

Transaction remains outstanding) that (absent a written agreement between the parties that expressly imposes affirmative obligations to the contrary for that Transaction):

- (A) ***Non-Reliance.*** It is acting for its own account, and it has made its own independent decisions to enter into that Transaction and as to whether that Transaction is appropriate or proper for it based upon its own judgment and upon advice from such advisers as it has deemed necessary. It is not relying on any communication (written or oral) of the other party as investment advice or as a recommendation to enter into that Transaction; it being understood that information and explanations related to the terms and conditions of a Transaction shall not be considered to be investment advice or a recommendation to enter into that Transaction. No communication (written or oral) received from the other party shall be deemed to be an assurance or guarantee as to the expected results of that Transaction.
 - (B) ***Assessment and Understanding.*** It is capable of assessing the merits of and understanding (on its own behalf or through independent professional advice), and understands and accepts the terms and conditions and risks of that Transaction. It is also capable of assuming, and assumes, the risks of that Transaction.
 - (C) ***Status of Parties.*** The other party is not acting as a fiduciary for or adviser to it in respect of that Transaction.
- (iii) ***Securities Act Representations.*** Each party represents to the other party (which representations will be deemed to be repeated by each party on each date on which a Transaction is entered into) that:
- (A) it acknowledges that certain Transactions under the Agreement may involve the purchase or sale of “securities” as defined under the U.S. Securities Act of 1933, as amended (the “*Securities Act*”) and understands that any such purchase or sale of securities will not be registered under the Securities Act and that any such securities may not be reoffered, resold, pledged or otherwise transferred except (1) pursuant to an effective registration statement under the Securities Act or pursuant to an exemption from the registration requirements of the Securities Act and (2) in accordance with any applicable securities laws of any state of the United States of America.
 - (B) it is a “Institutional Account” as defined by FINRA Rule 2111 , or an “accredited investor” as defined under the Securities Act; and
 - (C) unless otherwise expressly provided in a Confirmation for a Transaction, any securities it is required to deliver under this Agreement and any Transaction will not at the time of such delivery constitute “restricted securities” or be subject to restrictions on transfer (including so-called “control securities”) under the Securities Act (as defined above) or otherwise. This representation will be deemed repeated at the time of such delivery.
- (iv) ***Additional Representations of Party B.*** Party B on and as of the date hereof and at all times until the termination of this Agreement and the Transactions, that (A) the assets of Party B do not and, prior to termination of this Agreement and the Transactions, will not