

**OFFER TO PURCHASE AND NOTICE OF FUNDAMENTAL CHANGE TO HOLDERS OF 0.875%  
CONVERTIBLE SENIOR NOTES DUE 2024**

ISSUED BY  
MANDIANT, INC. (FORMERLY FIREEYE, INC.)  
CUSIP NUMBER: 31816QAF8

Reference is hereby made to that certain Indenture, dated as of May 24, 2018 (the “*Original Indenture*”), between Mandiant, Inc. (formerly FireEye, Inc.), a Delaware corporation (the “*Company*”), and U.S. Bank Trust Company, National Association (as successor in interest to U.S. Bank National Association), as trustee (the “*Trustee*”), as supplemented by the first supplemental indenture, dated September 12, 2022, between the Company and the Trustee (the “*First Supplemental Indenture*” and, together with the Original Indenture, the “*Indenture*”), relating to the Company’s 0.875% Convertible Senior Notes due 2024 (the “*Notes*”). Capitalized terms used herein without definitions shall have the meanings ascribed to them in the Indenture.

Reference is further made to that certain Agreement and Plan of Merger, dated as of March 7, 2022 (the “*Merger Agreement*”), by and among the Company, Google LLC, a Delaware limited liability company (“*Parent*”), and Dupin Inc., a Delaware corporation and wholly owned subsidiary of Parent (“*Merger Sub*”), pursuant to which Merger Sub merged with and into the Company, with the Company surviving as a wholly owned subsidiary of Parent (the “*Merger*”).

On September 12, 2022, upon the terms and subject to the conditions set forth in the Merger Agreement and in accordance with applicable law, the Merger was consummated and effective (the “*Closing Date*”), and as a result, each share of the Company’s Common Stock, issued and outstanding immediately prior to the effective time of the Merger (other than certain excluded shares as set forth in the Merger Agreement), was cancelled and converted into the right to receive \$23.00 per share in cash, without interest. Further, as a result of the Merger, the Company’s Common Stock ceased trading on the Nasdaq Global Select Market as of September 12, 2022 (the “*Delisting*”). As a result of the completion of the Merger and Delisting, a Fundamental Change and a Make-Whole Fundamental Change occurred on September 12, 2022.

**Notice of Fundamental Change Repurchase Right**

Pursuant to Section 15.02(b) of the Original Indenture, as a result of the Fundamental Change, each holder of the Notes (“*Holder*”) has the right, subject to and in accordance with Article 15 of the Indenture, to require the Company to purchase all or any portion of such Holder’s Notes (the “*Fundamental Change Repurchase Right*”) in a principal amount that is equal to \$1,000.00 or an integral multiple thereof on October 17, 2022 (the “*Fundamental Change Repurchase Date*”). The Company will purchase such Notes at a repurchase price equal to 100% of the principal amount of the Notes to be repurchased, *plus* accrued and unpaid interest to, but excluding, the Fundamental Change Repurchase Date (the “*Fundamental Change Repurchase Price*”). The amount payable on the Notes, including accrued and unpaid interest, will be \$1,003.31 per \$1,000.00 principal amount of Notes validly surrendered for repurchase, and not validly withdrawn.

Pursuant to Section 15.02(b) of the Original Indenture, Holders may exercise their Fundamental Change Repurchase Right by (i) delivering to U.S. Bank Trust Company, National Association, as paying agent (the “*Paying Agent*”), a duly completed and signed notice, in the form set forth in Attachment 2 to the Form of Note attached to the Original Indenture as Exhibit A (the “*Fundamental Change Repurchase Notice*”), if such Notes are in certificated form, or in compliance with the applicable rules and procedures of The Depository Trust Company (“*DTC*,” and such rules and procedures, the “*Applicable Procedures*”), if the Notes represent beneficial interests in a Global Note, in each case, prior to the close of business on the Business Day immediately preceding the Fundamental Change Repurchase Date (the “*Fundamental Change Expiration Date*”) and (ii) delivering the Notes to be purchased, if the Notes are in certificated form, to the Paying Agent at any time after the delivery of the Fundamental Change Repurchase Notice (together with all necessary endorsements for transfer) at the specified office of the Paying Agent, or book-entry transfer of the Notes, if the Notes are Global Notes, in compliance with the Applicable Procedures. The Fundamental Change Repurchase Notice in respect of any Notes to be repurchased must state (i) in the case of Physical Notes, the certificate numbers of the Notes to be delivered for repurchase, (ii) the portion of the principal amount of Notes to be repurchased (which must be \$1,000.00 or integral multiples thereof), and (iii) that the Notes are to be repurchased by

the Company pursuant to the applicable provisions of the Notes and the Indenture; *provided however*, that if the Notes are Global Notes, the Fundamental Change Repurchase Notice must comply with the Applicable Procedures.

Pursuant to Section 15.03 of the Original Indenture, any Holder may withdraw, in whole or in part, its submission of a Fundamental Change Repurchase Notice by means of a written notice of withdrawal delivered to the specified office of the Paying Agent prior to the close of business on the Fundamental Change Expiration Date, specifying (i) the principal amount of the Notes with respect to which such notice of withdrawal is being submitted (which must be in an integral multiple of \$1,000.00), (ii) if in relation to Physical Notes, the certificate number of the Note in respect of which such notice of withdrawal is being submitted (which must be an integral multiple of \$1,000.00), and (iii) the principal amount, if any, of such Note that remains subject to the original Fundamental Change Repurchase Notice (which portion must be in principal amounts of \$1,000.00 or an integral multiple thereof); *provided however*, that if the notes are Global Notes, the notice of withdrawal must comply with the Applicable Procedures.

As of September 12, 2022, all Notes are held through DTC and there are no certificated Notes in non-global form. Accordingly, all Notes surrendered for repurchase or conversion hereunder must be delivered in compliance with the Applicable Procedures. See Section 3—“Procedures to be Followed by Holders Electing to Surrender Notes for Repurchase” and Section 4—“Right of Withdrawal” for more information.

The Fundamental Change Repurchase Price for any Notes that are validly surrendered and not validly withdrawn will be paid by the Paying Agent, pursuant to Section 15.04 of the Original Indenture. The Fundamental Change Repurchase Right is subject, in all respects, to the terms and conditions of the Indenture, the Notes and this Offer to Purchase and Notice of Fundamental Change (this “*Notice*”) and any related notice materials, as amended and supplemented from time to time.

#### **Alternative to the Fundamental Change Repurchase Right: You May Elect to Convert Your Notes into Cash**

In connection with the Make-Whole Fundamental Change, and notwithstanding the Fundamental Change Repurchase Right, the Indenture provides that each Holder of the Notes has the right (the “*Make-Whole Conversion Right*”), subject to certain conditions, at such Holder’s option, to elect to convert its Notes into an amount of cash equal to \$1,136.8325 for each \$1,000.00 principal amount of Notes submitted for conversion at any time during the period that begins on, and includes, the effective date of a Make-Whole Fundamental Change and ends on, and includes, the Business Day immediately preceding the Fundamental Change Repurchase Date (such period, the “*Make-Whole Conversion Period*”).

The amount of cash payable during the Make-Whole Conversion Period reflects the product of (A) a Conversion Rate (the “*Make-Whole Conversion Rate*”) equal to (i) 43.1667 shares of Common Stock per \$1,000.00 principal amount of Notes *plus* (ii) 6.2608 additional shares per \$1,000.00 principal amount of Notes (determined by reference to the table set forth in Section 14.03(e) of the Indenture based on the Effective Date of the Make-Whole Fundamental Change being September 12, 2022 and the Stock Price paid per share of Common Stock in the Make-Whole Fundamental Change being cash in the amount equal to \$23.00) *multiplied by* (B) the \$23.00 paid per share of Common Stock in the Merger.

The Company will settle all conversions of Notes surrendered for conversion during the Make-Whole Conversion Period on the second Business Day following submission by a Holder of its notice of conversion in accordance with the Applicable Procedures. No shares of Common Stock or any other securities will be issued upon a conversion of Notes during the Make-Whole Conversion Period or at any time thereafter. **This Notice does not constitute an offer of, or a solicitation of subscriptions for, any securities.**

Following the end of the Make-Whole Conversion Period, the conversion rate of the Notes will revert from the Make-Whole Conversion Rate to the Conversion Rate, as otherwise applicable under the Indenture, after October 14, 2022, and subject to subsequent adjustment pursuant to the terms of the Indenture, and the Notes will only become convertible if otherwise convertible in accordance with the terms of the Indenture. See “Section 2.3—Make-Whole Conversion Rights of the Holders” below for a comparison of the approximate amount you currently would expect to receive if your Notes are converted during the Make-Whole Conversion Period or after the Make-Whole Conversion

Period and the amount you would receive if your Notes are purchased through exercise of the Fundamental Change Repurchase Right.

**The right of Holders to exercise the Make-Whole Conversion Right  
is separate from the Fundamental Change Repurchase Right**

If a Holder would like to surrender its Notes for conversion during the Make-Whole Conversion Period, it must either (i) deliver the appropriate instruction form pursuant to DTC's book-entry conversion program and transfer such Notes to the Conversion Agent in compliance with the Applicable Procedures, if the Notes are held in book-entry, or (ii) deliver a complete and manually-signed Conversion Notice set forth in the Indenture or any other form of written notice substantially similar thereto, if the notes are held in certificated form, in each case, at any time during the Make-Whole Conversion Period. Any Notes surrendered for conversion during the Make-Whole Conversion Period in accordance with the procedures described in this notice will be converted at the Make-Whole Conversion Rate. If a Note has been submitted for repurchase pursuant to a Fundamental Change Repurchase Notice, such Note may not be converted except to the extent such Note has been validly withdrawn by the Holder and is no longer submitted for repurchase pursuant to a Fundamental Change Repurchase Notice or unless such Fundamental Change Repurchase Notice is withdrawn in accordance with the procedures described in this Notice. Notes properly surrendered for conversion may not be withdrawn.

Notwithstanding the Fundamental Change Repurchase Right and the Make-Whole Conversion Right, each Holder of the Notes, subject to certain conditions, has the right to retain all such Holder's Notes, or any portion of the principal amount thereof not surrendered for repurchase in connection with the Fundamental Change or converted during the Make-Whole Conversion Period, through June 1, 2024 (the "**Maturity Date**"), maintaining the right to convert such Notes and to receive interest payments on the Notes until the Notes mature, subject to the terms and conditions of the Indenture.

**The value that you would currently receive if you validly exercised the Fundamental Change Repurchase Right is substantially less than the value that you would expect to receive if you converted your Notes during the Make-Whole Conversion Period. You should review this Notice carefully and consult with your own financial and tax advisors. You must make your own decision as to whether or not to surrender your Notes for repurchase or to convert your Notes during the Make-Whole Conversion Period and, if you choose to exercise either of these rights, the amount of Notes to surrender or convert. None of the Company or its board of directors, as applicable, or its or their respective employees, advisors, or representatives, Parent or its affiliates, the Trustee, the Paying Agent or Conversion Agent are making any representation or recommendation to any Holder as to whether Holders should elect to require the Company to repurchase their Notes or convert their Notes.**

This Notice constitutes a "Fundamental Change Company Notice" required to be delivered pursuant to Section 15.02(c) of the Indenture with respect to the closing of the Merger and the Delisting.

*[Remainder of this page left intentionally blank]*

**The Paying Agent and Conversion Agent:  
U.S. Bank Trust Company, National Association**

<b>Registered &amp; Certified Mail:</b>	<b>Regular Mail or Overnight Courier:</b>	<b>In Person by Hand Only:</b>
U.S. Bank Trust Company, National Association Corporate Trust Services 111 Fillmore Ave. St. Paul, MN 55107	U.S. Bank Trust Company, National Association Corporate Trust Services 111 Fillmore Ave. St. Paul, MN 55107	U.S. Bank Trust Company, National Association Corporate Trust Services 111 Fillmore Ave. St. Paul, MN 55107

\* The CUSIP number listed above is for information purposes only. Neither the Company nor the Trustee shall be responsible for the selection or use of the CUSIP number, nor is any representation made to the correctness or accuracy of the CUSIP number, if any, listed in any notice.

The date of this Notice is September 12, 2022.

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*No person has been authorized to give any information or to make any representations other than those contained in this Notice and, if given or made, such information or representations must not be relied upon as having been authorized. This Notice does not constitute an offer to buy, or the solicitation of an offer to sell, Notes in any circumstances or jurisdiction in which such offer or solicitation is unlawful nor does it constitute an offer to sell or a solicitation of subscriptions for any securities. The delivery of this Notice shall not, under any circumstances, create any implication that the information contained herein is current as of any time subsequent to the date of such information. None of the Company or Parent or any of their respective affiliates, the board of directors or members, as applicable, of any of the foregoing, or any of its or their respective employees, advisors or representatives, the Trustee, the Paying Agent and Conversion Agent is making any representation or recommendation to any Holder as to whether or not to surrender or convert (if at all) such Holder's Notes. You should consult your own financial and tax advisors and must make your own decision as to whether or not to surrender your Notes for repurchase or to exercise your conversion rights and, if you choose to exercise either of these rights, the amount of Notes to surrender or convert.*

## SUMMARY

The following summary takes the form of answers to some of the questions that you may have about the right of each holder (“**Holder**”) of the 0.875% Convertible Senior Notes due 2024 (the “**Notes**”) to require the Company (as defined below) to purchase for cash all of such Holder's Notes, or any portion of the principal thereof (the “**Fundamental Change Repurchase Right**”), that is an integral multiple of \$1,000.00 principal amount, subject to the terms and conditions of the Indenture (as defined below), the Notes and this Offer to Purchase and Notice of Fundamental Change (this “**Notice**”) and related notice materials, as amended and supplemented from time to time.

To understand the Fundamental Change Repurchase Right fully and for a more complete description of the terms of the Fundamental Change Repurchase Right, we urge you to read carefully the remainder of this Notice because the information in this summary is not complete and the remainder of this Notice contains additional important information. Unless stated to the contrary or unless the context otherwise requires, references to “the Company,” “Mandiant,” “we,” “our,” or “us” in this Notice are to Mandiant, Inc. Capitalized terms used herein without definitions shall have the meanings ascribed to them in the Indenture (as defined below).

### **Who is offering to repurchase my Notes?**

Mandiant, Inc. (formerly FireEye, Inc.), a Delaware corporation, is a global cybersecurity company with a mission to protect its customers from cyber-attacks using innovative technology, intelligence and expertise from the front lines. Following completion of the Merger (as defined below), Mandiant became a wholly owned subsidiary of Google LLC, a Delaware limited liability company (“**Parent**”), a multinational technology company whose mission is to organize the world's information and make it universally accessible and useful.

### **Why is the Company offering to repurchase my Notes?**

Pursuant to the terms of the Indenture and the Notes, upon a Fundamental Change, each Holder of the Notes may require us to purchase some or all of its Notes in integral multiples of \$1,000.00 principal amount at a purchase price in cash equal to 100% of the principal amount of the Notes to be repurchased, plus accrued and unpaid interest to, but excluding, the Fundamental Change Repurchase Date (as defined below) (the “**Fundamental Change Repurchase Price**”).

Pursuant to the Agreement and Plan of Merger, dated as of March 7, 2022 (the “**Merger Agreement**”), by and among the Company, the Parent, and Dupin Inc., a Delaware corporation and wholly owned subsidiary of Parent (“**Merger Sub**”), on September 12, 2022, the Merger (as defined below) was completed. The Merger Agreement provided for, among other things, the merger of Merger Sub with and into the Company, with the Company surviving the merger as a wholly owned subsidiary of Parent (the “**Merger**”).

The closing of the Merger resulted in the common stock, par value \$0.0001 per share, of the Company (the “**Shares**”) no longer being traded on the Nasdaq Global Select Market (“**NASDAQ**”) as of September 12, 2022 (the “**Delisting**”).

As a result of each of the completion of the Merger and the Delisting, a Fundamental Change occurred on September 12, 2022, and accordingly, each Holder has the Fundamental Change Repurchase Right described herein.

### **What Notes are the Company obligated to repurchase?**

We are obligated to repurchase all of the Notes, or any portion thereof with a principal amount of \$1,000.00 or an integral multiple of \$1,000.00 in excess thereof, validly surrendered pursuant to the Fundamental Change Repurchase Right, at the option of the Holder, and not validly withdrawn. As of September 12, 2022, there was \$600,000,000 in aggregate principal amount of Notes outstanding. The Notes were issued under that certain indenture, dated as of May 24, 2018 (the “*Original Indenture*”), between the Company and U.S. Bank Trust Company, National Association (as successor in interest to U.S. Bank National Association), as trustee (the “*Trustee*”), as supplemented by the first supplemental indenture, dated as of September 12, 2022, between the Company and the Trustee (the “*First Supplemental Indenture*” and, together with the Original Indenture, the “*Indenture*”).

### **How much will the Company pay and what is the form of payment?**

Pursuant to the terms of the Indenture and the Notes, we will pay, in cash, the Fundamental Change Repurchase Price, which is equal to 100% of the principal amount of the Notes to be repurchased, plus accrued and unpaid interest to, but excluding, October 17, 2022 (the “*Fundamental Change Repurchase Date*”). The Fundamental Change Repurchase Price is based solely on the requirements of the Indenture and the Notes and bears no relationship to the market price of the Notes or the value of the cash into which the Notes are convertible.

We expect that there will be accrued and unpaid interest due as part of the Fundamental Change Repurchase Price equal to \$3.31 per \$1,000.00 principal amount of the Notes surrendered for repurchase. Accordingly, the amount payable on the Notes, including accrued and unpaid interest, will be \$1,003.31 per \$1,000.00 principal amount of Notes validly surrendered for repurchase and not validly withdrawn.

### **How will the Company fund repurchases of Notes if any are surrendered for repurchase pursuant to the Fundamental Change Repurchase Right?**

The total amount of funds required by us to repurchase all of the Notes pursuant to the Fundamental Change Repurchase Right (assuming all of such Notes are validly surrendered for repurchase and not validly withdrawn) is \$601,986,000. The Company expects to fund any repurchases from available cash on hand and/or funds made available by Parent.

The repurchase of Notes, if any, pursuant to the Fundamental Change Repurchase Right is not conditioned upon obtaining any financing or the funding thereof.

### **How can I determine the market value of the Notes?**

As a result of the Merger, the Shares are no longer being traded on NASDAQ, and as a result of the execution of the First Supplemental Indenture, the right to convert each \$1,000.00 principal amount of Notes into Shares has been changed to a right to convert such principal amount of Notes solely into a number of units of Reference Property in an aggregate amount equal to the Conversion Rate in effect on the applicable Conversion Date (subject to any adjustments applicable pursuant to the Indenture) *multiplied* by the Stock Price paid per Share in the Merger, or \$23.00 (such \$23.00 paid per Share, the “*Merger Consideration*”).

The aggregate amount of Reference Property which a Holder would be entitled to receive upon a conversion of its Notes equals the Conversion Rate in effect on the Conversion Date (subject to any applicable adjustments made pursuant to the Indenture) *multiplied* by \$23.00, which:

- i) in the case of a conversion made in connection with a Make-Whole Fundamental Change will be cash equal to \$1,136.8325 per \$1,000.00 principal amount of Notes, based on a Conversion Rate equal to (a) 43.1667 Shares per \$1,000.00 principal amount of Notes *plus* (b) 6.2608 Additional Shares (which 6.2608 Additional Shares are payable as determined by reference to the table set forth

in Section 14.03(e) of the Original Indenture based on the Effective Date of the Make-Whole Fundamental Change being September 12, 2022 and the Stock Price paid per Share in the Make-Whole Fundamental Change being cash in an amount of \$23.00); and

- ii) in the case of a conversion at all other times when the Notes are convertible beginning immediately after 5:00 p.m., New York City time (the “*close of business*”) on the Business Day immediately preceding the Fundamental Change Repurchase Date will be cash equal to \$992.8341 per \$1,000.00 principal amount of Notes, based on a Conversion Rate equal to 43.1667 Shares per \$1,000.00 principal amount of Notes.

Based on the right to convert your Notes into an estimated \$1,136.8325 in cash per \$1,000.00 aggregate principal amount of Notes validly surrendered during the Make-Whole Conversion Period, the value that you would be entitled to receive if you validly exercised the Fundamental Change Repurchase Right is substantially less than the value that you would be entitled to receive if you converted your Notes during the Make-Whole Conversion Period.

As of September 8, 2022, the closing price of the Notes in the over-the-counter market as quoted on Bloomberg was \$112.140 per \$100.00 principal amount. To the extent that the Notes are traded following consummation of the Merger, prices of the Notes may fluctuate widely depending on such factors as trading volume, the balance between buy and sell orders, prevailing interest rates and the market for similar Notes. You are urged to obtain current market information for the Notes, to the extent available, before making any decision with respect to the Fundamental Change Repurchase Right.

#### **Are my Notes currently convertible?**

Yes. Holders of Notes currently have the right, subject to certain conditions, at such Holder’s option, to exercise such Holder’s conversion rights under the terms, conditions and adjustments specified in the Indenture and the Notes.

In addition, as a result of the completion of the Merger and Delisting, the Holders have the right (the “*Make-Whole Conversion Right*”), subject to certain conditions, at such Holder’s option, to surrender the Notes for conversion at the Conversion Rate (as defined in the Indenture) increased by an amount equal to 6.2608 Additional Shares (together with the Conversion Rate, the “*Make-Whole Conversion Rate*”) if the relevant Notice of Conversion (as defined below) is received by U.S. Bank Trust Company, National Association (as successor in interest to U.S. Bank National Association) as conversion agent (the “*Conversion Agent*”) at any time from and including September 12, 2022, the date on which the Make-Whole Fundamental Change occurred, until the close of business on October 14, 2022 (such period, the “*Make-Whole Conversion Period*”).

If you do not exercise your Fundamental Change Repurchase Right in accordance with the terms of this Notice and the Indenture, you will retain the conversion rights associated with your Notes as described herein. If you exercise your Fundamental Change Repurchase Right by delivering the Fundamental Change Repurchase Notice (as defined below) to U.S. Bank Trust Company, National Association, as paying agent (the “*Paying Agent*”), you may not surrender such Notes for conversion at the Make-Whole Conversion Rate unless you validly withdraw such Fundamental Change Repurchase Notice from the Paying Agent pursuant to Section 15.03 of the Original Indenture prior to the close of business on October 14, 2022 (the “*Fundamental Change Expiration Date*”). If you surrender your Notes for conversion at any time, you will no longer be able to exercise the Fundamental Change Repurchase Right. See Section 2.4—“Conversion Rights of the Holders.”

#### **What consideration will I receive if I convert my Notes during the Make-Whole Conversion Period?**

If you convert Notes during the Make-Whole Conversion Period, you will receive \$1,136.8325 for every \$1,000.00 principal amount of Notes submitted for conversion.

#### **What is the relationship between the offer to repurchase and the convertibility of the Notes?**

The right to exercise the Fundamental Change Repurchase Right is a separate right from the right to convert the Notes. If you do exercise your Fundamental Change Repurchase Right by delivering a Fundamental Change Repurchase

Notice with respect to your Notes, you will not be able to convert such Notes unless you validly withdraw your Fundamental Change Repurchase Notice prior to the Fundamental Change Expiration Date. If you do not exercise your Fundamental Change Repurchase Right, your conversion rights will not be affected except as described in Section 2.4—“Conversion Rights of the Holders.” If you have exercised your Make-Whole Conversion Right and converted your Notes, you may not surrender such Notes under the Fundamental Change Repurchase Right.

### **When does the Fundamental Change Repurchase Right expire?**

The Fundamental Change Repurchase Right expires at the close of business on the Fundamental Change Expiration Date, which is October 14, 2022. We do not intend to extend the period that Holders have to exercise the Fundamental Change Repurchase Right unless required by applicable law.

### **What are the conditions to the repurchase by the Company of the Notes?**

The repurchase by us of validly surrendered Notes is not subject to any condition other than such repurchase being lawful and the satisfaction of the procedural requirements promulgated under the Indenture and this Notice.

### **How do I surrender my Notes for repurchase?**

To surrender your Notes for repurchase pursuant to the Fundamental Change Repurchase Right, you must (i) in the case of Physical Notes, (a) deliver to the Paying Agent a duly completed Fundamental Change Repurchase Notice before the close of business on the Fundamental Change Expiration Date, and (b) deliver the Notes to the Paying Agent at its specified office at any time after delivery of the Fundamental Change Repurchase Notice (together with all necessary endorsements of transfer), or (ii) in the case of Global Notes, (a) comply with The Depository Trust Company’s (“*DTC*”) applicable rules and procedures (“*Applicable Procedures*”) for surrendering interests in Global Notes before the close of business on the Fundamental Change Expiration Date, and (b) effect book-entry transfer of the Notes in compliance with the Applicable Procedures. In either case, delivery or book-entry transfer of the Notes is a condition to receipt by the Holder of the applicable Fundamental Change Repurchase Price.

Holders whose Notes are held by a broker, dealer, commercial bank, trust company or other nominee must contact such nominee if such Holder desires to exercise its Fundamental Change Repurchase Right and instruct such nominee to deliver a Fundamental Change Repurchase Notice and surrender the Notes on such Holder’s behalf in compliance with the Applicable Procedures prior to the close of business on the Fundamental Change Expiration Date.

Holders who are DTC participants should deliver the Fundamental Change Repurchase Notice and surrender their Notes to the Paying Agent electronically through DTC’s Automated Tender Offer Program (“*ATOP*”), subject to the terms and procedures of that system prior to the close of business on the Fundamental Change Expiration Date.

You bear the risk of untimely submission of the Fundamental Change Repurchase Notice. You must allow sufficient time for completion of the necessary DTC procedures before the close of business on the Fundamental Change Expiration Date, after which time you will not be able to exercise the Fundamental Change Repurchase Right.

By delivering, or instructing your nominee to deliver, the Fundamental Change Repurchase Notice to the Paying Agent in compliance with the Applicable Procedures, you agree to be bound by the terms of the Fundamental Change Repurchase Right set forth in this Notice.

### **If I surrender my Notes for repurchase, when will I receive payment for my Notes?**

We will accept for payment all validly surrendered Notes that have not been validly withdrawn promptly upon expiration of the Fundamental Change Repurchase Date. We will promptly deposit with the Paying Agent at or prior to 11:00 a.m., New York City time, on October 17, 2022, the Fundamental Change Repurchase Date, an amount of money sufficient to repurchase all of the Notes to be repurchased at the Fundamental Change Repurchase Price, and the Paying Agent will promptly, after the later of the Fundamental Change Repurchase Date and the time of the book-entry transfer of the applicable Notes, make payment of such amount by wire transfer of immediately available funds to DTC. DTC will thereafter distribute the cash to its participants in accordance with its procedures.

**Can I withdraw previously surrendered Notes?**

Yes. To withdraw Notes previously surrendered for repurchase, you (or your broker, dealer, commercial bank, trust company or other nominee) must comply with the withdrawal procedures of DTC in sufficient time to allow DTC to withdraw your Notes prior to the close of business on the Fundamental Change Expiration Date. You bear the risk of untimely withdrawal of previously tendered Notes. You must allow sufficient time for completion of the DTC procedures prior to the close of business on the Fundamental Change Expiration Date.

**If I choose to surrender any of my Notes for repurchase, do I have to surrender all of my Notes?**

No. You may surrender all of your Notes, a portion of your Notes, or none of your Notes for repurchase. If you wish to surrender a portion of your Notes for repurchase, however, you must surrender Notes in a principal amount of \$1,000.00 or an integral multiple of \$1,000.00 in excess thereof.

**If I want to convert my Notes during the Make-Whole Conversion Period, what should I do?**

If you want to convert your Notes during the Make-Whole Conversion Period, you must comply with the Applicable Procedures for converting a beneficial interest in a Global Note.

Holder whose Notes are held by a broker, dealer, commercial bank, trust company or other nominee must contact such nominee if such Holder desires to exercise its Make-Whole Conversion Right and instruct such nominee to deliver the appropriate instruction form and the Notes in compliance with the Applicable Procedures prior to the end of the Make-Whole Conversion Period.

**If I have already elected to exercise my Fundamental Change Repurchase Right, can I still convert my Notes?**

If you have already exercised your Fundamental Change Repurchase Right by delivering a Fundamental Change Repurchase Notice with respect to your Notes, you will not be able to convert such Notes unless you validly withdraw your Fundamental Change Repurchase Notice prior to the close of business on the Fundamental Change Expiration Date. You bear the risk for untimely withdrawal of a Fundamental Change Repurchase Notice. Notes properly surrendered for conversion may not be withdrawn.

**Do I need to do anything if I do not wish to exercise the Fundamental Change Repurchase Right?**

No. If you do not surrender your Notes before the expiration of the Fundamental Change Repurchase Right, we will not repurchase your Notes and such Notes will remain outstanding and will continue to be subject to the terms of the Indenture and the Notes.

**If I do not surrender my Notes for conversion during the Make-Whole Conversion Period, will I continue to be able to exercise my conversion rights in the future?**

Yes. If you do not convert your Notes during the Make-Whole Conversion Period and do not deliver a Fundamental Change Repurchase Notice prior to the Fundamental Change Expiration Date, you will continue to have the right to convert each \$1,000.00 principal amount of Notes into an amount of Reference Property (as defined in Section 1.3—“The Merger Agreement”) based on the Conversion Rate in effect as of the applicable Conversion Date, to the extent the Notes are convertible in accordance with the terms of the Indenture. Pursuant to the Supplemental Indenture executed in connection with the Merger, after the Make-Whole Conversion Period each \$1,000.00 principal amount of Notes will be convertible into cash in an amount equal to \$992.8341, to the extent the Notes are convertible in accordance with the terms of the Indenture. Holders that convert their Notes after the end of the Make-Whole Conversion Period will not be entitled to a make-whole premium in connection with such conversion, and as a result, will be entitled to a less favorable Conversion Rate.

**What are the material U.S. federal income tax consequences if I surrender my Notes for repurchase or exercise my conversion rights with respect to my Notes in connection with the Merger?**

A Holder's receipt of cash in exchange for Notes pursuant to the exercise of the Fundamental Change Repurchase Right or Make-Whole Conversion Right generally will be a taxable transaction for U.S. federal income tax purposes. For a discussion of certain material U.S. federal income tax consequences applicable to Holders of Notes upon the exercise of either the Fundamental Change Repurchase Right or Make-Whole Conversion Right, see "Material U.S. Federal Income Tax Considerations."

**Who is the Paying Agent and Conversion Agent?**

U.S. Bank Trust Company, National Association is serving as the Paying Agent and Conversion Agent in connection with the Holders' Fundamental Change Repurchase Right and the Holders' Make-Whole Conversion Right. Addresses are set forth in this Notice.

**Whom can I contact if I have questions about the Fundamental Change Repurchase Right or the Make-Whole Conversion Right?**

Questions and requests for assistance in connection with the mechanics of surrender of Notes for repurchase under the Fundamental Change Repurchase Right or the conversion of the Notes under the Make-Whole Conversion Right, may be directed to the Paying Agent and Conversion Agent at the address set forth in this Notice. You should direct any other questions you may have to your own financial and tax advisors.

## CAUTIONARY NOTE REGARDING FORWARD-LOOKING STATEMENTS

*This Notice contains “forward-looking statements” as that term is defined under the Private Securities Litigation Reform Act of 1995 and other securities laws. For these statements, we claim the protection of the safe harbor for forward-looking statements contained in Section 27A of the Securities Act of 1933 and Section 21E of the Securities Exchange Act of 1934. These statements are based on current expectations, estimates, or forecasts about our businesses, the industries in which we operate, and the current beliefs and assumptions of management; they do not relate strictly to historical or current facts. Without limiting the foregoing, words or phrases such as “expect,” “anticipate,” “goal,” “likely,” “possible,” “project,” “intend,” “plan,” “believe,” “seek,” “may,” “could,” “aspire,” and variations of such words and similar expressions generally identify forward-looking statements. In addition, any statements that refer to predictions or projections of our future financial performance, anticipated growth, strategic objectives, performance drivers and trends in our businesses, and other characterizations of future events or circumstances are forward-looking statements. Readers are cautioned that these forward-looking statements are only predictions about future events, activities or developments and are subject to numerous risks, uncertainties, and assumptions that are difficult to predict. We caution that undue reliance should not be placed on such forward-looking statements, which speak only as of the date made. We expressly disclaim any obligation or undertaking to release publicly any updates or revisions to any forward-looking statements contained herein to reflect any change in our expectations with regard thereto or any change in events, conditions or circumstances on which any such statement is based.*

### IMPORTANT INFORMATION CONCERNING THE FUNDAMENTAL CHANGE REPURCHASE RIGHT AND THE MAKE-WHOLE CONVERSION RIGHT

#### 1. Information Concerning the Company and Parent.

- 1.1 **The Company.** Mandiant, Inc. (formerly FireEye, Inc.) (the “**Company**,” “**Mandiant**,” “**we**,” “**us**” or “**our**”), a Delaware corporation, is a global cybersecurity company with a mission to protect our customers from cyber-attacks using innovative technology, intelligence and expertise from the front lines. Mandiant provides intelligence-based cybersecurity solutions and services that allow organizations to prepare for, prevent, investigate, respond to and remediate cyber-attacks, including attacks that target on-premises, cloud, and critical infrastructure environments.

Following the Merger, the Company became a wholly owned subsidiary of Google LLC, a Delaware limited liability company. The Company’s principal executive offices are located at 11951 Freedom Drive, 6th Floor, Reston, VA 20190 and our telephone number is (703) 935-1700.

- 1.2 **Parent.** Google LLC’s (the “**Parent**”) mission is to organize the world’s information and make it universally accessible and useful. Through products and platforms like Search, Maps, Gmail, Android, Google Play, Chrome and YouTube, Parent plays a meaningful role in the daily lives of billions of people and has become one of the most widely-known companies in the world. Parent is a subsidiary of Alphabet Inc. Parent’s address is 1600 Amphitheatre Parkway, Mountain View, California 94043, and its telephone number is (650) 253-0000.

- 1.3 **The Merger Agreement.** On March 7, 2022, the Company, Parent and the Merger Sub entered into an Agreement and Plan of Merger (the “**Merger Agreement**”), which provided for (among other things) the merger of Merger Sub with and into the Company, with the Company surviving the merger as a wholly owned subsidiary of Parent.

The completion of the Merger also resulted in the Company’s shares of common stock no longer being listed or traded on NASDAQ. As a result of the completion of the Merger and the Delisting, a Fundamental Change occurred on September 12, 2022 and, accordingly, each Holder has the Fundamental Change Repurchase Right described herein. In addition, as a result of the Merger and the Delisting, each Holder also has the Make-Whole Conversion Right described herein.

Pursuant to Section 14.07(a) of the Original Indenture, at or prior to the consummation of the Merger, the Company and the Trustee were required to execute a supplemental indenture to change each Holder's right to convert each \$1,000.00 principal amount of Notes into shares of the Company's Common Stock into a right to convert such principal amount of Notes into the amount of cash that a holder of a number of Shares equal to the Conversion Rate immediately prior to such Merger would have owned or been entitled to receive upon such Merger (the "**Reference Property**", with each "**Reference Property Unit**" meaning the kind and amount of Reference Property that a holder of one Share is entitled to receive).

The Merger Consideration attributable to one Share consisted of \$23.00 in cash. In accordance with the Supplemental Indenture entered into at the time of the Merger, Holders of Notes who elect to convert their Notes during the Make-Whole Conversion Period will receive \$1,136.8325 in cash per \$1,000.00 principal amount of Notes validly surrendered for conversion during the Make-Whole Conversion Period, subject to the terms, conditions and adjustments specified in the Indenture and the Notes. For an explanation of the Make-Whole Conversion Period, see "Summary Term Sheet—Are my Notes currently convertible?"

## **2. Information Concerning the Notes.**

2.1 **Issuance and Maturity.** On May 24, 2018, the Notes were issued under the Original Indenture. Cash interest accrues on the Notes at the rate of 0.875% per annum on the principal amount and is payable semi-annually on June 1 and December 1 of each year, to the persons who are registered Holders at the close of business on May 15 and November 15, respectively. The Notes mature on June 1, 2024. As of September 12, 2022, there was \$600,000,000 aggregate principal amount of the Notes outstanding.

2.2 **The Company's Obligation to Repurchase the Notes.** Completion of the Merger and the Delisting constitutes a Fundamental Change pursuant to the terms of the Notes and the Indenture. In the event of a Fundamental Change at any time prior to the maturity of the Notes, the Indenture obligates the Company to offer to repurchase all Notes validly surrendered for repurchase and not validly withdrawn, at the Holder's option.

This Fundamental Change Repurchase Right will expire after the close of business, on October 14, 2022, the Fundamental Change Expiration Date. We do not intend to extend the period that Holders have to exercise the Fundamental Change Repurchase Right unless required by applicable law. Our purchase of outstanding Notes validly tendered and not validly withdrawn is not subject to any condition other than that the purchase be lawful and the procedural requirements promulgated under the Indenture and in this Notice are satisfied. There are no financing conditions in connection with the Company's obligation to consummate the Fundamental Change Repurchase Right.

Holders may exercise their Fundamental Change Repurchase Right by (i) in the case of Physical Notes, (a) delivering to the Paying Agent a duly completed Fundamental Change Repurchase Notice before the close of business on the Fundamental Change Expiration Date, and (b) delivering the Notes to the Paying Agent at its specified office at any time after delivery of the Fundamental Change Repurchase Notice (together with all necessary endorsements of transfer), or (ii) in the case of Global Notes, (a) complying with the Applicable Procedures for surrendering interests in Global Notes before the close of business on the Fundamental Change Expiration Date, and (b) effecting book-entry transfer of the Notes in compliance with the Applicable Procedures. In either case, delivery or book-entry transfer of the Notes is a condition to receipt by the Holder of the applicable Fundamental Change Repurchase Price. As of the date hereof, all Notes are held through DTC and there are no certificated Notes in non-global form. Accordingly, all Notes surrendered for repurchase or conversion hereunder must be delivered in compliance with the Applicable Procedures. See Section 3—"Procedures to be Followed by Holders Electing to Surrender Notes for Repurchase" for further information on how to deliver a Fundamental Change Repurchase Notice and surrender your Notes for repurchase.

2.3 **Fundamental Change Repurchase Price.** Pursuant to the terms of the Indenture and the Notes, the Fundamental Change Repurchase Price to be paid by the Company for the Notes on the Fundamental Change Repurchase Date is equal to 100% of the principal amount of the Notes validly surrendered for repurchase and not validly withdrawn, plus accrued and unpaid interest to, but excluding, the Fundamental Change

Repurchase Date (unless the Fundamental Change Repurchase Date falls after a Regular Record Date but on or prior to the Interest Payment Date to which such Regular Record Date relates, in which case the Company shall instead pay the full amount of accrued and unpaid interest to Holders of record as of the close of business on such Regular Record Date, and the Fundamental Change Repurchase Price shall be equal to 100% of the aggregate principal amount of Notes to be repurchased pursuant to Article 15 of the Original Indenture).

We expect that there will be accrued and unpaid interest due as part of the Fundamental Change Repurchase Price equal to \$3.31 per \$1,000.00 principal amount of the Notes. Accordingly, the amount payable on the Notes, including accrued and unpaid interest, will be \$1,003.31 per \$1,000.00 principal amount of Notes validly surrendered for repurchase, and not validly withdrawn.

The Company will deposit with the Paying Agent on or prior to 11:00 a.m. New York City time on the Fundamental Change Repurchase Date, an amount of money sufficient to repurchase all of the Notes to be repurchased at the appropriate Fundamental Change Repurchase Price. Payment of the Fundamental Change Repurchase Price in cash with respect to any and all Notes validly surrendered for repurchase (and not validly withdrawn prior to the close of business on the Fundamental Change Expiration Date) will be made on the later of (i) the Fundamental Change Repurchase Date, and (ii) the time of book-entry transfer of such Note to the Paying Agent by the Holder thereof in the manner prescribed by the Indenture.

Notes will be accepted for repurchase only in principal amounts equal to \$1,000.00 or an integral multiple of \$1,000.00 in excess thereof. Delivery of the Notes by book-entry transfer to the account maintained by the Paying Agent with DTC is a condition to the payment of the Fundamental Change Repurchase Price to the Holder of such Notes.

The Fundamental Change Repurchase Price is based solely on the requirements of the Indenture and the Notes and does not necessarily bear any relationship to the market price of the Notes or the value of the Shares into which the Notes were convertible. Thus, the Fundamental Change Repurchase Price may be significantly higher or lower than the market price of the Notes on the Fundamental Change Repurchase Date. You are urged to obtain the best available information as to potential current market prices of the Notes, to the extent available, before making a decision whether to surrender your Notes for repurchase.

**None of the Company or Parent or any of their respective affiliates, or boards of directors, as applicable, or their respective employees, advisors or representatives, the Trustee, the Paying Agent or the Conversion Agent is making any representation or recommendation to any Holder as to whether to surrender or refrain from surrendering Notes for repurchase, or to exercise the conversion rights, pursuant to this Notice. Each Holder must make such Holder's own decision as to whether or not to surrender Notes for repurchase or to exercise the conversion rights and, if you choose to exercise either of these rights, the amount of Notes to surrender or convert, based on such Holder's assessment of the current market value of the Notes and other relevant factors.**

- 2.4 **Conversion Rights of the Holders.** Pursuant to the terms of the Indenture, in connection with the consummation of the Merger, the Company and the Trustee entered into the First Supplemental Indenture providing that, following the Merger, each Holder's right to convert each \$1,000.00 principal amount of Notes or an integral multiple of \$1,000.00 in excess thereof, into Shares was changed into a right to convert such principal amount of Notes into Reference Property. Pursuant to the Merger Agreement, the holders of Shares were ultimately entitled to receive \$23.00 per Share.

The aggregate amount of Reference Property which a Holder would be entitled to receive upon a conversion of Notes equals the Conversion Rate in effect on the Conversion Date (subject to any applicable adjustments made pursuant to the Indenture) *multiplied* by \$23.00, which:

- iii) in the case of a conversion made in connection with a Make-Whole Fundamental Change will be cash equal to \$1,136.8325 per \$1,000.00 principal amount of Notes, based on a Conversion Rate equal to (a) 43.1667 Shares per \$1,000.00 principal amount of Notes *plus* (b) 6.2608 Additional Shares (which 6.2608 Additional Shares are payable as determined by reference to the table set forth in Section 14.03(e) of the Original Indenture based on the Effective Date of the Make-Whole

Fundamental Change being September 12, 2022 and the Stock Price paid per Share in the Make-Whole Fundamental Change being cash in an amount of \$23.00); and

- iv) in the case of a conversion at all other times when the Notes are convertible beginning immediately after the close of business on the Business Day immediately preceding the Fundamental Change Repurchase Date will be cash equal to \$992.8341 per \$1,000.00 principal amount of Notes, based on a Conversion Rate equal to 43.1667 Shares per \$1,000.00 principal amount of Notes.

For an explanation of the Make-Whole Conversion Period, see “Summary Term Sheet—Are my Notes currently convertible?”

The Company will settle all conversions of Notes surrendered for conversion during the Make-Whole Conversion Period for cash in accordance with the provisions of the Indenture. No Shares or any other securities will be issued upon a conversion of Notes during the Make-Whole Conversion Period or thereafter.

**This Notice does not constitute an offer of, or a solicitation of subscriptions for, any securities.**

Upon the conversion of any Notes, a Holder will not receive any separate cash payment for accrued and unpaid interest, and the Company’s settlement of the Conversion Obligation as described above will be deemed to satisfy its obligation to pay the principal amount of Notes and any accrued and unpaid interest thereon (except as otherwise provided in Section 14.02(h) of the Original Indenture).

If you want to convert your Notes during the Make-Whole Conversion Period, you must comply with the Applicable Procedures for converting a beneficial interest in a Global Note.

Holder whose Notes are held by a broker, dealer, commercial bank, trust company or other nominee must contact such nominee if such Holder desires to exercise its conversion right and instruct such nominee to deliver the appropriate instruction form and the Notes in compliance with the Applicable Procedures prior to the end of the Make-Whole Conversion Period.

Timely delivery of the appropriate instruction form and the Notes in compliance with the Applicable Procedures is the responsibility of the surrendering Holder.

The Conversion Date will be the date on which you have satisfied all of the requirements for a conversion as set forth in the Indenture (the “*Conversion Date*”). The Notes will be deemed to have been converted immediately prior to the close of business on the Conversion Date.

If you exercise your Fundamental Change Repurchase Right by delivering a Fundamental Change Repurchase Notice with respect to your Notes, you will not be able to convert such Notes unless you validly withdraw your Fundamental Change Repurchase Notice prior to the close of business on the Fundamental Change Expiration Date. Holders bear the risk of untimely withdrawal of a Fundamental Change Repurchase Notice.

Any Notes that are properly surrendered for conversion may not be withdrawn. Holders that do not surrender their Notes for repurchase pursuant to the Fundamental Change Repurchase Right may surrender their Notes for conversion. Holders who do not convert their Notes during the Make-Whole Conversion Period or who do not deliver a Fundamental Change Repurchase Notice at or prior to the close of business on the Fundamental Change Expiration Date will continue to have the right to convert their Notes, to the extent the Notes become convertible in accordance with the terms of the Indenture. However, Holders that convert their Notes after the end of the Make-Whole Conversion Period will not be entitled to a make-whole premium in connection with such conversion, and as a result, may be entitled to a less favorable Conversion Rate.

U.S. Bank Trust Company, National Association is acting as Conversion Agent in connection with the Make-Whole Conversion Right described herein. Please direct any questions or requests for assistance in connection

with the surrender of Notes for conversion to the Conversion Agent at the address and telephone and facsimile numbers set forth on the cover of this Notice.

### Examples of Your Consideration Alternatives

YOU ARE UNDER NO OBLIGATION TO EXERCISE EITHER THE FUNDAMENTAL CHANGE REPURCHASE RIGHT OR THE MAKE-WHOLE CONVERSION RIGHT DESCRIBED HEREIN, AND YOU MAY CHOOSE TO TAKE NO ACTION AND RETAIN YOUR NOTES.

Assuming you hold Notes in an aggregate principal amount of \$1,000.00:

- *Fundamental Change Repurchase Right:* If you exercise the Fundamental Change Repurchase Right and the Notes are repurchased for the Fundamental Change Repurchase Price, you will receive \$1,000.00 *plus* a sum equal to accrued but unpaid interest on your Notes to, but excluding, the Fundamental Change Repurchase Date (except as otherwise provided for in the Indenture), for a total consideration of \$1,003.31 in cash per \$1,000.00 principal amount of Notes validly tendered, assuming a Fundamental Change Repurchase Date of October 17, 2022.
- *Conversion During the Make-Whole Conversion Period:* Since the Notes have become convertible solely into cash during the Make-Whole Conversion Period pursuant to the Supplemental Indenture, if you exercise your Make-Whole Conversion Right during the Make-Whole Conversion Period, you would be entitled to receive \$1,136.8325 in cash per \$1,000.00 principal amount of Notes validly surrendered for conversion, based on (i) a Conversion Rate equal to 43.1667 *plus* 6.2608 Additional Shares, *multiplied by* (ii) \$23.00 (the amount paid per Share in the Merger). No Shares or any other securities will be issued upon a conversion of Notes in connection with the foregoing Make-Whole Fundamental Change.
- *Conversion After the Make-Whole Conversion Period:* To the extent the Notes become convertible after the end of the Make-Whole Conversion Period, if you exercise your conversion rights after the Make-Whole Conversion Period, you would be entitled to receive cash in an amount equal to \$992.8341 per \$1,000.00 aggregate principal amount of Notes validly surrendered for conversion, based on the Conversion Rate (applicable as of the date of this Notice) of 43.1667 *multiplied by* \$23.00 (the amount paid per Share in the Merger).

**The right of Holders to convert their Notes is separate from the Fundamental Change Repurchase Right. The value that you would expect to receive if you validly exercised the Fundamental Change Repurchase Right is substantially less than the value that you would receive if you converted your Notes during the Make-Whole Conversion Period. You should review this Notice carefully and consult with your own financial and tax advisors. You must make your own decision as to whether or not to surrender your Notes for repurchase or to exercise your conversion rights and, if you choose to exercise either of these rights, the amount of Notes to surrender or convert. None of the Company or Parent or any of their respective affiliates, or board of directors, as applicable, or any of their respective employees, advisors or representatives, the Trustee, the Paying Agent or the Conversion Agent is making any representation or recommendation to any Holder as to whether or not to surrender or convert such Holder's Notes.**

- 2.5 **Market for the Notes.** There currently is a limited or no established trading market for the Notes, and they are currently traded over-the-counter. To the extent that the Notes are traded following consummation of the Merger, prices of the Notes may fluctuate widely depending on a number of factors, including trading volume, the balance between buy and sell orders, prevailing interest rates and the market for similar Notes.

Following the expiration of the Fundamental Change Repurchase Right and the Make-Whole Conversion Period, the Notes that have not been repurchased or converted may or may not continue to be traded over-the-counter, and if they do continue to trade, the trading market for the Notes may be much more limited. We cannot assure you that any market will exist for the Notes following expiration of the Fundamental Change

Repurchase Right and the Make-Whole Conversion Period. Even if such a market does exist, a debt security with a smaller outstanding principal amount available for trading (a smaller “float”) may command a lower price and trade with greater volatility than would a comparable debt security with a larger float.

Consequently, the repurchase or conversion of a significant amount of the Notes pursuant to the terms of this Notice would reduce the float and may negatively affect the liquidity, market value and price volatility of the Notes that remain outstanding following expiration of the Fundamental Change Repurchase Right and the Make-Whole Conversion Period. The extent of the public market for the Notes following expiration of the Fundamental Change Repurchase Right and the Make-Whole Conversion Period will depend upon, among other things, the remaining outstanding principal amount of the Notes at such time, the number of Holders remaining at that time and the interest on the part of securities firms in maintaining a market in the Notes.

As of September 12, 2022, there was \$600,000,000 aggregate principal amount of Notes outstanding. As of September 8, 2022, the closing price of the Notes in the over-the-counter market as quoted on Bloomberg was \$112.140 per \$100.00 principal amount. We urge you to obtain current market information for the Notes, to the extent available, before making any decision whether to exercise or refrain from exercising the Fundamental Change Repurchase Right or to surrender your Notes for conversion.

- 2.6 **Interest.** The Notes that remain outstanding after consummation of the Fundamental Change Repurchase Right will continue to accrue interest until June 1, 2024 (the “*Maturity Date*”), or until the principal of the Notes has been paid, unless the Notes are earlier repurchased or converted. Interest on outstanding Notes is paid semi-annually in arrears on June 1 and December 1 of each year to record Holders of the Notes as of the preceding May 15 and November 15, respectively, until the Maturity Date, or until the principal of the Notes has been paid, unless the Notes are earlier repurchased or converted. The Notes bear interest on the principal amount at an annual interest rate equal to 0.875%.

Holders who validly surrender and do not validly withdraw their Notes in connection with the Fundamental Change Repurchase Right will be entitled to receive accrued cash interest payable on their Notes accrued to, but excluding, the Fundamental Change Repurchase Date in an amount equal to the following computation multiplied by each \$1,000.00 of principal amount validly surrendered for repurchase and not validly withdrawn: the current interest rate multiplied by the number of days from the last Interest Payment Date on which interest has been paid to, but excluding, the Fundamental Change Repurchase Date, divided by 360. The Company estimates that the accrued interest payable on any Notes that are validly surrendered for repurchase and not validly withdrawn will be \$3.31 per \$1,000.00 principal amount of Notes surrendered, assuming a Fundamental Change Repurchase Date of October 17, 2022. Holders converting the Notes will not receive a cash payment for accrued and unpaid interest (except as otherwise provided in Section 14.02(h) of the Original Indenture). See Section 2.4—“Conversion Rights of the Holders” above.

- 2.7 **Fundamental Change and Repurchase Rights.** If any Notes remain outstanding, a Holder may require the Company to repurchase for cash such Holder’s Notes if there is a Fundamental Change not described in this Notice, on or prior to the Maturity Date at a repurchase price in cash equal to 100% of the aggregate principal amount of such Notes as of the applicable repurchase date, *plus* accrued and unpaid interest to, but excluding, such repurchase date, *provided* that if such repurchase date falls after May 15 or November 15 (each a “*Regular Record Date*”), and on or prior to the corresponding June 1 and December 1 (each an “*Interest Payment Date*”) to which such Regular Record Date relates, the Company will pay the full amount of the accrued and unpaid interest to Holders of record as of the close of business on such Regular Record Date, and the then applicable Fundamental Change repurchase consideration shall be equal to 100% of the aggregate principal amount of the Notes to be so repurchased.
- 2.8 **Ranking.** The Notes are senior unsecured obligations of the Company and rank equal in right of payment to all of the Company’s existing and future senior indebtedness and senior to all of the Company’s subordinate debt. However, the Notes are structurally subordinate to all existing and future liabilities of the Company’s subsidiaries and will be effectively subordinate to the existing and future secured indebtedness of the Company to the extent of the value of the assets securing such indebtedness.

3. **Procedures to Be Followed by Holders Electing to Surrender Notes for Repurchase.** In order to receive the Fundamental Change Repurchase Price for their Notes, Holders must deliver the Fundamental Change Repurchase Notice to the Paying Agent prior to the close of business on the Fundamental Change Expiration Date and deliver the Notes described in the Fundamental Change Repurchase Notice to the Paying Agent through book-entry transfer on or after delivery of the Fundamental Change Repurchase Notice.

Holders may surrender some or all of their Notes; however, any Notes surrendered must be in \$1,000.00 principal amount or an integral multiple of \$1,000.00 in excess thereof. If Holders do not validly surrender their Notes before the Fundamental Change Expiration Date, those Notes will remain outstanding subject to the existing terms of the Indenture and the Notes.

- 3.1 **Method of Delivery.** As of the date of this Notice, all Notes are held through DTC and there are no certificated Notes in non-global form. Accordingly, each Fundamental Change Repurchase Notice and the Notes described therein shall be delivered via agent's message that is transmitted through DTC's ATOP, and delivery via ATOP will satisfy the Holder's Fundamental Change Repurchase Right delivery requirements pursuant to the terms of the Indenture. Delivery of the Fundamental Change Repurchase Notice and the Notes described therein through ATOP is the responsibility of the surrendering Holder.

If your Notes are held by a broker, dealer, commercial bank, trust company or other nominee, you must contact such nominee if you desire to surrender your Notes for repurchase on your behalf in compliance with the Applicable Procedures as set forth below prior to the close of business on the Fundamental Change Expiration Date.

If you are a DTC participant, you must surrender your beneficial interest in the Notes to us by electronically transmitting your acceptance through ATOP, subject to the terms and procedures of that system, at or prior to 11:59 p.m., New York City time, on the Fundamental Change Expiration Date. Upon receipt of your acceptance through ATOP, DTC will edit and verify the acceptance and send an agent's message to the Paying Agent for its acceptance. The term "agent's message" means a message transmitted by DTC to, and received by, the Paying Agent, which states that DTC has received an express acknowledgment from the participant in DTC described in that agent's message, stating the principal amount of Notes that have been surrendered by such participant under the Fundamental Change Repurchase Right and that such participant has received and agrees to be bound by the terms of the Fundamental Change Repurchase Right, including those set forth in Section 3.2—"Agreement to be Bound by the Terms of the Fundamental Change Repurchase Right" of this Notice.

Any Fundamental Change Repurchase Notice sent to DTC by a Holder or by a broker, dealer, commercial bank, trust company or other nominee on a Holder's behalf, and transmitted by DTC to the Paying Agent, will acknowledge, on behalf of DTC and the Holder, an agreement to be bound by the terms of the Fundamental Change Repurchase Right, including those set forth in Section 3.2—"Agreement to be Bound by the Terms of the Fundamental Change Repurchase Right" below.

**You bear the risk of untimely surrender of your Notes. You must allow sufficient time for completion of the necessary DTC procedures prior to the close of business on the Fundamental Change Expiration Date.**

- 3.2 **Agreement to be Bound by the Terms of the Fundamental Change Repurchase Right.** By delivering, or instructing your nominee to deliver, your Fundamental Change Repurchase Notice through ATOP, a Holder acknowledges and agrees as follows:

- the Notes described in the Fundamental Change Repurchase Notice shall be repurchased by the Company pursuant to the terms and conditions set forth in the Notes, the Indenture and this Notice;
- such Holder agrees to all of the terms of this Notice;

- such Holder has received this Notice and acknowledges that this Notice provides the notice required pursuant to the Indenture with respect to the Fundamental Change Repurchase Right;
- upon the terms and subject to the conditions set forth in this Notice, the Indenture and the Notes, and effective as of the Fundamental Change Repurchase Date, such Holder (i) irrevocably agrees to sell, assign and transfer to the Company all right, title and interest in and to all the Notes described in the Fundamental Change Repurchase Notice, (ii) releases and discharges the Company, the Parent, the Trustee, the Paying Agent and the Conversion Agent and their respective directors, officers, employees and affiliates from any and all claims such Holder may have now, or may have in the future arising out of, or related to, such Notes, including, without limitation, any claims that such Holder is entitled to receive additional principal or interest payments with respect to the Notes or to participate in any redemption or defeasance of such Notes and (iii) irrevocably constitutes and appoints the Paying Agent as the true and lawful agent and attorney-in-fact of such Holder with respect to any such Notes that are duly surrendered (with full knowledge that the Paying Agent also acts as agent of the Company), with full power of substitution and resubstitution (such power of attorney being deemed to be an irrevocable power coupled with an interest) to (a) transfer ownership of such Notes, on the account books maintained by DTC, together, in any such case, with all accompanying evidences of transfer and authenticity, to the Company, (b) present such Notes for transfer on the relevant security register and (c) receive all benefits or otherwise exercise all rights of beneficial ownership of such Notes (except that the Paying Agent will have no rights to, or control over, funds from the Company, except as agent for the Company with respect to the Fundamental Change Repurchase Price of any surrendered Notes that are repurchased by the Company), all in accordance with the Indenture, the Notes and this Notice;
- such Holder represents and warrants that such Holder (i) owns the Notes described in the applicable Fundamental Change Repurchase Notice and is entitled to surrender such Notes and (ii) has full power and authority to surrender, sell, assign and transfer the Notes described in the applicable Fundamental Change Repurchase Notice, and that when such Notes are accepted for repurchase and payment by the Company, the Company will acquire good title thereto, free and clear of all liens, restrictions, charges and encumbrances and not subject to any adverse claim or right;
- such Holder agrees, upon request from the Company, to execute and deliver any additional documents deemed by the Paying Agent or the Company to be necessary or desirable to complete the sale, assignment and transfer of the Notes surrendered;
- such Holder understands that all Notes described in any applicable Fundamental Change Repurchase Notice that are validly delivered and not validly withdrawn prior to the close of business on the Fundamental Change Expiration Date will be repurchased at the Fundamental Change Repurchase Price, in cash, pursuant to the terms and conditions of the Indenture, the Notes, this Notice and any related notice materials, as amended and supplemented from time to time, **and that the Fundamental Change Repurchase Price is expected to be less value than what the Holders would receive upon converting their Notes during the Make-Whole Conversion Period;**
- payment for Notes repurchased pursuant to this Notice will be made by deposit of the Fundamental Change Repurchase Price for such Notes with the Paying Agent, which will act as agent for surrendering Holders for the purpose of receiving payments from the Company and transmitting such payments to such Holders;
- any delivered Fundamental Change Repurchase Notice may only be withdrawn through DTC in accordance with the withdrawal procedures of DTC in sufficient time to allow DTC to withdraw such Fundamental Change Repurchase Notice prior to the close of business on the Fundamental Change Expiration Date;

- all authority conferred or agreed to be conferred pursuant to the terms of the Fundamental Change Repurchase Right hereby shall survive the death or incapacity of the undersigned and every obligation of the Holder and shall be binding upon the Holder's heirs, personal representatives, executors, administrators, successors, assigns, trustees in bankruptcy and other legal representatives;
- the delivery and surrender of any Notes is not effective, and the risk of loss of the Notes does not pass to the Paying Agent, until receipt by the Paying Agent of any and all evidences of authority and any other required documents in form satisfactory to the Company; and
- all questions as to the validity, form, eligibility (including time of receipt) and delivery or acceptance of any Fundamental Change Repurchase Notice or the surrender of Notes for repurchase and the form and validity or any related documents (including time of receipt of notices of withdrawal) will be determined by the Company, whose determination shall be final and binding absent manifest error and subject to applicable law.

**4. Right of Withdrawal.** A Fundamental Change Repurchase Notice may be withdrawn at or any time prior to the close of business on the Fundamental Change Expiration Date.

In order to withdraw a previously delivered Fundamental Change Repurchase Notice, a Holder (or the Holder's broker, dealer, commercial bank, trust company or other nominee) must comply with the withdrawal procedures of DTC in sufficient time to allow DTC to withdraw those Notes prior to the close of business on the Fundamental Change Expiration Date. Holders whose Notes are held by a broker, dealer, commercial bank, trust company or other nominee must contact such nominee if such Holder desires to withdraw a Fundamental Change Repurchase Notice and instruct such nominee to withdraw the Fundamental Change Repurchase Notice through the withdrawal procedures of DTC.

Notes validly surrendered for repurchase pursuant to the Fundamental Change Repurchase Right may not be converted unless the Fundamental Change Repurchase Notice with respect to such Notes is first validly withdrawn prior to the close of business on the Fundamental Change Expiration Date. Holders bear the risk of untimely withdrawal of a Fundamental Change Repurchase Notice. Notes properly surrendered for conversion may not be withdrawn.

The Company will determine all questions as to the validity, form and eligibility, including time of receipt, of notices of withdrawal, whose determination shall be final and binding absent manifest error and subject to applicable law.

**5. Payment for Surrendered Notes; Source and Amount of Funds.** The Company will promptly deposit with the Paying Agent, on or prior to 11:00 a.m., New York City time, on the Fundamental Change Repurchase Date, an amount of cash sufficient to pay the aggregate Fundamental Change Repurchase Price for all of the Notes to be repurchased on the Fundamental Change Repurchase Date, and the Paying Agent will promptly, after the later of the Fundamental Change Repurchase Date and the book-entry transfer of the applicable Notes, make payment of such amount by wire transfer of immediately available funds to DTC, and DTC will thereafter distribute the cash to its participants in accordance with its procedures.

The total amount of funds required to repurchase all of the Notes pursuant to the Fundamental Change Repurchase Right (assuming all of such Notes are validly surrendered for repurchase and not validly withdrawn) is \$601,986,000, calculated as the sum of (i) \$600,000,000, representing 100% of the principal amount of Notes outstanding as of September 12, 2022, *plus* (ii) \$1,986,000, representing accrued and unpaid interest on such Notes up to, but excluding, the Fundamental Change Repurchase Date. The Company expects to fund the repurchase of any Notes validly surrendered for repurchase and not validity withdrawn, if any, from a combination of available cash on hand and/or funds made available by Parent and/or one or more of its subsidiaries.

The repurchase of Notes, if any, pursuant to the Fundamental Change Repurchase Right is not conditioned upon obtaining any financing or the funding thereof.

6. **Notes Acquired.** Any Notes repurchased by us pursuant to the Fundamental Change Repurchase Right will be cancelled pursuant to the terms of the Indenture.
7. **Purchases of Notes by the Company and Its Affiliates.** Each of the Company and its affiliates, including its executive officers and directors, is prohibited under applicable United States federal securities laws from purchasing Notes (or the right to purchase Notes), other than through the Fundamental Change Repurchase Right or a call or redemption of the Notes in accordance with their terms and conditions, from the date of this Notice until at least the tenth business day after the Fundamental Change Repurchase Date. Following such time, if any Notes remain outstanding, the Company and its affiliates may purchase Notes in the open market, in private transactions, through a subsequent tender offer or otherwise, any of which may be consummated at repurchase prices higher or lower than the Fundamental Change Repurchase Price. Any decision to purchase Notes after the Fundamental Change Repurchase Date, if any, will depend upon many factors, including the market price of the Notes, the amount of Notes validly surrendered for repurchase pursuant to the Fundamental Change Repurchase Right and not validly withdrawn, the business and financial position of the Company and general economic and market conditions.
8. **Material U.S. Federal Income Tax Considerations.**

The following is a summary of material U.S. federal income tax considerations generally applicable to the disposition of Notes pursuant to the exercise of either the Fundamental Change Repurchase Right or the Make-Whole Conversion Right. This discussion applies only to holders who hold Notes as “capital assets” within the meaning of Section 1221 of the Internal Revenue Code of 1986, as amended (the “*Code*”) (generally, property held for investment). This discussion is based on the provisions of the Code, applicable Treasury regulations, judicial opinions and administrative rulings and published positions of the Internal Revenue Service (the “*IRS*”), each as in effect as of the date hereof. These authorities are subject to change or differing interpretations, possibly on a retroactive basis, and any such change or interpretation could affect the accuracy of the statements and conclusions set forth herein.

This discussion does not purport to consider all aspects of U.S. federal income taxation that may be relevant to a holder of Notes in light of its particular circumstances, or that may apply to holders of Notes that are subject to special treatment under the U.S. federal income tax laws (including, for example, banks or other financial institutions, mutual funds, certain expatriates or former long-term residents of the United States, dealers or brokers in securities or foreign currencies, traders in securities that elect to apply a mark-to-market method of accounting, insurance companies, controlled foreign corporations, passive foreign investment companies, tax-exempt organizations, governmental agencies or instrumentalities, entities or arrangements treated as partnerships for U.S. federal income tax purposes, subchapter S corporations or other pass-through entities or investors in such partnerships, subchapter S corporations or other pass-through entities, grantor trusts, retirement plans, individual retirement accounts or other tax-deferred accounts, real estate investment trusts, regulated investment companies, holders subject to the alternative minimum tax, U.S. Holders (as defined below) that have a “functional currency” other than the U.S. dollar, corporations that accumulate earnings to avoid U.S. federal income tax and holders who hold Notes as part of a hedge, straddle, constructive sale, conversion transaction or other integrated transaction). This discussion does not address any tax consequences arising under the “Medicare” tax on net investment income, nor does it address any tax consequences arising under state, local or foreign laws or U.S. federal laws other than those pertaining to the U.S. federal income tax. This discussion is not binding on the IRS or the courts and, therefore, could be subject to challenge, which could be sustained.

As used in this Notice, a “*U.S. Holder*” means a beneficial owner of a Note that is for U.S. federal income tax purposes (i) an individual who is a citizen or resident of the United States, (ii) a corporation (or other entity treated as a corporation for U.S. federal income tax purposes) created or organized in or under the laws of the United States, any state thereof or the District of Columbia, (iii) an estate the income of which is subject to U.S. federal income taxation regardless of its source or (iv) a trust if (a) a court within the United States is able to exercise primary supervision over the trust’s administration and one or more U.S. persons are authorized to control all substantial decisions of the trust or (b) the trust has a valid election in effect under applicable Treasury regulations to be treated as a U.S. person. As used in this Notice, a “*non-U.S.*”

**Holder**” means a beneficial owner of a Note that is not a U.S. Holder or a partnership (including for this purpose any entity or arrangement treated as a partnership for U.S. federal income tax purposes).

If a partnership (including for this purpose any entity or arrangement treated as a partnership for U.S. federal income tax purposes) holds Notes, the tax treatment of a partner in the partnership generally will depend on the status of the partner and the activities of the partner and the partnership. A partner in a partnership holding the Notes should consult an independent tax advisor regarding the tax consequences of the receipt of cash in exchange for Notes pursuant to the exercise of the Fundamental Change Repurchase Right or the Make-Whole Conversion Right.

This discussion assumes that the Notes are treated as debt for U.S. federal income tax purposes. This determination is not binding on the IRS. If the Notes were recharacterized as equity for U.S. federal income tax purposes, the tax consequences to a holder of exercising the Fundamental Change Repurchase Right or the Make-Whole Conversion Right could be materially different than as described below. In addition, this discussion assumes that the Notes are not subject to the rules applicable to contingent payment debt instruments. This determination is not binding on the IRS. If the IRS were to successfully assert that the Notes are subject to the rules applicable to contingent payment debt instruments, the tax consequences to a holder could be materially different than as described below. For example, any gain recognized on an exchange would be characterized as ordinary interest income rather than capital gain.

THE DISCUSSION SET OUT BELOW IS INTENDED ONLY AS A SUMMARY OF CERTAIN MATERIAL U.S. FEDERAL INCOME TAX CONSEQUENCES TO A HOLDER OF NOTES. PERSONS CONSIDERING EXERCISING THEIR FUNDAMENTAL CHANGE REPURCHASE RIGHT OR CONVERTING NOTES PURSUANT TO THEIR MAKE-WHOLE CONVERSION RIGHT SHOULD CONSULT THEIR OWN TAX ADVISORS CONCERNING THE U.S. FEDERAL INCOME TAX CONSEQUENCES IN LIGHT OF THEIR PARTICULAR SITUATIONS, AS WELL AS ANY CONSEQUENCES ARISING UNDER THE LAWS OF ANY OTHER TAXING JURISDICTION. THE STATEMENTS OF U.S. FEDERAL INCOME TAX CONSIDERATIONS SET OUT BELOW ARE BASED ON THE LAWS AND REGULATIONS IN FORCE AND INTERPRETATIONS THEREOF AS OF THE DATE OF THIS NOTICE, AND ARE SUBJECT TO CHANGES OCCURRING AFTER THAT DATE.

## 8.1 **Tax Considerations for U.S. Holders**

*Disposition of a Note.* Subject to the following paragraph, a disposition of a Note by a U.S. Holder pursuant to the exercise of either the Fundamental Change Repurchase Right or the Make-Whole Conversion Right generally will be a taxable transaction to such U.S. Holder for U.S. federal income tax purposes. Subject to the discussion under “—Market Discount” and the discussion of Section 305(c) of the Code below, a U.S. Holder generally will recognize capital gain or loss upon the disposition of the Note in an amount equal to the difference between the amount of consideration received upon such disposition (other than amounts attributable to accrued but unpaid interest, which will be taxable as ordinary interest income to the extent not previously included in income), and the U.S. Holder’s adjusted tax basis in the Note. In the case of a disposition pursuant to a Fundamental Change Repurchase Right, the consideration will equal the amount of cash received by the U.S. Holder. In the case of a conversion, the consideration received will equal the amount of cash received. Any such capital gain or loss will be long-term capital gain or loss if the U.S. Holder has held the Note for more than one year at the time of the sale. Non-corporate U.S. Holders generally are subject to reduced rates of U.S. federal income taxation on long-term capital gains. The deductibility of capital losses is subject to certain limitations.

Under Section 305(c) of the Code, it is possible that the exercise of either the Fundamental Change Repurchase Right or the Make-Whole Conversion Right, or an adjustment to the conversion ratio or the exercise of similar rights under any other convertible securities of the Company, may give rise to a deemed taxable distribution to the extent of Parent’s current or accumulated earnings and profits for exercising holders. The application of Section 305(c) of the Code to the Notes is uncertain. U.S. Holders should consult their own tax advisors regarding the application of Section 305(c) of the Code to the Notes.

*Market Discount.* Gain recognized by a U.S. Holder upon the disposition of a Note pursuant to the exercise of either the Fundamental Change Repurchase Right or the Make-Whole Conversion Right will be treated as ordinary income to the extent of any market discount on the Note that has accrued during the period that the exercising U.S. Holder held such Note, unless the U.S. Holder has made an election to include market discount in income as it accrues. A Note generally will be treated as having market discount if the stated principal amount of the Note exceeded the U.S. Holder's tax basis in the Note immediately after acquisition by more than a statutorily defined *de minimis* amount. Market discount accrues on a ratable basis, unless the U.S. Holder has elected to accrue market discount using a constant-yield method for U.S. federal income tax purposes.

*Backup Withholding and Information Reporting.* Information returns generally will be filed with the IRS in connection with payments attributable to accrued but unpaid interest on, and payment of the proceeds from the disposition of, the Notes. A U.S. Holder will be subject to U.S. backup withholding on these payments if the U.S. Holder fails to provide its taxpayer identification number to the Paying Agent and comply with certain certification procedures or otherwise fails to establish an exemption from backup withholding. The amount of any backup withholding from a payment to a U.S. Holder will be allowed as a credit against the U.S. Holder's U.S. federal income tax liability and may entitle the U.S. Holder to a refund, *provided* that the required information is timely furnished to the IRS.

## 8.2 Tax Considerations for Non-U.S. Holders

*Disposition of a Note.* Subject to the discussions under “—Accrued Interest” and “—Backup Withholding and Information Reporting” below and the discussion of Section 305(c) of the Code below, a non-U.S. Holder generally will not be subject to U.S. federal income or withholding tax on any gain recognized on the disposition of a Note pursuant to the exercise of either the Fundamental Change Repurchase Right or the Make-Whole Conversion Right unless (i) such gain is “effectively connected” with a trade or business of the non-U.S. Holder in the United States (and, if required by an applicable income tax treaty, is attributable to the non-U.S. Holder's permanent establishment in the United States) or (ii) the non-U.S. Holder is an individual who was present in the United States for 183 days or more in the taxable year of the disposition and certain other conditions are met.

Gain described in clause (i) above generally will be subject to U.S. federal income tax on a net basis at generally applicable U.S. federal income tax rates. Any gain described in clause (i) above of a non-U.S. Holder that is a corporation may also be subject to an additional “branch profits tax” at a 30% rate (or such lower rate as may be specified by an applicable income tax treaty). A non-U.S. Holder described in clause (ii) above will be subject to tax at a flat rate of 30% (or such lower rate as may be specified by an applicable income tax treaty) on any gain recognized, which may be offset by U.S.-source capital losses recognized in the same taxable year.

Under Section 305(c) of the Code, it is possible that the exercise of either the Fundamental Change Repurchase Right or the Make-Whole Conversion Right, or an adjustment to the conversion ratio or the exercise of similar rights under any other convertible securities of the Company, may give rise to a deemed taxable distribution to the extent of Parent's current or accumulated earnings and profits for exercising holders. The application of Section 305(c) of the Code to the Notes is uncertain. Non-U.S. Holders should consult their own tax advisors regarding the application of Section 305(c) of the Code to the Notes, including the possibility of any deemed taxable distribution being subject to U.S. federal withholding tax.

*Accrued Interest.* Subject to the discussion under “—Backup Withholding and Information Reporting” below, amounts paid to a non-U.S. Holder upon the disposition of a Note pursuant to the exercise of either the Fundamental Change Repurchase Right or the Make-Whole Conversion Right that are allocable to accrued and unpaid interest on the Notes will not be subject to U.S. federal income or withholding tax, provided that such interest is not effectively connected with the non-U.S. Holder's conduct of a U.S. trade or business and:

- a) the non-U.S. Holder does not actually or constructively own 10% or more of the total combined voting power of all classes of our stock entitled to vote;

- b) the non-U.S. Holder is not a controlled foreign corporation related to us, actually or constructively, through stock ownership; and
- c) the non-U.S. Holder satisfies certain certification requirements.

Alternatively, such accrued and unpaid interest will be exempt from, or subject to a reduced rate of, U.S. federal withholding tax if (a) such non-U.S. Holder provides a properly completed IRS Form W-8BEN or Form W-8BEN-E, as applicable, claiming an exemption from or reduction in withholding under an applicable tax treaty or (b) such interest is effectively connected with such non-U.S. Holder's conduct of a U.S. trade or business and such non-U.S. Holder provides a properly completed IRS Form W-8ECI.

Any amounts attributable to accrued and unpaid interest effectively connected with the conduct of a U.S. trade or business will be subject to U.S. federal income tax on a net basis at generally applicable U.S. federal income tax rates. In addition, a non-U.S. Holder that is a corporation may also be subject to an additional "branch profits tax" at a 30% rate (or such lower rate as may be specified by an applicable income tax treaty).

*FATCA.* Pursuant to Sections 1471 to 1474 of the Code and the Treasury regulations thereunder (provisions commonly known as "FATCA"), "foreign financial institutions" and certain other non-U.S. entities must comply with information reporting rules with respect to their U.S. account holders and investors or they will be subject to U.S. federal withholding tax on certain U.S. source payments made to them (whether received as a beneficial owner or as an intermediary for another party). Specifically, a 30% withholding tax may be imposed on any amounts attributable to accrued but unpaid interest on the Notes paid to "foreign financial institutions" and other non-U.S. entities that fail to comply with specified information reporting requirements. Prior to the issuance of proposed Treasury regulations, withholding under FATCA also would have applied to the receipt of cash in exchange for the Notes not attributable to accrued but unpaid interest. However, the proposed Treasury regulations eliminate FATCA withholding on payments of gross proceeds entirely. Taxpayers generally may rely on these proposed Treasury regulations until final Treasury regulations are issued. Holders should consult their own tax advisors on how FATCA may apply to the Notes.

*Backup Withholding and Information Reporting.* Information returns generally will be filed with the IRS in connection with payments attributable to accrued but unpaid interest on the Notes. Unless the non-U.S. Holder complies with certification procedures to establish that it is not a U.S. person, information returns may be filed with the IRS in connection with payment of the proceeds from the disposition of the Notes, and the non-U.S. Holder may be subject to U.S. backup withholding on payments on or with respect to such Notes. The amount of any backup withholding from a payment to a non-U.S. Holder will be allowed as a credit against the non-U.S. Holder's U.S. federal income tax liability and may entitle the non-U.S. Holder to a refund, *provided* that the required information is timely furnished to the IRS.

### 8.3 Treatment of Non-Exercising Holders

A Holder that does not exercise its Fundamental Change Repurchase Right or the Make-Whole Conversion Right with respect to a Note generally should not incur U.S. federal income tax liability with respect to the Note as a result of not exercising such rights (even if other Notes are repurchased or converted). While the Code and Treasury regulations treat certain changes in terms of a debt instrument as a constructive exchange resulting in a taxable event, here the new exchange terms of the Notes (i.e., the right to receive the Reference Property, as described in "Section 2.4—Conversion Rights of the Holders," rather than Company Common Stock) should not be so treated either on the basis (1) that they occur by operation of the original terms of the Notes or (2) that they are not a "significant modification" due to their lack of economic significance, considering all the facts and circumstances and the legal rights and obligations. Moreover, even if a constructive exchange of the Notes occurred here, there should be no taxable gain or loss because the Notes should be "securities" with the result that any constructive exchange here should be a "reorganization" for U.S. federal income tax purposes. Holders should consult their own tax advisors as to the U.S. federal income tax consequences relating to their continued ownership of the Notes, including (1) the consequences of an eventual exercise of their conversion rights for Reference Property and (2) the possibility that the receipt of the Make-Whole Conversion Right, even if unexercised, may have given rise to a taxable deemed distribution under Section 305(c) of the Code subject to U.S. federal income and withholding tax.

THE FOREGOING SUMMARY IS INCLUDED FOR GENERAL INFORMATIONAL PURPOSES ONLY AND DOES NOT DISCUSS ALL ASPECTS OF U.S. FEDERAL INCOME TAXATION THAT MAY BE RELEVANT TO PARTICULAR HOLDERS OF NOTES IN LIGHT OF THEIR CIRCUMSTANCES. HOLDERS OF NOTES SHOULD CONSULT THEIR OWN TAX ADVISORS AS TO THE PARTICULAR TAX CONSEQUENCES TO THEM OF THE EXERCISE OF THEIR FUNDAMENTAL CHANGE REPURCHASE RIGHT OR MAKE-WHOLE CONVERSION RIGHT, INCLUDING THE EFFECT OF ANY FEDERAL, STATE, FOREIGN OR OTHER TAX LAWS.

9. **Additional Information.** The Company is currently subject to the reporting and other informational requirements of the Exchange Act and in accordance therewith, files annual, quarterly and current reports, proxy statements and other information with the SEC. You may read and copy any document that we file at the SEC public reference room at 100 F Street, N.E., Room 1580, Washington, D.C. 20549. You can also request copies of the documents, upon payment of a duplicating fee, by writing the Public Reference Section of the SEC. Please call the SEC at 1-800-SEC-0330 for further information. Our SEC filings are also available on the SEC's website at [www.sec.gov](http://www.sec.gov).

Following the consummation of the Merger, the Shares ceased trading on NASDAQ. The Company currently intends to file a Form 15 with the SEC to suspend its reporting obligations under Sections 13 and 15(d) of the Exchange Act and to terminate registration of the Company Common Stock under Section 12(g)(4) of the Exchange Act.

10. **No Solicitations.** The Company has not, directly or indirectly, employed, retained or compensated any persons to make solicitations or recommendations in connection with the Fundamental Change Repurchase Right. **THIS NOTICE DOES NOT CONSTITUTE AN OFFER OF, OR SOLICITATION OR SUBSCRIPTION FOR, ANY SECURITIES.**
11. **Conflicts.** In the event of any conflict between this Notice, on the one hand, and the terms of the Indenture or the Notes or any applicable laws, on the other hand, the terms of the Indenture or the Notes or applicable laws, as the case may be, will control.

None of the Company or Parent or their respective boards of directors, as applicable, or any of its or their respective affiliates, employees, advisors or representatives, the Trustee, the Paying Agent or the Conversion Agent is making any representation or recommendation to any Holder as to whether to surrender or refrain from surrendering Notes for repurchase, or to exercise the conversion rights, pursuant to this Notice. Each Holder must make such Holder's own decision as to whether or not to surrender Notes for repurchase or to exercise the conversion rights and, if you choose to exercise either of these rights, the amount of Notes to surrender or convert, based on such Holder's assessment of the current market value of the Notes and other relevant factors.