrier, or otherwise for compensation or hire except to the limited extent permitted under Sections 91.321 and 91.501 of the FAR, if applicable. Lessee shall be solely and exclusively responsible for the use, operation and control of the Aircraft at all times during each Reserved Use Period. Lessee will not permit the Aircraft to be operated in any unsafe manner or contrary to any manual or instructions for the Aircraft or in violation of the terms or conditions of any insurance policy covering the Aircraft or any Applicable Law. All pilots who operate the Aircraft for Lessee's flights shall possess current and valid Airline Transport Pilot and First-Class Medical Certificates issued by the FAA, shall have at least the minimum total pilot hours required by any policy of insurance covering the Aircraft, shall meet or exceed all requirements under any policy of insurance covering the Aircraft, and shall be fully competent, trained, experienced, and qualified to fly the Aircraft in accordance with all Applicable Law. Lessee agrees not to operate or locate the Airframe or any Engine or permit the Airframe or any Engine to be operated or located, in any area known to Lessee to be excluded from coverage by any insurance policy in effect or required to be maintained hereunder with respect to the Airframe or Engines, or in any war zone. Lessee agrees not to operate the Airframe or any Engine or permit the Airframe or any Engine to be operated during the Term except in operations for which Lessee is duly authorized, or to use or permit the Aircraft to be used for a purpose for which the Aircraft is not designed or reasonably suitable. Lessee will not permit the Airframe or any Engine to be maintained, used or operated during the Term in violation of any Applicable Law, or contrary to any manufacturer's operating manuals or instructions. Lessee shall not knowingly permit the Aircraft to be used for the carriage of any persons or property prohibited by Applicable Law, nor shall Lessee permit the Aircraft to be used during the existence of any known defect except in accordance with the FAR. Lessee may carry on the Aircraft on all flights conducted under Lessee's Operational Control such passengers, baggage, and cargo as Lessee in its sole but reasonable discretion shall determine; provided, however, that the number of passengers on any flight shall in no event exceed the number of seats legally available in the Aircraft, and the total load carried on any flight, including passengers, crew, baggage, and fuel and oil in such quantities as the Pilot in Command shall determine to be required, shall not exceed the maximum permissible load for the Aircraft. While the Aircraft is in the possession or under the control of Lessee, Lessee will abide by and conform to, be responsible for causing and cause others to abide by and conform to, all Applicable Laws now existing or hereafter enacted, that govern or in any way affect the operation, use, maintenance, or occupancy of the Aircraft, or the use of any airport by the Aircraft. Lessor acknowledges that Lessee may use the Aircraft for instruction to satisfy insurance requirements or other training to maintain FAR compliance and pilot proficiency.

- 5.2 **Aircraft Leased without Services.** The Aircraft is leased by Lessor to Lessee hereunder without any additional services of any kind, and Lessee, in coordination with the Additional Non-Exclusive Lessee(s) pursuant to Section 2.3 hereof, shall obtain or supply all services and supplies necessary to the operation, maintenance, and storage of the Aircraft. Without limiting the generality of the foregoing, Lessee, in coordination with the Additional Non-Exclusive Lessee(s) pursuant to Section 2.3 hereof, and at no cost or expense to Lessor, shall:
- 5.2.1 obtain all fuel, oil, lubricants, and other services and supplies required for Lessee's operations of the Aircraft;
 - 5.2.2 pay the fixed hourly cost of any maintenance service plans that may be in effect with respect to the Aircraft that become due and payable as a result of Lessee's operations of the Aircraft;
 - 5.2.3 maintain the Aircraft, or cause the Aircraft to be maintained, in a good and airworthy operating condition and in compliance with all applicable FAR and the Aircraft Operating Manual;
 - 5.2.4 ensure that all mechanics assigned to the maintenance of the Aircraft are competent with respect to the type of aircraft, and fully familiar with applicable maintenance and preventative repair programs for the Aircraft's specific type;
 - 5.2.5 store the Aircraft when not in use in an appropriate and adequate indoor facility at the Operating Base;
 - 5.2.6 obtain the services of pilots for all of Lessee's operations of the Aircraft;
 - 5.2.7 ensure that all pilots serving on any flight conducted by Lessee possess current and valid Airline Transport Pilot and First-Class Medical Certificates issued by the FAA, and are fully competent, trained, experienced, and qualified in accordance with Applicable Law and all insurance policies covering the Aircraft;
 - 5.2.8 maintain and preserve, or cause to be maintained and preserved, in the English language, all Aircraft Documents in a complete, accurate, and up-to-date manner; and
 - 5.2.9 maintain, or cause to be maintained, all insurance required by Section 8 of this Agreement.

5.3 **Operational Control.**

- 5.3.1 **Lessee's Flights.** Lessee shall exercise Operational Control of the Aircraft during all flight operations conducted by Lessee. Further, at all times while the Aircraft is in the possession of Lessee, Lessee shall have exclusive possession, command, and control of the Aircraft, and the pilots of any flight by Lessee shall be under the exclusive command of Lessee. The parties acknowledge and agree that neither Lessor, nor any Additional Non-exclusive Lessee, shall have any right or obligation to exercise Operational Control of the Aircraft in connection with any flight conducted by Lessee.

- 5.3.2 **Additional Non-exclusive Lessee's Flights.** An Additional Non-exclusive Lessee shall exercise Operational Control of the Aircraft during all flight operations conducted by such Additional Non-exclusive Lessee. Further, at all times while the Aircraft is in the possession of any Additional Non-exclusive Lessee, such Additional Non-exclusive Lessee shall have exclusive possession, command, and control of the Aircraft, and the pilots of any such flight by such Additional Non-exclusive Lessee shall be under the exclusive command of such Additional Non-exclusive Lessee. The parties acknowledge and agree that Lessee shall have no right or obligation to exercise Operational Control of the Aircraft in connection with any flight conducted by any Additional Non-exclusive Lessee.
- 5.4 **Authority of Pilot in Command.** Notwithstanding that Lessee shall have Operational Control of the Aircraft during any flight conducted by Lessee, the parties acknowledge that pursuant to Section 91.3 of the FAR, the Pilot in Command of such flight is responsible for, and is obligated and entitled to exercise final authority over, the safe operation of the flight, and the parties agree that the Pilot in Command may, in the exercise of such authority, refuse to commence such flight, terminate such flight, or take any other flight-related action that, in the judgment of the Pilot in Command, is required to ensure the safety of the Aircraft, the flight crew, the passengers, and any other persons and/or property.
- 5.5 **Right to Inspect.** Lessor and/or Lessor's agents shall have the right to inspect the Aircraft or the Aircraft Documents at any reasonable time, upon giving Lessee reasonable notice, to ascertain the condition of the Aircraft and to satisfy Lessor that the Aircraft is being properly repaired and maintained in accordance with the requirements of this Agreement. All required repairs shall be performed as soon as practicable after such inspection.
- 5.5 **Modification of Aircraft.** Lessee shall not make or permit to be made any modification, alteration, improvement, or addition to the Aircraft without the express written consent of Lessor.
- 5.6 **Fines, Penalties, and Forfeitures.** Lessee shall be solely responsible for and shall indemnify and hold Lessor harmless from and against, any fines, penalties, or forfeitures relating in any manner to the operation, maintenance, or use of the Aircraft by Lessee under this Agreement.
- 5.7 **No Pets.** Pets and other animals are prohibited on the Aircraft.
- 5.8 **No Smoking.** Smoking is prohibited on the Aircraft.

SECTION 6. RETURN OF AIRCRAFT

- 6.1. **Return.** At the end of each Reserved Use Period, Lessee shall return the Aircraft to Lessor by delivering the same at Lessee's expense to Lessor at the Operating Base or such other location within the 48 contiguous United States as the parties may mutually agree, fully equipped with all Engines and Parts installed thereon.
- 6.2. **Condition of Aircraft.** The Aircraft at the time of each return to Lessor shall have, and be in compliance with, a current valid certificate of airworthiness issued by the FAA and shall be airworthy according to manufacturer's specifications and FAA regulations, shall have been maintained and repaired during the Reserved Use Period in accordance with the provisions of this Agreement, and shall be in the same condition as it was in at the commencement of the Reserved Use Period, ordinary wear and tear excepted. **LESSEE SHALL INDEMNIFY AND HOLD LESSOR HARMLESS FROM AND AGAINST ANY AND ALL COSTS AND EXPENSES TO REPAIR ANY DAMAGE TO THE AIRCRAFT ARISING DURING ANY RESERVED USE PERIOD IN EXCESS OF ORDINARY WEAR AND TEAR TO THE EXTENT ANY SUCH DAMAGE IS NOT COVERED BY INSURANCE.**
- 6.3. **Aircraft Documents.** At the end of each Reserved Use Period, Lessee shall return or cause to be returned to Lessor all of the Aircraft Documents, updated and maintained by Lessee through the date of return of the Aircraft.

SECTION 7. REGISTRATION AND LIENS

- 7.1. **Title and Registration.** Lessee acknowledges that Lessor owns all legal, beneficial, and equitable title to the Aircraft, and that said title shall remain vested in Lessor during the Term hereof. Lessee shall undertake, to the extent permitted by Applicable Law, to do all such further acts, deeds, assurances or things as may, in the opinion of the Lessor, be necessary or desirable in order to protect or preserve Lessor's title to the Aircraft.
- 7.2. **Lessee Liens.** Lessee shall ensure that no Liens are created or placed against the Aircraft by Lessee or third parties as a result of Lessee's actions. Lessee shall notify Lessor promptly upon learning of any Liens not permitted by these terms. Lessee shall, at its own cost and expense, take all such actions as may be necessary to discharge and satisfy in full any such Lien promptly after the same becomes known to it.

SECTION 8. INSURANCE

- 8.1. **Aircraft Liability.** Lessee, in coordination with the Additional Non-Exclusive Lessee(s) pursuant to Section 2.3 hereof, and at no cost or expense to Lessor, shall maintain, or cause to be maintained, bodily injury and property damage, liability insurance in an amount no less than Three Hundred Million United States Dollars (US\$300,000,000.00) Combined Single Limit. Said policy shall be an occurrence policy naming Lessee, Lessor, and the Additional Non-Exclusive Lessee(s) as Named Insureds.

- 8.2. **Hull Physical Damage.** Lessee, in coordination with the Additional Non-Exclusive Lessee(s) pursuant to Section 2.3 hereof, and at no cost or expense to Lessor, shall maintain, or cause to be maintained, all risks aircraft hull insurance in the amount of no less than Eight Million United States Dollars (US\$8,000,000.00), and such insurance shall name Lessor and any first lien mortgage holder as loss payees as their interests may appear.
- 8.3. **Insurance Certificates.** Lessor will provide Lessee and any Pilot Services Provider with a Certificate of Insurance upon execution of this Agreement and at each renewal of the insurance, to include a thirty (30) day written notice of cancellation, except ten (10) days for non-payment of premium or lesser notice between seven (7) days and forty-eight (48) hours for certain war, hi-jacking and other perils insurance.
- 8.4. **Conditions of Insurance.** Each insurance policy required by this Section 8 shall be primary without any right of contribution from any insurance maintained by any other party and shall contain a standard clause as to cross liability or severability of interests among the insured parties providing that such insurance shall operate in all respects as if a separate policy had been issued covering each party insured, except for limits of liability. Each policy shall waive any right of set-off against Lessee and any Pilot Services Provider, and any right of subrogation against Lessee and/or any Pilot Services Provider. The geographic limits of such insurance shall be worldwide, except that in the case of war, hi-jacking and other perils coverage, the coverage area shall be subject to such excluded territories as is from time to time usual in the aviation industry. Any Pilot Services Provider that provides pilot services to Lessee in connection with Lessee's operation of the Aircraft is an intended third-party beneficiary of the obligations of Lessor to under this Section 8.
- 8.5. **Insurance Companies.** Each insurance policy required by this Section 8 shall be issued by a company or companies of recognized reputation and responsibility (but in no event having an A.M. Best or comparable agency rating of less than "A-") which (a) are qualified to do business in the United States and the State of Virginia, (b) will submit to the jurisdiction of any competent state or federal court in the United States with regard to any dispute arising out of the policy of insurance or concerning Lessor, Lessee and/or any Pilot Services Provider; and (c) will respond to any claim or judgment against Lessee and/or any Pilot Services Provider in any competent state or federal court in the United States or its territories.

SECTION 9. DEFAULTS AND REMEDIES

- 9.1. **Lessee Event of Default.** The occurrence of any of the following events shall constitute a "**Lessee Event of Default**": (a) Lessee shall fail to make any payment due under this Agreement within five (5) days of when due, (b) Lessee shall fail to make any payment due under any agreement between Lessee and any third party relating to the Aircraft when due or within any grace period provided in any such agreement between Lessee and any third party, (c) Lessee shall fail to observe or perform any covenant, agreement, or obligation under this Agreement or any agreement between Lessee and any third party

relating to the Aircraft, (d) Lessee shall sell, transfer, encumber, assign, Let, sublicense or charter, or attempt to sell, transfer, encumber, assign, Let, sublicense or charter, the Aircraft or any part thereof, (e) Lessee shall use the Aircraft for, or permit the Aircraft to be used for, any illegal purpose, (f) Lessee shall fail to pay, or admit in writing its inability to pay, its debts as they become due, or (g) Lessee shall make a general assignment for the benefit of creditors or file a voluntary petition in bankruptcy or a voluntary petition or an answer seeking reorganization in a proceeding under any bankruptcy laws (or any such proceeding shall be instituted against Lessee by any other party and shall not be vacated or set aside within sixty (60) days).

- 9.2. **Lessor's Remedies.** Upon the occurrence of any Lessee Event of Default, and at any time thereafter so long as such Lessee Event of Default shall be continuing, the Lessor may, at its option, declare in writing to the Lessee that this Agreement is in default, and may immediately terminate this Agreement. Upon any such termination hereof by Lessor, if such termination shall occur during a Reserved Use Period or if Lessee shall otherwise have possession of the Aircraft at the time of such termination, Lessee shall promptly return the Aircraft to Lessor in accordance with Section 6 hereof.
- 9.3. **Lessor Event of Default.** The occurrence of any of the following events shall constitute a "**Lessor Event of Default**": (a) Lessor shall fail to observe or perform any covenant, agreement, or obligation under this Agreement or any agreement between Lessee and any third party relating to the Aircraft, (b) Lessor shall fail to maintain any or all of the insurance required by this Agreement, (c) Lessor shall fail to pay, or admit in writing its inability to pay, its debts as they become due, or (d) Lessor shall make a general assignment for the benefit of creditors or file a voluntary petition in bankruptcy or a voluntary petition or an answer seeking reorganization in a proceeding under any bankruptcy laws (or any such proceeding shall be instituted against Lessor by any other party and shall not be vacated or set aside within sixty (60) days).
- 9.4. **Lessee's Remedies.** Upon the occurrence of any Lessor Event of Default, and at any time thereafter so long as such Lessor Event of Default shall be continuing, the Lessee may, at its option, declare in writing to the Lessor that this Agreement is in default, and may immediately terminate this Agreement. Upon any such termination hereof by Lessee, if such termination shall occur during a Reserved Use Period or if Lessee shall otherwise have possession of the Aircraft at the time of such termination, Lessee shall promptly return the Aircraft to Lessor in accordance with Section 6 hereof.

SECTION 10. NOTICES

- 10.1. All communications, declarations, demands, consents, directions, approvals, instructions, requests and notices required or permitted by this Agreement shall be in writing and shall be deemed to have been duly given or made when delivered personally, or in case of documented overnight delivery service or registered or certified mail, return receipt requested, delivery charge or postage prepaid, on the date shown on the receipt therefor, in each case at the address set forth below:

If to Lessor:

Attn: _____

If to Schedule Keeper:

Email: _____

If to Lessee:

[Douglas Elliman Group Member]
c/o Douglas Elliman, Inc.
4400 Biscayne Blvd.
Miami, FL 33137
Attn: Marc N. Bell

SECTION 11. EVENT OF LOSS AND INDEMNIFICATION

- 11.1. **Notification of Event of Loss.** In the event any damage to, or destruction of, the Aircraft shall occur while the Aircraft is being operated by or in the possession of Lessee, or in the event of any whole or partial loss of the Aircraft, including, without limitation, any loss resulting from the theft, condemnation, confiscation or seizure of, or requisition of title to or use of, the Aircraft by private persons or by any governmental or purported governmental authority, while being operated by or in the possession of Lessee, Lessee shall immediately:
 - 11.1.1. report the event of loss to Lessor and to any and all applicable governmental agencies; and
 - 11.1.2. furnish such information to Lessor and the insurer of the Aircraft, and execute such documents, as may be required and necessary to collect the proceeds from any insurance policies.
- 11.2. **Repair or Termination.** In the event the Aircraft is partially destroyed or damaged, Lessor shall have the option, in its sole discretion, to either (i) fully repair the Aircraft in order that it shall be placed in at least as good condition as it was prior to such partial destruction or damage; or (ii) terminate this Agreement. Within ten (10) Business Days after the date of such partial destruction or damage, Lessor shall give written notice to Lessee specifying whether Lessor has elected to fully repair the Aircraft or to terminate this Agreement, which termination shall be effective immediately upon such written notice from Lessor to Lessee setting forth Lessor's election to so terminate this Agreement.

- 11.3. **Indemnification by Lessee.** Lessor is only leasing the Aircraft under this Agreement and is not liable for the actions of Lessee or Lessee's agents, employees, flight crew, guests or passengers. Lessor is not by this Agreement providing any charter, air taxi, air carrier or commercial operation services for hire. LESSEE HEREBY RELEASES, AND SHALL DEFEND, INDEMNIFY (ON AN AFTER TAX BASIS) AND HOLD HARMLESS LESSOR, LESSOR'S AFFILIATES, AND THEIR RESPECTIVE SHAREHOLDERS, MEMBERS, DIRECTORS, OFFICERS, MANAGERS, EMPLOYEES, SUCCESSORS AND ASSIGNS (EACH OF THE FOREGOING AN "INDEMNIFIED PARTY"), FROM AND AGAINST, ANY AND ALL CLAIMS, DAMAGES, LOSSES, LIABILITIES, DEMANDS, SUITS, JUDGMENTS, CAUSES OF ACTION, CIVIL AND CRIMINAL LEGAL PROCEEDINGS, PENALTIES, FINES, AND OTHER SANCTIONS, AND ANY ATTORNEYS' FEES AND DISBURSEMENTS AND OTHER REASONABLE COSTS AND EXPENSES OF INVESTIGATION OR DEFENSE, INCLUDING THOSE INCURRED UPON ANY APPEAL ARISING OUT OF OR RELATING TO THE AIRCRAFT OR THIS AGREEMENT, WHETHER ARISING IN LAW OR EQUITY, OR IN CONTRACT, TORT, STRICT LIABILITY OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, CLAIMS INVOLVING WRONGFUL DEATH OR INJURY TO PERSONS AND/OR DAMAGE TO PROPERTY (EACH OF THE FOREGOING A "CLAIM"), TO THE EXTENT DIRECTLY OR INDIRECTLY ARISING FROM ANY BREACH, DEFAULT OR MISREPRESENTATION OF LESSEE UNDER THIS AGREEMENT AND/OR LESSEE'S USE, OPERATION OR MAINTENANCE OF THE AIRCRAFT, EXCEPT THAT LESSEE SHALL NOT BE OBLIGATED TO INDEMNIFY AN INDEMNIFIED PARTY FOR A CLAIM TO THE EXTENT SUCH CLAIM ARISES FROM AND IS ATTRIBUTED TO THE GROSS NEGLIGENCE, BAD FAITH OR WILLFUL MISCONDUCT OF SUCH INDEMNIFIED PARTY. LESSEE SHALL PAY TO EACH INDEMNIFIED PARTY ANY AND ALL AMOUNTS NECESSARY TO INDEMNIFY SUCH INDEMNIFIED PARTY FROM AND AGAINST ANY CLAIMS. LESSEE SHALL, UPON REQUEST, DEFEND ANY ACTIONS BASED ON, OR ARISING OUT OF, ANY OF THE FOREGOING.
- 11.4. **Indemnification by Lessor.** LESSOR HEREBY RELEASES, AND SHALL DEFEND, INDEMNIFY (ON AN AFTER TAX BASIS) AND HOLD HARMLESS LESSEE, LESSEE'S AFFILIATES, AND THEIR RESPECTIVE SHAREHOLDERS, MEMBERS, DIRECTORS, OFFICERS, MANAGERS, EMPLOYEES, SUCCESSORS AND ASSIGNS (EACH OF THE FOREGOING A "LESSEE INDEMNIFIED PARTY"), FROM AND AGAINST, ANY AND ALL CLAIMS, TO THE EXTENT DIRECTLY OR INDIRECTLY ARISING FROM ANY BREACH, DEFAULT OR MISREPRESENTATION OF LESSOR UNDER THIS AGREEMENT AND/OR LESSOR'S USE, OPERATION OR MAINTENANCE OF THE AIRCRAFT, EXCEPT THAT LESSOR SHALL NOT BE OBLIGATED TO INDEMNIFY A LESSEE INDEMNIFIED PARTY FOR A CLAIM TO THE EXTENT SUCH CLAIM ARISES FROM AND IS ATTRIBUTED TO THE GROSS NEGLIGENCE, BAD FAITH OR WILLFUL MISCONDUCT OF A LESSEE INDEMNIFIED PARTY. LESSOR SHALL PAY TO EACH LESSEE INDEMNIFIED PARTY ANY AND ALL AMOUNTS NECESSARY TO INDEMNIFY SUCH LESSEE INDEMNIFIED PARTY FROM AND AGAINST ANY CLAIMS. LESSOR SHALL, UPON REQUEST, DEFEND ANY ACTIONS BASED ON, OR ARISING OUT OF, ANY OF THE FOREGOING.

- 11.5. **Limitations on Liability.** IN NO EVENT SHALL ANY PARTY BE LIABLE FOR ANY SPECIAL, EXEMPLARY, PUNITIVE, INCIDENTAL OR CONSEQUENTIAL DAMAGES, INCLUDING, WITHOUT LIMITATION, LOSS OF PROFITS, LOSS OF USE, LOSS OF TIME, INCONVENIENCE, OR COMMERCIAL LOSS.

SECTION 12. MISCELLANEOUS

- 12.1. **Entire Agreement.** This Agreement, and all terms, conditions, warranties, and representations herein, are for the sole and exclusive benefit of the signatories hereto. This Agreement constitutes the entire agreement of the parties as of its Effective Date and supersedes all prior or independent, oral or written agreements, understandings, statements, representations, commitments, promises, and warranties made with respect to the subject matter of this Agreement. This Agreement is an Ancillary Agreement as defined in that certain Distribution Agreement, dated [], by and between Vector Group Ltd. and Douglas Elliman Inc.
- 12.2. **Other Transactions.** Except as specifically provided in this Agreement, none of the provisions of this Agreement, nor any oral or written statements, representations, commitments, promises, or warranties made with respect to the subject matter of this Agreement shall be construed or relied upon by any party as the basis of, consideration for, or inducement to engage in, any separate agreement, transaction or commitment for any purpose whatsoever.
- 12.3. **Prohibited and Unenforceable Provisions.** Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof. To the extent permitted by Applicable Law, each of Lessor and Lessee hereby waives any provision of Applicable Law which renders any provision hereof prohibited or unenforceable in any respect.
- 12.4. **Enforcement.** This Agreement, including all agreements, covenants, representations and warranties, shall be binding upon and inure to the benefit of, and may be enforced by Lessor, Lessee, and each of their agents, servants and personal representatives, successors and permitted assigns.
- 12.5. **Headings.** The section and subsection headings in this Agreement are for convenience of reference only and shall not modify, define, expand, or limit any of the terms or provisions hereof.
- 12.6. **Counterparts.** This Agreement may be executed by the parties hereto in two (2) separate counterparts, each of which when so executed and delivered shall be an original, and both of which shall together constitute but one and the same instrument. Delivery of an executed counterpart of a signature page of this Agreement by facsimile transmission or by electronic photocopy (*i.e.*, "pdf") shall be effective as delivery of a manually executed counterpart of this Agreement only if receipt of such facsimile transmission or by electronic photocopy is affirmatively acknowledged by reply e-mail or other written confirmation.

- 12.7. **Amendments.** No term or provision of this Agreement may be amended, changed, waived, discharged, or terminated orally, but only by an instrument in writing signed by Lessor and Lessee.
- 12.8. **No Waiver.** No delay or omission in the exercise or enforcement or any right or remedy hereunder by either party shall be construed as a waiver of such right or remedy. All remedies, rights, undertakings, obligations, and agreements contained herein shall be cumulative and not mutually exclusive, and in addition to all other rights and remedies which either party possesses at law or in equity.
- 12.9. **Attorneys' Fees.** In the event a dispute arises regarding this Agreement, the prevailing party shall be entitled to its reasonable attorneys' fees and expenses incurred in addition to any other relief to which it is entitled.
- 12.10. **Transaction Costs.** Except as expressly provided in this Agreement, each party shall bear its own costs incurred in entering into this Agreement.
- 12.11. **Confidentiality.** Each party (including, for purposes of this Section 12.11, its affiliates, employees and agents) shall treat all information relating to this Agreement, and all information relating to the other party obtained in connection with this Agreement, as confidential information ("**Confidential Information**"). No party shall at any time disclose in any manner or in any form or make use of Confidential Information, except as may be required by law (including without limitation, the application to the parties or their affiliates of the Securities Act of 1933, as amended, and the Exchange Act of 1934, as amended, and, in each case, the rules and regulations promulgated thereunder) or legal process, to its legal or financial advisors, or to enforce the terms of this Agreement. Each party acknowledges that the disclosure or use of Confidential Information may irreparably harm the other party and shall constitute a breach of this Agreement. Each party acknowledges that this provision constitutes a material provision of this Agreement, and that in the event of a breach of this Section 12.11, the non-disclosing party will have no adequate remedy at law. As a result, the non-disclosing party shall be entitled to seek the issuance by a court of competent jurisdiction of an injunction, restraining order or other equitable relief restraining the disclosing party, its agents or representatives from committing or continuing any such violation.
- 12.12. **No Assignments.** Lessee shall not assign this Agreement or sell, transfer, assign, or encumber the Aircraft or any part thereof, or Let, sublicense, charter, or part with possession of, the Aircraft or any part thereof, or enter into any Time Sharing or Interchange Agreement (as such terms are defined in Section 91.501(c) of the FAR) involving the Aircraft.

- 12.13. **Governing Law.** This Agreement has been negotiated and delivered in the State of Florida and shall in all respects be governed by, and construed in accordance with, the laws of the State of Florida, including all matters of construction, validity and performance, without giving effect to its conflict of laws provisions.
- 12.14. **Jurisdiction and Venue.** Exclusive jurisdiction and venue over any and all disputes between the parties arising under this Agreement shall be in, and for such purpose each party hereby submits to the jurisdiction of, the state and federal courts serving the State of Florida.
- 12.15. **WAIVER OF JURY TRIAL. THE PARTIES HEREBY KNOWINGLY, VOLUNTARILY AND INTELLIGENTLY WAIVE THEIR RIGHTS TO A JURY TRIAL IN ANY ACTION, SUIT OR PROCEEDING RELATING TO, ARISING UNDER OR IN CONNECTION WITH THIS AGREEMENT AND ANY OTHER DOCUMENT, AGREEMENT OR INSTRUMENT EXECUTED AND/OR DELIVERED IN CONNECTION WITH THE FOREGOING.**
- 12.16. **OFAC.** Each party represents and warrants to the other that neither it nor of its affiliates, nor any of their respective partners, members, shareholders or other equity owners, and none of their respective employees, officers, directors, representatives or agents is, nor will any of them become, a person or entity with whom U.S. persons or entities are restricted from doing business under regulations of the Office of Foreign Asset Control (“**OFAC**”) of the Department of the Treasury (including those named on OFAC’s Specially Designated and Blocked Persons List) or under any statute, executive order (including the September 24, 2001, Executive Order Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism), or other governmental action. Each party covenants to and with the other that it is not and will not engage in any dealings or transactions or be otherwise associated with such persons or entities. In the event of any violation of this section, the non-defaulting party shall be entitled to immediately terminate this Agreement without prior written notice to the defaulting party and to take such other actions as are permitted or required to be taken under law or in equity.
- 12.17. **Survival.** Sections 3.2 through 3.10, 5.7, 6.2, 9.2, 9.4, 11.3, 11.4 and 11.5 shall survive the termination of this Agreement.

SECTION 13. TRUTH IN LEASING

TRUTH IN LEASING STATEMENT UNDER SECTION 91.23 OF THE FAR’s.

WITHIN THE TWELVE (12) MONTH PERIOD PRECEDING THE DATE OF THIS AGREEMENT, THE AIRCRAFT HAS BEEN INSPECTED AND MAINTAINED IN ACCORDANCE WITH THE PROVISIONS OF THE FAR 91.409(f).

LESSEE CERTIFIES THAT DURING THE TERM OF THIS AGREEMENT AND FOR OPERATIONS CONDUCTED HEREUNDER, THE AIRCRAFT WILL BE MAINTAINED AND INSPECTED BY LESSEE IN ACCORDANCE WITH THE PROVISIONS OF THE FAR 91.409(f).

LESSEE ACKNOWLEDGES THAT WHEN IT OPERATES THE AIRCRAFT UNDER THIS AGREEMENT, IT SHALL BE KNOWN AS, CONSIDERED, AND IN FACT WILL BE THE OPERATOR OF SUCH AIRCRAFT. EACH PARTY HERETO CERTIFIES THAT IT UNDERSTANDS THE EXTENT OF ITS RESPONSIBILITIES, SET FORTH HEREIN, FOR COMPLIANCE WITH APPLICABLE FEDERAL AVIATION REGULATIONS.

AN EXPLANATION OF FACTORS BEARING ON OPERATIONAL CONTROL AND PERTINENT FEDERAL AVIATION REGULATIONS CAN BE OBTAINED FROM THE NEAREST FEDERAL AVIATION ADMINISTRATION FLIGHT STANDARDS DISTRICT OFFICE.

THE PARTIES HERETO CERTIFY THAT A TRUE COPY OF THIS AGREEMENT SHALL BE CARRIED ON THE AIRCRAFT AT ALL TIMES AND SHALL BE MADE AVAILABLE FOR INSPECTION UPON REQUEST BY AN APPROPRIATELY CONSTITUTED IDENTIFIED REPRESENTATIVE OF THE ADMINISTRATOR OF THE FAA.

****** Signature Page Follows ******

IN WITNESS WHEREOF, the Lessor and the Lessee have each caused this **Non-Exclusive Aircraft Lease Agreement** to be duly executed as of the Effective Date.

LESSOR:

[VECTOR GROUP MEMBER]

By: _____

Print: _____

Title: _____

LESSEE:

[DOUGLAS ELLIMAN GROUP MEMBER]

By: _____

Print: _____

Title: _____

NON-EXCLUSIVE AIRCRAFT LEASE AGREEMENT

Schedule A

Aircraft: []

Base Rent: \$[] per Flight Hour

NON-EXCLUSIVE AIRCRAFT LEASE AGREEMENT

Schedule B

FSDO Notification Letter

Date: _____

Via Facsimile

Fax: _____

Federal Aviation Administration

**RE: FAR Section 91.23 FSDO Notification
First Flight Under Lease of [],
U.S. registration number [], serial number []**

To whom it may concern:

Pursuant to the requirements of Federal Aviation Regulation Section 91.23(c)(3), please accept this letter as notification that the undersigned will acquire and take delivery of a leasehold interest in the above referenced aircraft, and that the first flight of the aircraft under the Lease will depart from [] Airport on the [] day of [], at approximately [] (am / pm) local time.

Sincerely,

**[DOUGLAS ELLIMAN GROUP
MEMBER]**

By: _____
Print:
Title: