

**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
Washington, DC 20549**

**FORM 8-K**

**CURRENT REPORT  
PURSUANT TO SECTION 13 OR 15(d)  
OF THE SECURITIES EXCHANGE ACT OF 1934**

**Date of Report (Date of earliest event reported): December 12, 2022**

**CROWN HOLDINGS, INC.**

(Exact name of Registrant as specified in its charter)

**Pennsylvania**  
(State or Other Jurisdiction of  
Incorporation or Organization)

**000-50189**  
(Commission  
File Number)

**75-3099507**  
(I.R.S. Employer  
Identification No.)

**770 Township Line Road  
Yardley, Pennsylvania 19067  
(215) 698-5100**

(Address, Including Zip Code, and Telephone Number, Including Area Code, of Registrant's Principal Executive Offices)

**Not Applicable**  
(Former name or former address, if changed since last report)

**SECURITIES REGISTERED PURSUANT TO SECTION 12(b) OF THE ACT:**

Title of each class	Trading Symbols	Name of each exchange on which registered
Common Stock \$5.00 Par Value	CCK	New York Stock Exchange
7 3/8% Debentures Due 2026	CCK26	New York Stock Exchange
7 1/2% Debentures Due 2096	CCK96	New York Stock Exchange

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

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

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

Emerging growth company

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

## **Item 1.01 Entry into a Material Definitive Agreement.**

### *Director Appointment and Nomination Agreement*

On December 12, 2022, Crown Holdings, Inc. (the “Company”) entered into a Director Appointment and Nomination Agreement (the “Agreement”) with Carl C. Icahn and the persons and entities listed therein, (collectively, the “Icahn Group”), pursuant to which the Company agreed to, on or prior to December 12, 2022, (i) increase the size of the board of directors of the Company (the “Board”) to 13 directors and (ii) appoint Andrew Teno and Jesse Lynn (collectively, the “Icahn Designees”) to the Board to fill the resulting vacancies, with such appointments effective on December 12, 2022. In addition, the Company has agreed to include each of the Icahn Designees as part of the Company’s slate of nominees for election to the Board at the 2023 annual meeting of shareholders.

The Icahn Group will be entitled, in the event any Icahn Designee resigns or for any reason fails to serve or is not serving as a director (subject to exceptions set forth in the Agreement, including as a result of such director not being nominated by the Company to stand for election at an annual meeting subsequent to the 2023 annual meeting of shareholders or the termination of the Icahn Group’s designation rights with respect to such director in accordance with the Agreement), to designate a replacement for appointment to the Board on the terms set forth in the Agreement.

So long as an Icahn Designee is a member of the Board, any Board consideration of appointment and employment of the Chief Executive Officer or Chief Financial Officer of the Company, mergers, acquisitions of material assets, dispositions of material assets, or similar extraordinary transactions, such consideration, and voting with respect thereto, will take place only at the full Board level or in committees of which one of the Icahn Designees is a member.

If at any time the Icahn Group ceases to hold a “Net Long Position”, as defined in the Agreement, in at least (i) 7,196,865 of the total outstanding shares of Common Stock, par value \$5.00 (the “Common Shares”) of the Company, one of the Icahn Designees will, and the Icahn Group will cause one Icahn Designee to, promptly resign from the Board and (ii) 3,598,432 of the Common Shares of the Company, each of the Icahn Designees will, and the Icahn Group will cause each such Icahn Designee to, promptly resign from the Board.

So long as the Icahn Group holds a “Net Long Position”, as defined in the Agreement, in at least 5,100,637 of the Common Shares of the Company, the Company will not adopt a Rights Plan, as defined in the Agreement, with an “Acquiring Person” beneficial ownership threshold below 15.0% of the then-outstanding common shares unless the Rights Plan includes an exemption for the Icahn Group up to 15.0%.

The Agreement also includes other customary voting, standstill and non-disparagement provisions. Absent an uncured breach of the material provisions of the Agreement by the Company, the standstill restrictions on the Icahn Group will remain in effect until the later of (i) thirty days before the nomination deadline for shareholders to nominate candidates for the annual meeting following the 2023 annual meeting of shareholders and (ii) thirty days after such date as no Icahn Designee is on the Board and the Icahn Group no longer has any right to designate a replacement (including if the Icahn Group has irrevocably waived such right in writing).

The foregoing description is qualified in its entirety by reference to the full text of the Agreement, a copy of which is attached hereto as Exhibit 10.1 and is incorporated herein by reference.

In connection with the entry into the Agreement, the Company and the Icahn Group will also enter into a Confidentiality Agreement concurrently with the appointment of the Icahn Designees to the Board, the form of which is included as Exhibit C to the Agreement, which is attached hereto as Exhibit 10.1 and is incorporated herein by reference.

On December 13, 2022, the Company entered into the Amendment No. 1 to the Rights Agreement (the “Rights Agreement Amendment”) with Equiniti Trust Company, as Rights Agent. The Rights Agreement Amendment amends the Rights Agreement, dated November 7, 2022 (the “Rights Agreement”), between the Company and Equiniti Trust Company, as Rights Agent, solely to accelerate the expiration date of the Rights (as defined in the Rights Agreement) from the close of business on November 6, 2023 to the close of business on December 13, 2022. As a result of the Rights Agreement Amendment, effective as of the close of business on December 13, 2022, the Rights (as defined in the Rights Agreement) will expire and cease to be outstanding.

The foregoing description does not purport to be complete and is qualified in its entirety by reference to the full text of the Rights Agreement Amendment, a copy of which is attached hereto as Exhibit 4.1 and incorporated herein by reference.

**Item 3.03 Material Modification to Rights of Security Holders.**

The information set forth in Item 1.01 above under the subsection “Amendment to Rights Agreement” is incorporated herein by reference.

**Item 5.02 Departure of Directors or Certain Officers; Election of Directors; Appointment of Certain Officers; Compensatory Arrangements of Certain Officers.**

On December 12, 2022, pursuant to the Agreement, the Board appointed each of Andrew Teno and Jesse Lynn to serve as a member of the Board effective immediately.

Mr. Teno has been a portfolio manager of Icahn Capital LP, the investment management subsidiary of Icahn Enterprises L.P., since October 2020. Mr. Lynn has been General Counsel of Icahn Enterprises L.P. (a diversified holding company engaged in a variety of businesses, including investment, automotive, energy, food packaging, real estate, pharma and home fashion) since 2014.

At this time, Messrs. Teno and Lynn have not been appointed to serve on any committees of the Board. Messrs. Teno and Lynn will each receive the same compensation that the other directors who are not employees of the Company receive for Board and committee membership, as described in the Company’s definitive proxy statement filed with the U.S. Securities and Exchange Commission on March 21, 2022.

Other than the Agreement, as of the date hereof there are no transactions between Mr. Teno or Mr. Lynn and the Company that would be reportable under Item 404(a) of Regulation S-K.

**Item 5.03. Amendments to Articles of Incorporation or Bylaws; Change in Fiscal Year.**

Effective December 12, 2022, the Board amended and restated the Company’s Amended and Restated By-Laws. The amendments adopted, among other things:

- update Section 2 of Article II to provide the Company’s shareholders with the right to call a special meeting of the shareholders, in accordance with the approval of a proposal regarding the same by the Company’s shareholders at the 2022 annual meeting of shareholders;
- update Section 12 of Article II to include provisions regarding compliance with the new Rule 14a-19 under the Securities Exchange Act of 1934, as amended, as promulgated by the U.S. Securities and Exchange Commission, regarding the use of universal proxies; and
- update the forum selection clause in Section 4 of Article VIII to align with the current location of the Company’s headquarters.

The foregoing summary of the amendments to the Company’s Amended and Restated By-laws does not purport to be complete and is qualified in its entirety by reference to the full text of the Company’s Amended and Restated By-laws, a copy of which is attached as Exhibit 3.1 to this Current Report and is incorporated herein by reference.

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**Item 8.01. Other Events.**

On December 13, 2022, the Company issued a press release regarding certain matters referred to in this Current Report, which is attached hereto as Exhibit 99.1 and incorporated herein by reference.

**Item 9.01 Financial Statements and Exhibits.**

- 3.1 [Amended and Restated By-Laws of Crown Holdings, Inc.](#)
- 4.1 [Amendment No 1. to Rights Agreement, dated as of December 13, 2022, by and between Crown Holdings, Inc. and Equiniti Trust Company, as Rights Agent.](#)
- 10.1 [Director Appointment and Nomination Agreement, dated as of December 12, 2022, by and between the Icahn Group and Crown Holdings, Inc.](#)
- 99.1 [Press Release of Crown Holdings, Inc. dated December 13, 2022.](#)
- 104 Cover Page Interactive Data File (embedded within the Inline XBRL document).

**SIGNATURE**

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

Dated: December 13, 2022

CROWN HOLDINGS, INC.

By: /s/ Christy L. Kalas

Name: Christy L. Kalas

Title: Vice President and Corporate Controller

**AMENDED AND RESTATED****BY-LAWS****OF****CROWN HOLDINGS, INC.****(A PENNSYLVANIA CORPORATION)**

## ARTICLE I

## Shareholders

SECTION 1. Annual Meetings. The Corporation shall hold annually a regular meeting of its shareholders for the election of Directors and for the transaction of general business which may properly come before the meeting in accordance with these By-Laws at such place, on such date and at such time as may be designated from time to time by the Board of Directors.

SECTION 2. Special Meetings. (a) Special meetings may be called (i) by the Board of Directors, or (ii) by the Secretary of the Corporation upon written request to the Secretary by shareholders entitled to vote and dispose of at least twenty-five percent (25%) of the Corporation's outstanding capital stock, to be determined both as of the date of such written request and as of the date of the requested special meeting (each, a "Requesting Shareholder" and collectively, the "Requesting Shareholders"). Such written request must include all information required under Section 2(b) of this Article I (such request, a "Special Meeting Request").

(b) The Requesting Shareholders shall include in their Special Meeting Request all of the following items:

(1) The signatures of each Requesting Shareholder;

(2) A certification from each Requesting Shareholder stating the number of shares owned by such Requesting Shareholder, attaching documentary evidence of such ownership, and affirming that such Requesting Shareholder intends to hold such shares continuously through the date of the requested special meeting (including on the dates specified in clause (c) below);

(3) A description of the business proposed to be transacted (including the text of any resolutions proposed for consideration and, in the event that such business includes a proposal to amend these By-Laws or the Articles of Incorporation, the language of the proposed amendment); and

(4) The information with respect to each of the Requesting Shareholders and any persons whom the Requesting Shareholders propose to nominate for election or reelection as a Director

which is required by Section 8(b) of this Article I, if Directors are to be nominated at the special meeting, and the information required with respect to the Requesting Shareholders and the business to be brought before a meeting by Section 9(b) of this Article I, if other business is to be proposed at the special meeting, including, in either case, if such Requesting Shareholder has not owned 1% or more of the Corporation's outstanding shares continuously for the prior twelve (12) months, information regarding when such Requesting Shareholder most recently exceeded 1% ownership.

(c) The Requesting Shareholders shall (i) further update and supplement the information provided in the Special Meeting Request, if necessary, so that the information provided or required to be provided therein shall be correct and complete as of the record date for the special meeting and as of the date that is fifteen (15) business days prior to the special meeting or any adjournment or postponement thereof, and such update and supplement shall be delivered to the Secretary of the Corporation at least ten (10) business days prior to the special meeting or any adjournment or postponement thereof, and (ii) promptly provide any other information reasonably requested by the Corporation.

(d) Business transacted at any special meeting of shareholders shall be limited to the purposes stated in the notice provided pursuant to Section 3 of this Article I; provided, however, that nothing in these By-Laws shall prohibit the Board of Directors from submitting matters to the shareholders at any special meeting requested by shareholders.

(e) Special meetings shall be held at such place or time as may be designated by the Board of Directors; provided, however, that a special meeting requested by shareholders shall not be held less than thirty (30) days and not more than ninety (90) days after the first date on which a valid Special Meeting Request satisfying the requirements of this Section 2 has been received by the Secretary. The Board of Directors may postpone, reschedule or cancel any previously scheduled special meeting.

(f) Notwithstanding anything in these By-Laws to the contrary, a special meeting requested by shareholders shall not be held if (i) the Special Meeting Request does not comply with this Section 2, (ii) the Special Meeting Request relates to an item of business that is not a proper subject for shareholder action under the Articles of Incorporation or applicable law, (iii) an annual or special meeting of shareholders that included an identical or substantially similar item of business ("Similar Business") was held not more than one-hundred twenty (120) days before the Special Meeting Request was received by the Secretary, (iv) the Corporation publicly discloses (by a filing with the U.S. Securities and Exchange Commission) the date of an upcoming annual or special meeting of the shareholders, if (A) such annual or special meeting is to be held on a date which is within ninety (90) days after the Special Meeting Request is received by the Secretary and (B) the business to be conducted at such meeting includes Similar Business or (v) the Special Meeting Request was made in a manner that involved a violation of Regulation 14A under the Exchange Act (as defined below) or other applicable law. For purposes of this Section 2(f), the nomination, election or removal of Directors shall be deemed to be Similar Business with respect to all items of business involving the nomination, election or removal of Directors, changing the size of the Board of Directors and filling of vacancies and/or

newly created directorships resulting from any increase in the authorized number of Directors. The Board of Directors shall have sole authority to determine whether the requirements set forth in this Section 2 have been satisfied.

(g) In determining whether a special meeting of shareholders has been requested by shareholders entitled to vote and dispose of at least twenty-five percent (25%) of the Corporation's outstanding capital stock, multiple Special Meeting Requests delivered to the Secretary will be considered together only if (i) each Special Meeting Request identifies the same purpose or purposes of the special meeting and the same matters proposed to be acted on at the requested special meeting (in each case as determined by the Board of Directors) and (ii) such Special Meeting Requests have been dated and delivered to the Secretary within sixty (60) days of the earliest dated Special Meeting Request. A Requesting Shareholder may revoke a Special Meeting Request at any time by written revocation delivered to the Secretary and if, following such revocation, there are outstanding un-revoked requests from shareholders entitled to vote and dispose of less than twenty-five percent (25%) of the Corporation's outstanding capital stock, the Board of Directors may, in its sole discretion, cancel the special meeting. If none of the Requesting Shareholders appears or sends a duly authorized qualified representative to present the business to be presented for consideration that was specified in the Special Meeting Request, the Corporation need not present such business for a vote at such special meeting.

SECTION 3. Notice of Meetings. Written or printed notice of every annual and every special meeting of the shareholders shall be given to each shareholder of record entitled to vote at such meeting by mail, postage prepaid and addressed to the address on the books of the Corporation, or as otherwise provided by law, at least ten (10) days before such meeting. Notice of every special meeting shall state the place, date and time of the meeting and the business proposed to be transacted. Failure to give notice of any annual or special meeting, or any irregularity in such notice, shall not affect the validity of any annual meeting or of any proceedings at any such meeting. Notice of any meeting of shareholders need not be given to any shareholder who waives notice thereof in writing either before or after the holding thereof, and attendance at any such meeting shall constitute waiver of notice thereof except as otherwise provided by law. No notice of any adjourned meeting of shareholders or of the business to be transacted at an adjourned meeting need be given by the Corporation.

SECTION 4. Quorum. At all meetings of shareholders, the presence, in person or by proxy, of shareholders entitled to cast a majority in number of votes shall be necessary to constitute a quorum for the transaction of business; but in the absence of a quorum, the chairman of the meeting may, or the shareholders present in person or by proxy at the time and place fixed for such meeting, or at the time and place of any adjournment thereof, may, by majority vote, adjourn the meeting from time to time.

SECTION 5. Voting. Except in cases in which it is by statute, by the Articles of Incorporation or by these By-Laws otherwise provided, each shareholder entitled to vote at such meeting shall be entitled to cast one vote for each share of stock held by such shareholder, and a majority of the votes cast shall be sufficient to elect and pass any measure.



SECTION 6. Proxies. Any shareholder entitled to vote at any meeting of shareholders may vote by person or by proxy. Every proxy shall be executed or authenticated by the shareholder, or by such shareholder's duly authorized attorney-in-fact, dated, and filed with or transmitted to the Secretary of the Corporation or its designated agent. A shareholder or such shareholder's duly authorized attorney-in-fact may execute or authenticate a writing or transmit a telephonic or electronic message authorizing another person to act by proxy. A telegram, telex, cablegram, datagram, e-mail, Internet communication, or other means of telephonic or electronic transmission from a shareholder or attorney-in-fact or a photographic facsimile or similar reproduction of a writing executed by a shareholder or attorney-in-fact (or other transmission as permitted by law): (a) may be treated as properly executed or authenticated for purposes of this By-Law; and (b) shall be so treated if it sets forth or utilizes a confidential and unique identification number or other mark furnished by the Corporation to the shareholder for the purposes of a particular meeting or transaction.

SECTION 7. Judges of Election. Prior to any meeting of shareholders, the Board of Directors may appoint up to three judges of election. The judges of election need not be shareholders and may not be candidates for any office. The judges of election shall exercise all of the powers and duties usually incident to their office. If the judges of election are not so appointed, the chairman of the meeting may, and on the request of any shareholder shall, appoint the judges of election at the meeting. In case any person appointed as a judge of election fails to appear or refuses to act, the vacancy may be filled by appointment made by the Board of Directors in advance of the convening of the meeting or at the meeting by the chairman of the meeting.

SECTION 8. Nominations. (a) Only persons who are nominated in accordance with the procedures set forth in Section 8 or Section 12 of Article I of these By-Laws shall be eligible to serve as Directors of the Corporation. Nominations of persons for election to the Board of Directors of the Corporation may be made at a meeting of shareholders (i) by or at the direction of the Board of Directors, (ii) by any shareholder of the Corporation who is a shareholder of record at the time of giving of notice provided for in this By-Law, who shall be entitled to vote for the election of Directors at the meeting and who complies with the notice procedures set forth in this By-Law or (iii) by any shareholder or group of shareholders who meets the requirements of and complies with the procedures set forth in Section 12 of Article I of these By-Laws. Clauses (ii) and (iii) shall be the exclusive means for a shareholder to make nominations of persons for election to the Board of Directors at an annual meeting of shareholders.

(b) Nominations by shareholders shall be made pursuant to timely notice in writing to the Secretary of the Corporation. To be timely, a shareholder's notice shall be delivered to or mailed and received at the principal executive offices of the Corporation (i) in the case of an annual meeting, not less than one-hundred twenty (120) days nor more than one-hundred fifty (150) days prior to the first anniversary of the date the Corporation's proxy statement for its previous annual meeting of the shareholders was first released to the shareholders; provided, however, that in the event that the date of the annual meeting is changed by more than thirty (30) days from the first anniversary of the preceding year's annual meeting, (A) notice by the shareholder to be timely

must be received no later than the later of (1) the close of business on the tenth (10th) day following the earlier of the day on which notice of the date of the meeting was mailed or public disclosure was made and (2) the date that is not less than one-hundred twenty (120) days nor more than one-hundred fifty (150) days prior to the date of the annual meeting of the shareholders and (B) nominations by shareholders made pursuant to a timely notice in writing prior to the day on which notice of the change of date of the meeting was mailed or public disclosure was made (1) shall be deemed untimely made and of no further effect unless such nominations are made pursuant to timely notice in writing in accordance with clause (i)(A) of paragraph (b) of this By-Law and (2) shall not prevent or otherwise limit the right of the Corporation to change the date of the annual meeting of the shareholders; and (ii) in the case of a special meeting at which Directors are to be elected, not later than the close of business on the tenth (10th) day following the earlier of the day on which notice of the date of the meeting was mailed or public disclosure was made. In order to nominate one or more persons for election as a Director at an annual or special meeting, a shareholder must comply with the requirement to provide notice, in writing, to the Secretary of the Corporation as provided herein, and no action of the Corporation shall be deemed to satisfy this requirement for any shareholder or nomination.

Such shareholder's notice shall set forth:

(i) (A) the name, age, business address and residence address of each proposed nominee, (B) the principal occupation of each proposed nominee, (C) a representation that the notifying shareholder intends to appear in person or by proxy at the meeting to nominate the person or persons specified in the notice, (D) if known, the class and total number of shares of the Corporation that are beneficially owned by the proposed nominee, (E) the total number of shares of the Corporation that will be voted by the notifying shareholder for each proposed nominee, (F) a description of all arrangements or understandings between the notifying shareholder and each nominee and any other person or persons (naming such person or persons) pursuant to which the nomination or nominations are to be made by the notifying shareholder, (G) as to each proposed nominee all information relating to such person that is required to be disclosed in solicitations of proxies for election of Directors, or is otherwise required, in each case pursuant to Regulation 14A under the Securities Exchange Act of 1934, as amended (the "Exchange Act"), applicable listing standards and other applicable law (including such person's written consent to being named in the proxy statement (including the accompanying proxy card and form of proxy) as a nominee and to serving as a Director if elected and including information as to the purpose of such nomination) and (H) a written representation and agreement executed by each nominee (in form provided by the Corporation) delivered to the Secretary at the principal executive offices of the Corporation, from such proposed nominee (i) disclosing and, if elected as a Director during his or her term of office, providing such Director will disclose (A) any agreement, arrangement or understanding with, and any commitment or assurance to, any person or entity as to how such proposed nominee, if elected as a Director of the Corporation, will act or vote on any issue or question or (B) any other commitments that could limit or interfere with such proposed nominee's ability to comply, if elected as a Director of the Corporation, with such proposed nominee's fiduciary duties under applicable law, (ii) disclosing, and providing such Director will disclose becoming a party to, any agreement, arrangement or understanding with any person or entity other than the Corporation with respect to any direct or indirect compensation, reimbursement or indemnification for

candidacy or service as a Director and (iii) if elected as a Director of the Corporation, providing such Director will comply with this Section 8(b)(i)(H) of Article I and all applicable corporate governance, conflict of interest, confidentiality, stock ownership and trading and other policies and guidelines of the Corporation applicable to Directors and in effect during such person's term in office as a Director (and, if requested by any proposed nominee, the Secretary of the Corporation shall provide to such proposed nominee all such policies and guidelines then in effect); and

(ii) as to the shareholder giving the notice and any Shareholder Associated Person (as defined below), if any, on whose behalf the nomination is made (A) the name and address of such shareholder, as they appear on the Corporation's books, and of such Shareholder Associated Person, (B) the class and number of shares of the Corporation which are owned beneficially and of record by such shareholder and such Shareholder Associated Person, as well as any other ownership interests in the Corporation held by such shareholder and such Shareholder Associated Person, including derivatives, hedged positions and any other economic and/or voting interests in the Corporation, including, but not limited to: (1) any option, warrant, convertible security, stock appreciation right, or similar right with an exercise or conversion privilege or a settlement payment or mechanism at a price related to any class or series of shares of the Corporation or with a value derived in whole or in part from the value of any class or series of shares of the Corporation, whether or not such instrument or right shall be subject to settlement in the underlying class or series of capital stock of the Corporation or otherwise (a "Derivative Instrument") directly or indirectly owned beneficially by such shareholder or such Shareholder Associated Person and any other direct or indirect opportunity to profit or share in any profit derived from any increase or decrease in the value of shares of the Corporation, (2) any proxy, contract, arrangement, understanding or relationship pursuant to which such shareholder or such Shareholder Associated Person has a right to vote any shares of any security of the Corporation, (3) any short interest in any security of the Corporation (for purposes of this By-Law a person shall be deemed to have a short interest in a security if such person directly or indirectly, through any contract, arrangement, understanding, relationship or otherwise, has the opportunity to profit or share in any profit derived from any decrease in the value of the subject security), (4) any rights to dividends on the shares of the Corporation owned beneficially by such shareholder or such Shareholder Associated Person that are separated or separable from the underlying shares of the Corporation, (5) any proportionate interest in shares of the Corporation or Derivative Instruments held, directly or indirectly, by a general or limited partnership in which such shareholder or such Shareholder Associated Person is a general partner or, directly or indirectly, beneficially owns an interest in a general partner and (6) any performance-related fees (other than an asset-based fee) that such shareholder or such Shareholder Associated Person is entitled to, based on any increase or decrease in the value of shares of the Corporation or Derivative Instruments, if any, as of the date of such notice, including without limitation any such interests held by members of the immediate family of such shareholder or such Shareholder Associated Person sharing the same household (which information shall be supplemented by such shareholder and such Shareholder Associated Person and beneficial owner, if any, not later than ten (10) days after the record date for the meeting to disclose such ownership as of the record date), (C) a representation whether the shareholder or Shareholder Associated Person, if any, intends or is part of a group which intends (1) to deliver a proxy statement and/or form of proxy to holders of at least the percentage of the Corporation's outstanding capital stock required to elect the nominee and/or (2) otherwise to solicit proxies from shareholders in support of such

nomination, (D) in the event that the shareholder giving notice or any Shareholder Associated Person intends to solicit proxies in support of nominations of persons for election to the Board of Directors of the Corporation other than the Corporation's nominees for election to the Board of Directors, a statement as to whether or not such person intends to solicit the holders of at least sixty-seven percent (67%) of the voting power of the Corporation's outstanding capital stock entitled to vote on the election of Directors in support of persons other than the Corporation's nominees for election to the Board of Directors in accordance with Rule 14a-19 promulgated under the Exchange Act and has otherwise complied or will otherwise comply with the requirements of Rule 14a-19 under the Exchange Act, (E) whether and the extent to which any other hedging or other transaction or series of transactions has been entered into by or on behalf of, or any other agreement, arrangement or understanding (including any borrowing or lending of shares) has been made, the effect or intent of which is to mitigate loss or manage risk, or to increase or decrease the voting power of, such shareholder or any such Shareholder Associated Person with respect to any share of stock of the Corporation and (F) any other information relating to each such party that would be required to be disclosed in a proxy statement or other filings required to be made in connection with solicitations of proxies for, as applicable, the proposal and/or for the election of Directors in a contested election pursuant to Section 14 of the Exchange Act (whether or not such party intends to deliver a proxy statement or conduct its own proxy solicitation) (all of the foregoing set forth in this clause (ii), the "Designated Shareholder Information"). A "Shareholder Associated Person" of any shareholder includes (i) any person or entity controlling, directly or indirectly, or acting in concert with, such shareholder, (ii) any beneficial owner of shares of stock of the Corporation owned of record or beneficially by such shareholder and (iii) any person or entity controlling, controlled by or under common control with such Shareholder Associated Person. At the request of the Board of Directors, any person nominated by the Board of Directors for election as a Director shall furnish to the Secretary of the Corporation that information required to be set forth in a shareholder's notice of nomination which pertains to the nominee. The Corporation may require any proposed nominee to furnish such other information as may reasonably be required by the Corporation to determine the eligibility of such proposed nominee to serve as an independent Director of the Corporation or that could be material to a reasonable shareholder's understanding of the independence, or lack thereof, of such nominee. The shareholder providing the notice shall notify the Secretary of the Corporation in writing at the principal executive offices of the Corporation of any inaccuracy or change in any information provided pursuant to this Section 8, including if a shareholder giving notice of any nomination no longer plans to solicit proxies in support of nominations of persons for election to the Board of Directors of the Corporation other than the Corporation's nominees for election to the Board of Directors, within two (2) business days of becoming aware of such inaccuracy or change.

(c) No person shall be eligible to serve as a Director of the Corporation unless nominated in accordance with the procedures set forth in this By-Law, which shall be the exclusive means for a shareholder to make Director nominations. The chairman of the meeting shall, if the facts warrant, determine and declare to the meeting that a nomination was not made in accordance with the procedures prescribed by this By-Law, and if he or she should so determine, he or she shall so declare to the meeting and the defective nomination shall be disregarded. Any such decision by the chairman shall be final, binding and conclusive upon all parties in interest. Notwithstanding the foregoing provisions of this By-Law, a shareholder shall also comply with all applicable

requirements of the Exchange Act and the rules and regulations thereunder, applicable listing standards and other applicable law, including Rule 14a-9 under the Exchange Act, with respect to the matters set forth in this By-Law. References in these By-Laws to the first anniversary of the date the Corporation's proxy statement for its previous annual meeting of the shareholders was first released to shareholders or to the Exchange Act and the rules and regulations thereunder are not intended to and shall not limit the requirements applicable to nominations by a shareholder pursuant to paragraph (b) of this By-Law. Nothing in this By-law shall be deemed to affect any rights of shareholders to request inclusion of proposals in the Corporation's proxy statement pursuant to Rule 14a-8, or any successor rule, under the Exchange Act.

(d) Notwithstanding anything to the contrary set forth herein, unless otherwise required by law, (i) no shareholder or Shareholder Associated Person, if any, on whose behalf a nomination is made, shall solicit proxies in support of Director nominees, other than the Corporation's nominees for election to the Board of Directors, unless such shareholder and Shareholder Associated Person, if any, has complied with Rule 14a-19 promulgated under the Exchange Act in connection with the solicitation of such proxies, including the requirement to provide the Corporation with the notices required thereunder in a timely manner and (ii) if any shareholder or Shareholder Associated Person either (A) (1) provides notice pursuant to Rule 14a-19(b) promulgated under the Exchange Act and (2) subsequently fails to comply with the requirements of Rule 14a-19(a)(2) or Rule 14a-19(a)(3) promulgated under the Exchange Act or fails to timely provide reasonable evidence sufficient to satisfy the Corporation in good faith that such shareholder or Shareholder Associated Person has met the requirements of Rule 14a-19(a)(3) promulgated under the Exchange Act in accordance with the following sentence, or (B) notifies the Corporation that such shareholder or Shareholder Associated Person no longer intends to solicit proxies in support of Director nominees other than the Corporation's nominees for election to the Board of Directors in accordance with Rule 14a-19 promulgated under the Exchange Act, then the nomination of each such Director nominee shall be disregarded and any proxies or votes solicited for the shareholder or Shareholder Associated Person's Director nominees shall be disregarded. If any shareholder or Shareholder Associated Person provides notice pursuant to Rule 14a-19(b) promulgated under the Exchange Act, such shareholder or Shareholder Associated Person shall deliver to the Corporation, no later than five (5) business days prior to the applicable meeting, reasonable documentary evidence that such person has met the requirements of Rule 14a-19 promulgated under the Exchange Act, including clause (a)(3) thereof, together with a representation that such person has complied with the requirements of Rule 14a-19 promulgated under the Exchange Act.

SECTION 9. Notice of Shareholder Business. (a) At an annual or special meeting of the shareholders, only such business other than nominations (which nominations are separately governed by Section 8 and Section 12 of this Article I) shall be conducted as shall have been brought before the meeting (i) pursuant to the Corporation's notice of meeting, (ii) by or at the direction of the Board of Directors or (iii) as to an annual meeting, by any shareholder of the Corporation who is a shareholder of record at the time of giving of the notice provided for in this By-Law, who shall be entitled to vote at such meeting and who complies with the notice procedures set forth in this By-Law; clause (iii) shall be the exclusive means for a shareholder to submit other business (other than matters properly brought under Rule 14a-8, or any successor rule, under the Exchange Act and included in the Corporation's notice of meeting) before an annual meeting of shareholders.

(b) For business to be properly brought before an annual meeting by a shareholder pursuant to clause (iii) of paragraph (a) of this By-Law, the shareholder must have given timely notice thereof in writing to the Secretary of the Corporation, and any such proposed business must constitute a proper matter for shareholder action. To be timely, a shareholder's notice shall be delivered to or mailed and received at the principal executive offices of the Corporation not less than one-hundred twenty (120) days nor more than one-hundred fifty (150) days prior to the first anniversary of the date the Corporation's proxy statement for its previous annual meeting of the shareholders was first released to the shareholders; provided, however, that in the event that the date of the annual meeting is changed by more than thirty (30) days from the first anniversary of the preceding year's annual meeting, (i) notice by the shareholder to be timely must be received no later than the later of (A) the close of business on the tenth (10th) day following the earlier of the day on which notice of the date of the meeting was mailed or public disclosure was made and (B) the date that is not less than one-hundred twenty (120) days or more than one-hundred fifty (150) days prior to the date of the annual meeting of the shareholders; and (ii) business brought before the annual meeting by a shareholder made pursuant to a timely notice in writing prior to the day on which notice of the change of date of the meeting was mailed or public disclosure was made (A) shall be deemed untimely made and of no further effect unless such business is brought before the annual meeting by a shareholder pursuant to timely notice in writing in accordance with clause (i) of paragraph (b) of this By-Law and (B) shall not prevent or otherwise limit the right of the Corporation to change the date of the annual meeting of the shareholders.

A shareholder's notice to the Secretary shall set forth as to each matter the shareholder proposes to bring before the meeting (i) a brief description of the business desired to be brought before the meeting and the reasons for conducting such business at the meeting, and if a specific action is to be proposed, the text of the resolution or resolutions which the shareholder proposes that the Corporation adopt, (ii) the name and address, as they appear on the Corporation's books, of the shareholder proposing such business, and the name and address of the Shareholder Associated Person, if any, on whose behalf the proposal is made, (iii) the class and number of shares of the Corporation which are owned beneficially and of record by such shareholder of record and by the Shareholder Associated Person, if any, on whose behalf the proposal is made, (iv) any material interest of such shareholder of record and the Shareholder Associated Person, if any, on whose behalf the proposal is made in such business, including a representation that there are (and will be) no undisclosed arrangements and understandings between the shareholder or beneficial owner and any other person or persons (naming such person or persons) pursuant to which the proposal in the shareholder notice is being made, (v) a representation that the shareholder intends to appear in person or by proxy at the meeting to bring before the meeting the business specified in the notice, (vi) the total number of shares of the Corporation that will be voted by the notifying shareholder for such proposal, (vii) a representation whether the shareholder or the Shareholder Associated Person, if any, intends or is part of a group which intends (A) to deliver a proxy statement and/or form of proxy to holders of at least the percentage of the Corporation's outstanding capital stock required to approve or adopt the proposal and/or (B) otherwise to solicit proxies from shareholders in support of such proposal, (viii) whether and the extent to which any

hedging or other transaction or series of transactions has been entered into by or on behalf of, or any other agreement, arrangement or understanding (including any short position or any borrowing or lending of shares) has been made, the effect or intent of which is to mitigate loss or manage risk or benefit of share price changes for, or to increase or decrease the voting power of, such shareholder or any such Shareholder Associated Person with respect to any share of stock of the Corporation and (ix) to the extent not already set forth in this second paragraph of Section 9(b), the Designated Shareholder Information. The shareholder providing the notice shall notify the Secretary of the Corporation in writing at the principal executive offices of the Corporation of any inaccuracy or change in any information provided pursuant to this Section 9 within two (2) business days of becoming aware of such inaccuracy or change.

(c) Notwithstanding anything in these By-Laws to the contrary, no business shall be conducted at an annual or special meeting except in accordance with the procedures set forth in this By-Law. The chairman of the meeting shall, if the facts warrant, determine and declare to the meeting that business was not properly brought before the meeting and in accordance with the procedures prescribed by this By-Law, and if he or she should so determine, he or she shall so declare to the meeting and any such business not properly brought before the meeting shall not be transacted. Any such decision by the chairman shall be final, binding and conclusive upon all parties in interest. Notwithstanding the foregoing provisions of this By-Law, a shareholder shall also comply with all applicable requirements of the Exchange Act and the rules and regulations thereunder, applicable listing standards and other applicable law, with respect to the matters set forth in this By-Law. References in these By-Laws to the first anniversary of the date the Corporation's proxy statement for its previous annual meeting of the shareholders was first released to shareholders or to the Exchange Act and the rules and regulations thereunder are not intended to and shall not limit the requirements applicable to proposals as to any business to be considered pursuant to paragraph (b) of this By-Law. Nothing in this By-law shall be deemed to affect any rights of shareholders to request inclusion of proposals in the Corporation's proxy statement pursuant to Rule 14a-8, or any successor rule, under the Exchange Act.

For the purposes of Section 8 and Section 9 of Article I, (i) the beneficial ownership of any person or entity shall be determined in accordance with Rule 13d-3, or any successor rule, under the Exchange Act and (ii) the term "control" (including the terms "controlling," "controlled by" and "under common control with") shall have the meaning ascribed to such term under Rule 12b-2, or any successor rule, under the Exchange Act.

**SECTION 10. No Consents in Lieu of Meeting.** No action of the shareholders shall be taken by either unanimous consent or partial written consent or other consent in lieu of a meeting.

**SECTION 11. Conduct of Meetings.** Unless the Board of Directors shall designate another officer or Director of the Corporation to preside and act as the chairman at any regular or special meeting of shareholders, the Chairman of the Board of Directors, or in his or her absence, the Vice Chairman of the Board of Directors, or in the absence of both the Chairman of the Board of Directors and the Vice Chairman of the Board of Directors, the Independent Lead Director, shall preside and act as the chairman at any regular or special meeting of shareholders.

The chairman of the meeting, consistent with any authority, direction, restriction or limitation given to him or her by the Board of Directors, shall have any and all powers and authority necessary to conduct an orderly meeting, preserve order and determine any and all procedural matters, including the proper means of obtaining the floor, who shall have the right to address the meeting, the manner in which shareholders will be recognized to speak, imposing reasonable limits on the amount of time at the meeting taken up in remarks by any one shareholder or group of shareholders, the number of times a shareholder may address the meeting, and the person to whom questions should be addressed. The chairman shall announce at the meeting when the polls close for each matter voted upon. If no announcement is made, the ability to cast a vote will be deemed to have closed upon the final adjournment of the meeting. After the polls close, no ballots, proxies, or votes, nor any revocations or changes thereto, may be accepted. In addition, until the business to be completed at a meeting of shareholders is completed, the chairman of a meeting of the shareholders is expressly authorized to temporarily adjourn and postpone the meeting from time to time.

SECTION 12. Proxy Access. (a) Whenever the Board of Directors solicits proxies with respect to the election of Directors at an annual meeting of the shareholders, subject to the provisions of this Section 12, the Corporation shall include in its proxy statement for such annual meeting, in addition to any persons nominated for election by the Board of Directors or any committee thereof, the name, together with the Required Information (defined below), of any person nominated for election (the "Shareholder Nominee") to the Board of Directors by a shareholder or group of no more than twenty (20) shareholders (counting as one shareholder, for this purpose, any two or more funds under common management and investment control) that satisfies the requirements of this Section 12 (such shareholder or shareholder group, including each member thereof to the extent the context requires, the "Eligible Shareholder"), and who expressly elects at the time of providing the notice required by this Section 12 (the "Notice of Proxy Access Nomination") to have its nominee included in the Corporation's proxy materials pursuant to this Section 12. In the event that the Eligible Shareholder consists of a group of shareholders, any and all requirements and obligations for an individual Eligible Shareholder that are set forth in these By-Laws, including the Minimum Holding Period (defined below), shall apply to each member of such group; provided, however, that the Required Ownership Percentage shall apply to the ownership of the group in the aggregate. For purposes of this Section 12, the "Required Information" that the Corporation will include in its proxy statement is the information provided to the Secretary of the Corporation concerning the Shareholder Nominee and the Eligible Shareholder that is required to be disclosed in the Corporation's proxy statement by the regulations promulgated under the Exchange Act, and if the Eligible Shareholder so elects, a written statement, not to exceed 500 words, in support of the Shareholder Nominee(s)' candidacy (the "Statement"). Notwithstanding anything to the contrary contained in this Section 12, the Corporation may omit from its proxy materials any information or Statement (or portion thereof) that it, in good faith, believes is untrue in any material respect (or omits to state a material fact necessary in order to make the statements made, in light of the circumstances under which they are made, not misleading) or would violate any applicable law or regulation, and the Corporation may solicit against, and include in the proxy statement its own statement relating to, any Shareholder Nominee.



(b) To be timely, the Notice of Proxy Access Nomination must comply with the procedures and timing set forth in the first paragraph of Section 8(b) of Article I.

(c) The maximum number of Shareholder Nominees nominated by all Eligible Shareholders that will be included in the Corporation's proxy materials with respect to an annual meeting of shareholders shall not exceed the greater of (i) two (2) and (ii) 20% of the total number of Directors in office (rounded down to the nearest whole number) as of the last day on which a Notice of Proxy Access Nomination may be delivered pursuant to and in accordance with this Section 12 (the "Final Proxy Access Nomination Date"). In the event that one or more vacancies for any reason occurs after the Final Proxy Access Nomination Date but before the date of the annual meeting and the Board of Directors resolves to reduce the size of the Board of Directors in connection therewith, the maximum number of Shareholder Nominees included in the Corporation's proxy materials shall be calculated based on the number of Directors in office as so reduced. For purposes of determining when the maximum number of Shareholder Nominees provided for in this Section 12 has been reached, each of the following persons shall be counted as one of the Shareholder Nominees: (i) any individual nominated by an Eligible Shareholder for inclusion in the Corporation's proxy materials pursuant to this Section 12 who becomes ineligible or whose nomination is subsequently withdrawn, (ii) any individual nominated by an Eligible Shareholder for inclusion in the Corporation's proxy materials pursuant to this Section 12 whom the Board of Directors decides to nominate for election to the Board of Directors and (iii) any Director in office as of the Final Proxy Access Nomination Date who was included in the Corporation's proxy materials as a Shareholder Nominee for any of the three (3) preceding annual meetings of shareholders (including any individual counted as a Shareholder Nominee pursuant to the preceding clause (ii)) and whom the Board of Directors decides to nominate for re-election to the Board of Directors. Any Eligible Shareholder submitting more than one Shareholder Nominee for inclusion in the Corporation's proxy materials pursuant to this Section 12 shall rank such Shareholder Nominees based on the order in which the Eligible Shareholder desires such Shareholder Nominees to be selected for inclusion in the Corporation's proxy materials in the event that the total number of Shareholder Nominees submitted by Eligible Shareholders pursuant to this Section 12 exceeds the maximum number of Shareholder Nominees provided for in this Section 12. In the event that the number of Shareholder Nominees submitted by Eligible Shareholders pursuant to this Section 12 exceeds the maximum number of Shareholder Nominees provided for in this Section 12, the highest ranking Shareholder Nominee who meets the requirements of this Section 12 from each Eligible Shareholder will be selected for inclusion in the Corporation's proxy materials until the maximum number is reached, going in order of the amount (largest to smallest) of shares of stock of the Corporation each Eligible Shareholder disclosed as owned in its Notice of Proxy Access Nomination. If the maximum number is not reached after the highest ranking Shareholder Nominee who meets the requirements of this Section 12 from each Eligible Shareholder has been selected, then the next highest ranking Shareholder Nominee who meets the requirements of this Section 12 from each Eligible Shareholder will be selected for inclusion in the Corporation's proxy materials, and this process will continue as many times as necessary, following the same order each time, until the maximum number is reached.

(d) For purposes of this Section 12, an Eligible Shareholder shall be deemed to "own" only those outstanding shares of stock of the Corporation as to which the shareholder possesses both:

(i) the full voting and investment rights pertaining to the shares; and (ii) the full economic interest in (including the opportunity for profit from and risk of loss on) such shares; provided that the number of shares calculated in accordance with clauses (i) and (ii) shall not include any shares: (x) sold by such shareholder or any of its affiliates in any transaction that has not been settled or closed, including any short sale; (y) borrowed by such shareholder or any of its affiliates for any purposes or purchased by such shareholder or any of its affiliates pursuant to an agreement to resell; or (z) subject to any option, warrant, forward contract, swap, contract of sale, other derivative or similar agreement entered into by such shareholder or any of its affiliates, whether any such instrument or agreement is to be settled with shares or with cash based on the notional amount or value of shares of outstanding stock of the Corporation, in any such case which instrument or agreement has, or is intended to have, or if exercised by either party would have, the purpose or effect of: (1) reducing in any manner, to any extent or at any time in the future, such shareholder's or its affiliates' full right to vote or direct the voting of any such shares; and/or (2) hedging, offsetting or altering to any degree any gain or loss realized or realizable from maintaining the full economic ownership of such shares by such shareholder or its affiliates. A shareholder shall "own" shares held in the name of a nominee or other intermediary so long as the shareholder retains the right to instruct how the shares are voted with respect to the election of Directors and possesses the full economic interest in the shares. A shareholder's ownership of shares shall be deemed to continue during any period in which the shareholder has (i) delegated any voting power by means of a proxy, power of attorney or other instrument or arrangement which is revocable at any time by the shareholder or (ii) loaned such shares provided that (x) the shareholder both has the power to recall such loaned shares on not more than five (5) business days' notice and recalls the loaned shares within five (5) business days of being notified that its Shareholder Nominee will be included in the Corporation's proxy materials for the relevant annual meeting, and (y) the shareholder holds the recalled shares through the annual meeting. The terms "owned," "owning" and other variations of the word "own" shall have correlative meanings. Whether outstanding shares of stock of the Corporation are "owned" for these purposes shall be determined by the Board of Directors or any committee thereof, in each case, in its sole discretion. For purposes of this Section 12, the term "affiliate" or "affiliates" shall have the meaning ascribed thereto under the General Rules and Regulations under the Exchange Act. An Eligible Shareholder shall include in its Notice of Proxy Access Nomination the number of shares it is deemed to own for the purposes of this Section 12.

(e) In order to make a nomination pursuant to this Section 12, an Eligible Shareholder must have owned (as defined above) the Required Ownership Percentage (as defined below) of the Corporation's outstanding stock (the "Required Shares") continuously for the Minimum Holding Period (as defined below) as of both the date the Notice of Proxy Access Nomination is delivered to, or mailed to and received by, the Secretary of the Corporation in accordance with this Section 12 and the record date for determining the shareholders entitled to vote at the annual meeting and must continue to own the Required Shares through the meeting date. For purposes of this Section 12, the "Required Ownership Percentage" is 3% or more, and the "Minimum Holding Period" is 3 years. Within the time period specified in this Section 12 for delivering the Notice of Proxy Access Nomination, an Eligible Shareholder must provide the following information in writing to the Secretary of the Corporation:

(i) one or more written statements from the record holder of the shares (and from each intermediary through which the shares are or have been held during the Minimum Holding Period) verifying that, as of a date within seven (7) calendar days prior to the date the Notice of Proxy Access Nomination is delivered to, or mailed to and received by, the Secretary of the Corporation, the Eligible Shareholder owns, and has owned continuously for the Minimum Holding Period, the Required Shares, and the Eligible Shareholder's agreement to provide, within five (5) business days after the record date for the annual meeting, written statements from the record holder and intermediaries verifying the Eligible Shareholder's continuous ownership of the Required Shares through the record date;

(ii) a copy of the Schedule 14N (or any successor form) that has been filed with the U.S. Securities and Exchange Commission as required by Rule 14a-18 under the Exchange Act;

(iii) the information, representations and agreements that are the same as those that would be required to be set forth in a shareholder's notice of nomination pursuant to Section 8 of Article I of these By-Laws;

(iv) a representation that the Eligible Shareholder: (A) acquired the Required Shares in the ordinary course of business and not with the intent to change or influence control at the Corporation, and does not presently have such intent, (B) presently intends to maintain qualifying ownership of the Required Shares through the date of the annual meeting, (C) has not nominated and will not nominate for election any individual as a Director at the annual meeting, other than its Shareholder Nominee(s), (D) has not engaged and will not engage in, and has not and will not be a "participant" in another person's, "solicitation" within the meaning of Rule 14a-1(l) under the Exchange Act in support of the election of any individual as a Director at the annual meeting, other than its Shareholder Nominee(s) or a nominee of the Board of Directors, (E) will not distribute to any other shareholder or use any proxy card other than the Corporation's proxy card in connection with the annual meeting, (F) agrees to comply with all applicable laws and regulations with respect to any solicitation in connection with the meeting or applicable to the filing and use, if any, of soliciting material, and (G) will provide facts, statements and other information in all communications with the Corporation and its shareholders that are or will be true and complete in all material respects and do not and will not omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading;

(v) a statement as to the Eligible Shareholder's intentions with respect to maintaining qualifying ownership of the Required Shares following the annual meeting;

(vi) an undertaking that the Eligible Shareholder agrees to: (A) assume all liability stemming from any legal or regulatory violation arising out of the Eligible Shareholder's communications with the shareholders of the Corporation or out of the information that the Eligible Shareholder provided to the Corporation; (B) indemnify and hold harmless the Corporation and each of its Directors, officers and employees individually against any liability, loss or damages in connection with any Proceeding (as defined below) against the Corporation or any of its Directors, officers or employees arising out of any nomination submitted by the Eligible Shareholder pursuant to this Section 12; and (C) file with the U.S. Securities and Exchange Commission any

solicitation or other communication with the Corporation's shareholders relating to the meeting at which the Shareholder Nominee will be nominated, regardless of whether any such filing is required under Regulation 14A of the Exchange Act or whether any exemption from filing is available thereunder; and

(vii) in the case of a nomination by a group of shareholders that together is an Eligible Shareholder, the designation by all group members of one group member that is authorized to act on behalf of all such members with respect to the nomination and matters related thereto, including withdrawal of the nomination.

(f) Within the time period specified in this Section 12 for delivering the Notice of Proxy Access Nomination, a Shareholder Nominee must deliver to the Secretary of the Corporation: (i) the information required with respect to persons whom a shareholder proposes to nominate for election or reelection as a Director by Section 8(b) of Article I of these By-Laws (including such person's written consent to being named in the proxy statement (including the accompanying proxy card and form of proxy) as a Shareholder Nominee and to serving as a Director if elected and including information as to the purpose of such nomination); (ii) a signed, written representation and agreement (in form provided by the Corporation) delivered to the Secretary at the principal executive offices of the Corporation, from such proposed Shareholder Nominee: (A) disclosing and, if elected as a Director during his or her term of office, providing such Director will disclose (1) any agreement, arrangement or understanding with, and any commitment or assurance to, any person or entity as to how such Shareholder Nominee, if elected as a Director of the Corporation, will act or vote on any issue or question or (2) any other commitments that could limit or interfere with such Shareholder Nominee's ability to comply, if elected as a Director of the Corporation, with such Shareholder Nominee's fiduciary duties under applicable law, (B) disclosing, and providing such Director will disclose becoming a party to, any agreement, arrangement or understanding with any person or entity other than the Corporation with respect to any direct or indirect compensation, reimbursement or indemnification for candidacy or service as a Director, (C) if elected as a Director of the Corporation, to comply with Section 8 of Article I, this Section 12(f)(ii) and all applicable corporate governance, conflict of interest, confidentiality, stock ownership and trading and other policies and guidelines of the Corporation applicable to Directors and in effect during such person's term in office as a Director (and, if requested by any proposed nominee, the Secretary of the Corporation shall provide to such proposed nominee all such policies and guidelines then in effect) and (D) to provide facts, statements and other information in all communications with the Corporation and its shareholders that are or will be true and complete in all material respects (and shall not omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading). At the request of the Corporation, the Shareholder Nominee(s) must submit all completed and signed questionnaires required of Directors and officers of the Corporation. The Corporation may request such additional information as necessary to permit the Board of Directors to determine if each Shareholder Nominee is independent under the listing standards of the principal U.S. exchange upon which the stock of the Corporation is listed, any applicable rules of the U.S. Securities and Exchange Commission and any publicly disclosed standards used by the Board of Directors in determining and disclosing the independence of the Corporation's Directors.

(g) In the event that any information or communications provided by the Eligible Shareholder or the Shareholder Nominee to the Corporation or its shareholders ceases to be true and complete in all material respects or omits a material fact necessary to make the statements made, in light of the circumstances under which they were made, not misleading, each Eligible Shareholder or Shareholder Nominee, as the case may be, shall promptly notify the Secretary of the Corporation of any defect, deficiency or error in such previously provided information and of the information that is required to correct any such defect, deficiency or error.

(h) The Corporation shall not be required to include, pursuant to this Section 12, a Shareholder Nominee in its proxy materials for any meeting of shareholders: (i) for which the Secretary of the Corporation receives a notice that a shareholder has nominated or intends to nominate a candidate for election to the Board of Directors pursuant to the advance notice requirements for shareholder nominees for Director set forth in Section 8(a)(ii) of Article I of these By-Laws; (ii) if the Eligible Shareholder who has nominated such Shareholder Nominee has engaged in or is currently engaged in, or has been or is a “participant” in another person’s, “solicitation” within the meaning of Rule 14a-1(l) under the Exchange Act in support of the election of any individual as a Director at the annual meeting other than its Shareholder Nominee(s) or a nominee of the Board of Directors; (iii) who is not independent under the listing standards of each principal U.S. exchange upon which the stock of the Corporation is listed, any applicable rules of the U.S. Securities and Exchange Commission and any publicly disclosed standards used by the Board of Directors in determining and disclosing independence of the Corporation’s Directors, in each case as determined by the Board of Directors in its sole discretion; (iv) whose election as a member of the Board of Directors would cause the Corporation to be in violation of these By-Laws, the Articles of Incorporation, the rules and listing standards of the principal U.S. exchanges upon which the stock of the Corporation is traded, or any applicable state or federal law, rule or regulation; (v) who is or has been, within the past three (3) years, an officer or Director of a competitor, as defined in Section 8 of the Clayton Antitrust Act of 1914; (vi) who is a named subject of a pending criminal proceeding (excluding traffic violations and other minor offenses) or has been convicted in such a criminal proceeding within the past ten (10) years; (vii) who is subject to any order of the type specified in Rule 506(d) of Regulation D promulgated under the Securities Act of 1933, as amended; (viii) if such Shareholder Nominee or the applicable Eligible Shareholder shall have provided information to the Corporation in respect to such nomination that was untrue in any material respect or omitted to state a material fact necessary in order to make the statement made, in light of the circumstances under which they were made, not misleading, as determined by the Board of Directors or any committee thereof, in each case, in its sole discretion; or (ix) the Eligible Shareholder or applicable Shareholder Nominee fails to comply with its obligations pursuant to these By-Laws, including, but not limited to, this Section 12.

(i) Notwithstanding anything to the contrary set forth herein, the Board of Directors or the chairman of the meeting of shareholders shall declare a nomination by an Eligible Shareholder to be invalid, and such nomination shall be disregarded notwithstanding that proxies in respect of such vote may have been received by the Corporation, if: (i) the Shareholder Nominee(s) and/or the applicable Eligible Shareholder shall have breached its or their obligations under this Section 12, as determined by the Board of Directors or the chairman of the meeting of shareholders, in each case, in its or his or her sole discretion; (ii) the Eligible Shareholder (or a qualified representative thereof) does not appear at the meeting of shareholders to present any nomination

pursuant to this Section 12; or (iii) the Eligible Shareholder becomes ineligible or withdraws its nomination or a Shareholder Nominee becomes ineligible or unwilling to serve on the Board of Directors, whether before or after the mailing of the definitive proxy statement.

(j) Any Shareholder Nominee who is included in the Corporation's proxy materials for a particular annual meeting of shareholders but either: (i) withdraws from or becomes ineligible or unavailable for election at the annual meeting or (ii) does not receive at least 10% of the votes cast in favor of such Shareholder Nominee's election will be ineligible to be a Shareholder Nominee pursuant to this Section 12 for the next two (2) annual meetings. For the avoidance of doubt, this Section 12(j) shall not prevent any shareholder from nominating any person to the Board of Directors pursuant to and in accordance with Section 8 of Article I of these By-Laws.

(k) The Board of Directors (and, where applicable, the chairman of the meeting of shareholders) shall have the exclusive power and authority to interpret the provisions of Sections 8 and 12 of this Article I of these By-Laws and make all determinations deemed necessary or advisable in connection with Sections 8 and 12 of this Article I. All such actions, interpretations and determinations that are done or made by the Board of Directors (and, where applicable, the chairman of the meeting of shareholders) shall be final, conclusive and binding on the Corporation, the shareholders and all other parties.

(l) No shareholder shall be permitted to join more than one group of shareholders to become an Eligible Shareholder for purposes of nominations pursuant to this Section 12 per each annual meeting of shareholders.

(m) Except for a nomination made in accordance with Rule 14a-19 under the Exchange Act this Section 12 shall be the exclusive method for shareholders to include nominees for Director in the Corporation's proxy materials.

SECTION 13. Participation by Conference Calls or Other Electronic Technology. The Board of Directors may permit, by resolution with respect to a particular meeting of shareholders, one or more persons to participate in that meeting, count for the purposes of determining a quorum and exercise all rights and privileges to which such person might be entitled were such person personally in attendance, including the right to vote, by means of a conference telephone, virtual meeting platform, videoconferencing software or electronic communications technology allowing all persons participating in the meeting to hear each other at the same time. Participation by such means shall constitute presence in person at a meeting. Unless the Board of Directors so permits by resolution, no person may participate in a meeting of shareholders by means of conference telephone, virtual meeting platform, videoconferencing software or electronic communications technology.

ARTICLE II

Board of Directors

SECTION 1. Powers. The business and affairs of the Corporation, except as otherwise provided by statute, the Articles of Incorporation or these By-Laws, shall be conducted and managed by the Board of Directors. The number of Directors of the Corporation, which shall be not more than eighteen (18) and not less than ten (10), shall be determined from time to time by the Directors.

SECTION 2. Election.

(a) The Directors of the Corporation shall be elected by ballot at the annual meeting of the shareholders and shall serve one (1) year and until their successors shall be duly elected and qualified or until their earlier death, resignation or removal.

(b) In an uncontested election, if: (i) a nominee for Director who is an incumbent Director does not receive the vote of at least a majority of the votes cast at any meeting for the election of Directors at which a quorum is present; and (ii) no successor has been elected at such meeting, then such Director will be deemed to have been elected to the Board and will promptly tender his or her resignation to the Board. In an uncontested election, if a nominee for Director who is not an incumbent Director does not receive the vote of at least a majority of the votes cast at any meeting for the election of Directors at which a quorum is present, the nominee will be deemed to have been elected to the Board and to have immediately resigned. For purposes of this Section 2 of Article II, "a majority of the votes cast" means that the number of shares voted for a Director's election exceeds fifty (50) percent of the number of votes cast with respect to that Director's election. "Votes cast" include votes to withhold authority in each case and exclude abstentions with respect to that Director's election (to the extent that abstentions are permitted). In a contested election, as determined by the Board of Directors, Directors shall be elected by plurality vote, even if a formerly contested election is uncontested at the time of any meeting for the election of Directors.

(c) The committee established by the Board of Directors to evaluate candidates for nomination of Directors will make a recommendation to the Board as to whether to accept or reject the tendered resignation, or whether other action should be taken. The Board will act on the tendered resignation, taking into account the recommendation of such committee, and publicly disclose (by a press release, a filing with the U.S. Securities and Exchange Commission or other broadly disseminated means of communication) its decision regarding the tendered resignation and the rationale behind the decision within ninety (90) days from the date of the certification of the election results. Such committee in making its recommendation, and the Board in making its decision, each may consider any factors or other information that it considers appropriate and relevant. The Director who tenders his or her resignation will not participate in the recommendation of such committee, or the decision of the Board, with respect to such resignation. If such incumbent Director's resignation is not accepted by the Board, such Director will continue to serve until the next annual meeting and until such Director's successor has been duly elected and qualified, or until such Director's earlier death, resignation, or removal.

(d) If a Director's resignation is accepted by the Board, or if a nominee who is not an incumbent Director is deemed to have been elected and to have immediately resigned, then the Board, in its sole discretion, may: (i) fill any resulting vacancy pursuant to the provisions of Section 11 of this Article II or (ii) decrease the size of the Board pursuant to the provisions of Section 1 of this Article II.

(e) To be eligible to stand for election, each nominee must deliver (in accordance with the time period prescribed for delivery in a notice to such proposed nominee given by or on behalf of the Board), to the Secretary at the principal executive offices of the Corporation, a written representation and agreement (in form provided by the Corporation) that such proposed nominee if elected as a Director of the Corporation, will comply with this Section 2 of Article II and all applicable corporate governance, conflict of interest, confidentiality, stock ownership and trading and other policies and guidelines of the Corporation applicable to Directors and in effect during such person's term in office as a Director (and, if requested by any proposed nominee, the Secretary of the Corporation shall provide to such proposed nominee all such policies and guidelines then in effect).

The provisions of this By-Law regarding majority voting will be summarized or included in each proxy statement relating to an election of Directors of the Corporation.

SECTION 3. Annual Meeting. The regular annual meeting of the Board of Directors shall be held immediately following each meeting of the shareholders at which a Board of Directors shall have been elected for the purpose of organization and the transaction of other business.

SECTION 4. Regular Meetings. In addition to the annual meeting, regular meetings of the Board of Directors shall be held at such intervals as may be fixed from time to time by the Board of Directors.

SECTION 5. Special Meetings. Special meetings of the Board of Directors may be called at any time by the Chairman of the Board, by the President or by a majority of the Board of Directors, and shall be held at the time and place specified in the call for such special meeting.

SECTION 6. Place of Meeting. Subject to the provisions of Section 4 and 5 of this Article II, regular and special meetings of the Board of Directors may be held within or without the Commonwealth of Pennsylvania or by means of conference telephone, virtual meeting platform, videoconferencing software or electronic communications technology, and at such times and places as, in the case of a regular meeting, may be stated in the notice of the meeting, or in the case of a special meeting, may be specified in the call for such meeting.

SECTION 7. Participation by Conference Calls or Other Electronic Technology. Any one or more members of the Board of Directors of the Corporation or any committee thereof may participate in a meeting of such Board or committee by means of a conference telephone, virtual



meeting platform, videoconferencing software or electronic communications technology allowing all persons participating in the meeting to hear each other at the same time. Participation by such means shall constitute presence in person at a meeting.

SECTION 8. Notice of Meetings. Notice of the place, day and hour of every regular and special meeting of the Board of Directors shall be given each Director before the meeting personally or by sending copy thereof (a) by first class or express mail, postage prepaid, or courier service, charges prepaid, to such Director's postal address supplied by such Director to the Corporation for such notice or (b) by facsimile transmission, e-mail or other electronic communication to such Director's facsimile number or address for e-mail or other electronic communications supplied by such Director to the Corporation for the purpose of notice. Notice pursuant to clause (a) in the preceding sentence shall be deemed to have been given to the Director entitled thereto when deposited in the United States mail or with a courier service for delivery to that Director, and notice pursuant to clause (b) in the preceding sentence shall be deemed to have been given to the Director entitled thereto when sent. Except as otherwise provided herein, or as otherwise directed by the Board of Directors, notices of meetings may be given by, or at the direction of, the Secretary of the Corporation. No notice need be given to any Director who waives such notice in writing either before or after the holding thereof, and attendance at any such meeting shall constitute waiver of notice thereof except as otherwise provided by law. No notice of any adjournment meeting of the Board of Directors need be given.

SECTION 9. Quorum. No less than one-half (1/2) of the Board of Directors shall constitute a quorum for the transaction of any business at every meeting of the Board of Directors, but if at any meeting there be less than a quorum present a majority of those present may adjourn the meeting from time to time but not for a period of over thirty (30) days at any one time, without notice other than by announcement at the meeting until a quorum shall attend. At any such adjourned meeting at which a quorum shall attend, any business may be transacted which might have been transacted at the meeting as previously modified.

SECTION 10. Committees. From time to time, the Board of Directors may by resolution provide for and appoint the members of an Executive Committee, or any other regular or special committee, or committees, and all such committees shall have and may exercise such powers as shall be conferred or authorized by the resolution of appointment.

SECTION 11. Vacancies. Vacancies in the Board of Directors occurring during the year shall be filled for the unexpired terms by a majority of the remaining members of the Board of Directors although less than a quorum.

SECTION 12. Limitation on Liability. A Director shall not be personally liable for monetary damages for any action taken, or any failure to take any action, unless (a) the Director has breached or failed to perform the duties of his or her office under Subchapter B of Chapter 17 of the Pennsylvania Business Corporation Law of 1988, as the same may be amended (relating to standard of care and justifiable reliance) and (b) the breach or failure to perform constitutes self-dealing, willful misconduct or recklessness. The provisions of this By-Law shall not apply to (a) the responsibility or liability of a Director pursuant to any criminal statute or (b)

the liability of a Director for the payment of taxes pursuant to local, state or federal law. Any repeal or modification of this By-Law shall be prospective only, and shall not affect, to the detriment of any Director, any limitation on the personal liability of a Director of the Corporation existing at the time of such repeal or modification.

### ARTICLE III

#### Officers

SECTION 1. Officers. The Officers of the Corporation shall be a Chairman of the Board of Directors, a Chief Executive Officer and/or a President, one or more Vice Presidents (one or more of whom may be designated as Executive Vice Presidents or Senior Vice Presidents by the Board of Directors), a Treasurer, a Secretary and a Controller. The Board of Directors may elect such other officers, including one or more Assistant Treasurers and one or more Assistant Secretaries, as they may from time to time deem necessary, who shall have such authority and shall perform such duties as from time to time may be prescribed by the Board of Directors.

SECTION 2. Officers Holding More Than One Office. Any two of the offices provided for in this Article III may be held by the same person except that the President may not hold the office of Vice President or Secretary, nor the Treasurer that of Assistant Treasurer, nor the Secretary that of Assistant Secretary.

SECTION 3. Chairman of the Board. The Chairman of the Board of Directors shall preside at all meetings of the Board of Directors. He or she shall have supervision of such matters as may be designated to him or her by the Board of Directors. The Board of Directors may elect a Vice Chairman of the Board, who shall have such authority and shall perform such duties as from time to time may be presented by the Board of Directors.

SECTION 4. President. The President shall have such authority and perform such duties as may from time to time be assigned to him or her by the Board of Directors.

SECTION 5. Chief Executive Officer. Either the Chairman of the Board or the President, as determined by the Board of Directors, shall be the chief executive officer of the Corporation and, subject to the Board of Directors, shall have general charge of the business and affairs of the Corporation.

SECTION 6. Vice Presidents. The Vice Presidents shall perform such duties as may be incidental to their office and as may be assigned to them from time to time by the Board of Directors. In the absence of the President, the specific duties assigned to that officer shall be exercised by the Vice Presidents.

SECTION 7. Secretary. The Secretary shall keep the minutes of all meetings of the Board of Directors and the minutes of all meetings of the shareholders in books provided for that purpose. He or she shall attend to the giving and serving of all notices of the Corporation and shall be the custodian of the corporate seal. He or she shall have charge of and keep and preserve such books

and records of the Corporation as the Board of Directors may prescribe, and he or she shall perform all other duties incidental to his or her office and as may be assigned to him or her by the Board of Directors from time to time. Unless otherwise ordered by the Board of Directors, he or she may certify copies of and extracts from any of the official records of the Corporation and may also certify as to the Officers of the Corporation and as to similar matters.

SECTION 8. Treasurer. The Treasurer shall have the care and custody of the funds and securities of the Corporation and shall deposit the same in such bank or banks as the Board of Directors may select, or in the absence of such selection, as may be selected by him or her. He or she shall disburse the funds of the Corporation in the regular conduct of its business or as may be ordered by the Board. The Treasurer shall perform such other duties as the Board of Directors may from time to time require.

SECTION 9. Controller. The Controller shall maintain adequate records of all assets, liabilities and transactions of the Corporation; see that adequate audits thereof are currently and regularly made; and, in conjunction with other officers and department heads, initiate and enforce measures and procedures whereby the business of this Corporation shall be conducted with the maximum safety, efficiency and economy. He or she shall have such other powers and perform such other duties as the Board of Directors may from time to time prescribe.

SECTION 10. Assistant Secretaries and Assistant Treasurers. The Assistant Secretaries and Assistant Treasurers shall have such powers and perform such duties as may be assigned to them by the Board of Directors or by the President, or by the Secretary or the Treasurer respectively, and in the absence or incapacity of the Secretary or Treasurer, shall have the powers and perform the duties of those officers respectively.

SECTION 11. Vacancies. Vacancies in any of the offices provided herein shall be filled by the Board of Directors by majority vote for the unexpired terms.

SECTION 12. Contracts, Notes, Drafts, Etc. All properly authorized notes, bonds, drafts, acceptances, checks, endorsements (other than for deposit), guarantees, and all evidences of indebtedness of the Corporation whatsoever, and all deeds, mortgages, contracts and other instruments requiring execution by the Corporation may be signed by the Chairman of the Board of Directors, the Chief Executive Officer, the Vice Chairman of the Board of Directors, the President, any Vice President or the Treasurer; and authority to sign any such instruments, which may be general or confined to specific instances, may be conferred by the Board of Directors upon any other person or persons, subject to such requirements as to countersignature or other conditions, as the Board of Directors may from time to time determine. Facsimile signatures may be used on checks, notes, bonds or other instruments. Any person having authority to sign on behalf of the Corporation may delegate, from time to time, by instrument in writing, all or any part of such authority to any person or persons if authorized so to do by the Board of Directors. Unless otherwise delegated, the Board of Directors retains the authority to approve any and all transactions entered into on behalf of the Corporation.

## ARTICLE IV

### Indemnification

SECTION 1. Right to Indemnification. Subject to Section 3 of this Article IV, the Corporation shall indemnify to the fullest extent permitted by applicable law any person who was or is a party or is threatened to be made a party to or is otherwise involved in any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (a "Proceeding"), by reason of the fact that such person is or was a Director or Officer of the Corporation, or is or was serving at the request of the Corporation as a director or officer of another corporation or of a partnership, joint venture, trust or other enterprise or entity, whether or not for profit, whether domestic or foreign, including service with respect to an employee benefit plan, its participants or beneficiaries, against all liability, loss and expense (including attorneys' fees and amounts paid in settlement) actually and reasonably incurred by such person in connection with such Proceeding, whether or not the indemnified liability arises or arose from any Proceeding by or in the right of the Corporation.

SECTION 2. Advance of Expenses. Subject to Section 3 of this Article IV, expenses incurred by a person who is or was a Director or Officer in defending (or acting as a witness in) a Proceeding shall be paid by the Corporation in advance of the final disposition of such Proceeding, subject to the provisions of applicable law, upon receipt of an undertaking by or on behalf of the person who is or was a Director or Officer to repay such amount if it shall ultimately be determined that such person is not entitled to be indemnified by the Corporation under this Article IV or applicable law.

SECTION 3. Procedure for Determining Permissibility. To determine whether any indemnification or advance of expenses under this Article IV is permissible, the Board of Directors by a majority vote of a quorum consisting of Directors who are not parties to such Proceeding may, and on request of any person seeking indemnification or advance of expenses shall, determine (a) in the case of indemnification, whether the standards under applicable law have been met, and (b) in the case of advance of expenses prior to a change of control of the Corporation as set forth below, whether such advance is appropriate under the circumstances, provided that each such determination shall be made by independent legal counsel if such quorum is not obtainable, or, even if obtainable, a majority vote of a quorum of disinterested Directors so directs; and provided further that, if there has been a change in control of the Corporation between the time of the action or failure to act giving rise to the claim for indemnification or advance of expenses and the time such claim is made, at the option of the person seeking indemnification or advance of expenses, the permissibility of indemnification shall be determined by independent legal counsel and the advance of expenses shall be obligatory subject to receipt of the undertaking in Section 2 of this Article IV. The reasonable expenses of any person who is or was a Director or Officer in prosecuting a successful claim for indemnification, and the fees and expenses of any independent legal counsel engaged to determine permissibility of indemnification or advance of expenses, shall be borne by the Corporation. As used herein, a "change of control" of the Corporation means (a) the acquisition by any person or entity, or two or more such persons or entities acting in concert, of beneficial ownership (within the meaning of Rule 13d-3, or any successor rule, under the

Exchange Act) of more than fifty (50) percent of the outstanding voting shares of the Corporation or (b) any change in one-third (1/3) or more of the members of the Board of Directors unless such change was approved by a majority of the Continuing Directors. The term “Continuing Directors” means the Directors existing on February 26, 2004 or any person who subsequently becomes a Director if such person’s nomination for election or election to the Board of Directors is recommended or approved by the Continuing Directors.

SECTION 4. Contractual Obligation. The obligations of the Corporation to indemnify a person who is or was a Director or Officer under this Article IV, including, if applicable, the duty to advance expenses, shall be considered a contract between the Corporation and such person who is or was a Director or Officer, and no modification or repeal of any provision of this Article IV shall affect, to the detriment of the person who is or was a Director or Officer, such obligations of the Corporation in connection with a claim based on any act or failure to act occurring before such modification or repeal.

SECTION 5. Indemnification Not Exclusive; Inuring of Benefit. The indemnification and advancement of expenses provided by this Article IV shall not be deemed exclusive of any other right to which one indemnified may be entitled under any statute, agreement, vote of shareholders or otherwise, both as to action in such person’s official capacity and as to action in another capacity while holding such office, and shall inure to the benefit of the heirs, legal representatives and estate of any such person.

SECTION 6. Insurance and Other Indemnification. The Corporation may (a) purchase and maintain, at the Corporation’s expense, insurance on behalf of the Corporation and on behalf of others to the extent that power to do so has not been prohibited by statute, (b) create any fund of any nature, whether or not under the control of a trustee, or otherwise secure any of its indemnification obligations, and (c) give other indemnification to the extent permitted by statute.

SECTION 7. Indemnification Agreement. The Corporation may enter into agreements with any Director, officer, or employee of the Corporation, which agreements may grant rights to any person eligible to be indemnified hereunder or create obligations of the Corporation in furtherance of, different from, or in addition to, but not in limitation of, those provided in this Article, without shareholder approval of such agreement.

## ARTICLE V

### Capital Stock

SECTION 1. Share Certificates. Except as otherwise provided in Section 3 of this Article V, every shareholder of record shall be entitled to a share certificate representing the shares held by such shareholder. Every share certificate shall bear the corporate seal (which may be a facsimile) and the signature of the President or a Vice President and the Secretary or an Assistant Secretary or the Treasurer or an Assistant Treasurer of the Corporation.

SECTION 2. Transfers. Transfers of share certificates and the shares represented thereby shall be made on the books of the Corporation only by the registered holder or by duly authorized attorney. Transfers shall be made only on surrender of the share certificate or certificates.

SECTION 3. Uncertificated Shares. Notwithstanding anything herein to the contrary, any or all classes and series of shares, or any part thereof, may be represented by uncertificated shares, except that shares represented by a certificate that is issued and outstanding shall continue to be represented thereby until the certificate is surrendered to the Corporation. The rights and obligations of the holders of shares represented by certificates and the rights and obligations of the holders of uncertificated shares of the same class and series shall be identical. Notwithstanding anything herein to the contrary, the provisions of Section 2 of this Article V shall be inapplicable to uncertificated shares and in lieu thereof the Corporation shall adopt alternative procedures for registration of transfers.

## ARTICLE VI

### Record Dates

SECTION 1. Record Dates. Subject to the requirements of law and to the provisions of the Articles of Incorporation, the Board of Directors may fix a time not exceeding, except in the case of an adjourned meeting, ninety (90) days preceding the date of any meeting of shareholders, or the date fixed for the payment of any dividend or distribution, or for the allotment of rights, or when any change or conversion or exchange of shares shall go into effect or any consent of shareholders shall be obtained, as a record date for the determination of the shareholders entitled to notice of or to vote at any such meeting or entitled to receive any such dividend or distribution or any such allotment of rights, or to exercise the rights in respect to any such change, consent, conversion or exchange of shares, and in such case only shareholders of record on the date so fixed shall be entitled to notice of or to vote at such meeting or to receive such dividend, distribution or allotment of rights, or to exercise such rights as the case may be, notwithstanding any transfer of any shares of stock on the books of the Corporation after any record date fixed as aforesaid. The Board of Directors, in their discretion, may close the books of the Corporation against transfers of shares during the whole or any part of such period. When the determination of shareholders of record entitled to notice of or to vote at any meeting of shareholders has been made as provided in this By-Law, such determination shall apply to any adjournment thereof, unless the Board fixes a new record date under this By-Law for the adjourned meeting. If any date appointed for the payment of any dividend, or fixed for determining the shareholders of record to whom the same is payable, shall in any year fall upon a Saturday, Sunday or legal holiday, then such dividend shall be payable or such shareholders of record shall be determined on the next succeeding day not a Saturday, Sunday or legal holiday.

ARTICLE VII

Dividends

SECTION 1. Declaration of Dividends. Subject to the provisions of statute and the Articles of Incorporation, dividends may be declared and paid as often at such times as the Board of Directors may determine.

ARTICLE VIII

Sundry Provisions

SECTION 1. Seal. The seal of the Corporation shall be in such force and shall bear such inscription as may be adopted by the Board of Directors. If deemed advisable by the Board of Directors, a duplicate seal or duplicate by seals may be provided and kept for the necessary purposes of the Corporation.

SECTION 2. Fiscal Year. The fiscal year of the Corporation shall commence on January 1st of each year and end on December 31st of each year, unless otherwise provided by the Board of Directors.

SECTION 3. Voting Stock of Other Corporations. Any stock in other corporations, which may from time to time be held by this Corporation, may be represented and voted at any meeting of shareholders of such other corporations or instructions given to any nominee holding such stock, by the Chairman of the Board, the Vice Chairman of the Board, the President or Vice Presidents of the Corporation, or by proxy executed in the name of this Corporation by its Chairman of the Board, Vice Chairman of the Board, President or a Vice President, with the corporate seal affixed and attested by the Secretary or an Assistant Secretary.

SECTION 4. Venue. Unless the Corporation consents in writing to the selection of an alternate forum, the state courts of the Commonwealth of Pennsylvania in and for Bucks County or the federal courts of the Eastern District of Pennsylvania shall be the sole and exclusive forum, to the fullest extent permitted by law, for (a) any derivative action or proceeding brought on behalf of the Corporation; (b) any action asserting a claim of a breach of fiduciary duty owed by any Director, Officer or other employee of the Corporation to the Corporation or the Corporation's shareholders; (c) any action asserting a claim against the Corporation arising pursuant to any provision of the Pennsylvania Associations Code, the Business Corporation Law of the Commonwealth of Pennsylvania, the Articles of Incorporation of the Corporation or these By-Laws; (d) any action seeking to interpret, apply, enforce or determine the validity of the Certificate of Incorporation or the By-Laws of the Corporation; or (e) any action asserting a claim against the Corporation governed by the internal affairs doctrine.

ARTICLE IX

Amendments

SECTION 1. Amendments. Except as otherwise provided by law, these By-Laws may be amended at any meeting of the Board of Directors at which a quorum is present by a majority vote of the Directors present, or they may be amended by a majority vote at any meeting of shareholders entitled to vote thereon, provided, subject to the other terms of these By-Laws, in the case of amendment at a meeting of shareholders, notice of the proposed amendment was included in the notice of the meeting.

ARTICLE X

Certain Matters Relating to Pennsylvania Act No. 36 of 1990

SECTION 1. Subchapter G, Chapter 25. Subchapter G, Control-Share Acquisitions, of Chapter 25 of the Pennsylvania Associations Code, as amended, shall not be applicable to the Corporation.

ARTICLE XI

Separability; Effect of Determination by the Board

SECTION 1. Separability. The provisions of these By-Laws are independent of and separate from each other, and no provision shall be affected or rendered invalid or unenforceable because for any reason any other or others of them may be invalid or unenforceable in whole or in part.

SECTION 2. Effect of Determination by the Board. Any determination involving the interpretation or application of these By-Laws made in good faith by the Board of Directors shall be final, binding and conclusive on all parties in interest.



**AMENDMENT NO. 1 TO RIGHTS AGREEMENT**

This **Amendment No. 1 to Rights Agreement** (this "**Amendment**") is made and entered into as of December 13, 2022, by and between Crown Holdings, Inc., a Pennsylvania corporation (the "**Company**"), and Equiniti Trust Company, a limited trust company organized under the laws of the State of New York, as Rights Agent (the "**Rights Agent**"), and amends the Rights Agreement, dated as of November 7, 2022, by and between the Company and the Rights Agent (the "**Rights Agreement**"). Capitalized terms used herein without definition shall have the meanings ascribed to them in the Rights Agreement.

**WHEREAS**, pursuant to Section 27 of the Rights Agreement, prior to the earlier of (i) the Distribution Date or (ii) the occurrence of a Triggering Event, the Company may, by action of the Board of Directors of the Company (the "**Board**"), from time to time and in its sole and absolute discretion, supplement or amend any provision of the Rights Agreement in any manner, without the approval of any holders of certificates representing Common Shares and associated Rights;

**WHEREAS**, the Rights Agent shall, if the Company so directs, supplement or amend any provision of the Rights Agreement, from time to time; and

**WHEREAS**, the Board has determined that an amendment to the Rights Agreement as set forth herein is desirable and in the best interest of the Company and its shareholders and other constituencies, the Company hereby directs the Rights Agent to so amend the Rights Agreement, and the Company and the Rights Agent desire to evidence such amendment in writing.

**NOW, THEREFORE**, in consideration of the premises and the mutual agreements herein set forth, and intending to be legally bound hereby, the parties hereby agree as follows:

1. **Acceleration of Final Expiration Date**. Each occurrence in the Rights Agreement, including in the exhibits attached thereto, of the date "November 6, 2023" shall hereby be deleted in its entirety and replaced with "December 13, 2022".
2. **Ratification**. Except as amended by this Amendment, the Rights Agreement remains the same and in full force and effect.
3. **Governing Law**. This Amendment shall be deemed to be a contract made under the laws of the Commonwealth of Pennsylvania and for all purposes shall be governed by and construed in accordance with the laws of such Commonwealth applicable to contracts to be made and performed entirely within such Commonwealth. To the fullest extent permitted by law, unless the Board determines otherwise, the state courts of the Commonwealth of Pennsylvania in and for Bucks County or the federal courts of the Eastern District of Pennsylvania shall be the sole and exclusive forum for any claim relating to or brought pursuant to this Amendment by any person (including any record or Beneficial Owner of Common Shares, any registered or beneficial holder of a Right, any Acquiring Person or the Rights Agent).
4. **Counterparts**. This Amendment may be executed in any number of counterparts and each of such counterparts shall for all purposes be deemed to be an original, and all such counterparts shall together constitute but one and the same instrument. A signature to this Amendment transmitted electronically shall have the same authority, effect and enforceability as an original signature.
5. **Descriptive Headings**. Descriptive headings of the several Sections of this Amendment are inserted for convenience only and shall not control or affect the meaning or construction of any of the provisions hereof.

**IN WITNESS WHEREOF**, the parties hereto have executed this Amendment No. 1 to Rights Agreement as of the day and year first above written.

**CROWN HOLDINGS, INC.**

By: /s/ Kevin C. Clothier

Name: Kevin C. Clothier

Title: Sr. Vice President and CFO

**EQUINITI TRUST COMPANY**, as Rights Agent

By: /s/ Martin J. Knapp

Name: Martin J. Knapp

Title: SVP, Relationship Director

**DIRECTOR APPOINTMENT AND NOMINATION AGREEMENT**

This Director Appointment and Nomination Agreement, dated as of December 12, 2022 (this “**Agreement**”), is by and among the persons and entities listed on Schedule A (collectively, the “**Icahn Group**”, and each individually a “**member**” of the Icahn Group) and Crown Holdings, Inc. (the “**Company**”). In consideration of and reliance upon the mutual covenants and agreements contained in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

**1. Board Representation and Board Matters.**

- (a) The Company and the Icahn Group agree as follows:
- (i) on or prior to the date of this Agreement, the Company shall take or shall have taken all necessary action to increase the size of the Board of Directors of the Company (the “**Board**”) by two (2) seats to thirteen (13), and following consultation with the Icahn Group, to appoint Jesse Lynn and Andrew Teno (Messrs. Lynn and Teno, collectively, the “**Icahn Designees**” and each an “**Icahn Designee**”) to fill the resulting vacancies, effective on the date of this Agreement, each with a term expiring at the 2023 annual meeting of shareholders of the Company (the “**2023 Annual Meeting**”).
  - (ii) as long as the Icahn Group has not materially breached this Agreement and failed to cure such breach within five (5) business days of written notice from the Company specifying any such breach, the Company agrees that the Company’s slate of nominees for election to the Board at the 2023 Annual Meeting will consist of no more than fourteen (14) individuals (collectively, the “**2023 Crown Slate**”) and will include, subject to their willingness and consent to serve, the Icahn Designees.
  - (iii) the Company shall use reasonable best efforts to cause the election of each of the Icahn Designees at the 2023 Annual Meeting (including by (A) recommending that the Company’s shareholders vote in favor of the election of each of the Icahn Designees, (B) including each of the Icahn Designees in the Company’s proxy statement and proxy card for the 2023 Annual Meeting and (C) otherwise supporting each of the Icahn Designees for election in a manner no less rigorous and favorable than the manner in which the Company supports its other nominees in the aggregate). The Icahn Group agrees not to conduct a proxy contest or engage in any solicitation of proxies regarding any matter, including the election of directors, with respect to the 2023 Annual Meeting.
  - (iv) that as a condition to the Icahn Designees’ (and any Replacement Designees’) appointment to the Board and subsequent nomination for election, the Icahn Designees each agree (and the Icahn Group agrees to cause the Icahn Designees and any Replacement Designees) to provide to the Company, prior to nomination and appointment and on an on-going

basis while serving as a member of the Board, such information and materials as the Company routinely receives from other members of the Board or as is required to be disclosed in proxy statements under applicable law or as is otherwise reasonably requested by the Company from time to time from all members of the Board in connection with the Company's legal, regulatory, auditor or stock exchange requirements, including, but not limited to, a completed D&O Questionnaire in the form separately provided by the Company to the Icahn Group (the "**Nomination Documents**").

- (v) that, subject to Section 1(c) below, should any Icahn Designee resign from the Board or be rendered unable to, or refuse to, be appointed to, or for any other reason fail to serve or is not serving, on the Board (other than as a result of not being nominated by the Company for election at an annual meeting of shareholders subsequent to the 2023 Annual Meeting, following which the Icahn Group's replacement rights pursuant to this **Section 1(a)(v)** shall terminate with respect to such Icahn Designee), as long as the Icahn Group has not materially breached this Agreement and failed to cure such breach within five (5) business days of written notice from the Company specifying any such breach, the Icahn Group shall be entitled to designate, and the Company shall cause to be added as a member of the Board or as a nominee on the 2023 Crown Slate, as applicable, a replacement that is approved by the Board, such approval not to be unreasonably withheld, conditioned or delayed (an "**Acceptable Person**") (and if such proposed designee is not an Acceptable Person, the Icahn Group shall be entitled to continue designating a recommended replacement until such proposed designee is an Acceptable Person) (a "**Replacement Designee**"). Any such Replacement Designee who becomes a Board member in replacement of any Icahn Designee shall be deemed to be an Icahn Designee for all purposes under this Agreement and, as a condition to being appointed to the Board, shall be required to sign a customary joinder to this Agreement.
- (vi) for the avoidance of doubt, the Board's approval of a Replacement Designee pursuant to Section 1(a)(v) shall not be considered unreasonably withheld if such replacement: (A) does not qualify as "independent" pursuant to the NYSE Rules (as defined below), (B) does not have the relevant financial and business experience to be a director of the Company, (C) does not satisfy the requirements set forth in the Company Policies (as defined below), in each case as in effect as of the date of this Agreement or such additional or amended guidelines and policies approved by the Board that are applicable to all directors of the Company, or (D) serves on the board of directors or as an employee or otherwise has a material relationship with a competitor, supplier, customer or other entity which could create a potential conflict with the interests of the Company (collectively clauses (A) through (D), the "**Director Criteria**"); provided that (i) no new Director Criteria will be adopted that would have prevented the Icahn Designees from becoming directors had such criteria been in effect as of the date of this Agreement, and (ii) based on the information which the Icahn Group and the Icahn Designees have provided to the Company as of the date of this Agreement, the Company acknowledges that Jesse Lynn and Andrew Teno each are deemed to satisfy the requirements of Section 1(a)(vi)(B).

- (vii) that (A) for any annual meeting of shareholders subsequent to the 2023 Annual Meeting, the Company shall notify the Icahn Group in writing no less than thirty (30) days before the advance notice deadline set forth in the Company's Bylaws whether the Icahn Designees will be nominated by the Company for election as directors at such annual meeting and (B) if the Icahn Designees are to be so nominated, shall use reasonable best efforts to cause the election of the Icahn Designees so nominated by the Company (including by (x) recommending that the Company's shareholders vote in favor of the election of the Icahn Designees, (y) including the Icahn Designees in the Company's proxy statement and proxy card for such annual meeting and (z) otherwise supporting the Icahn Designees for election in a manner no less rigorous and favorable than the manner in which the Company supports its other nominees in the aggregate), and the Icahn Group agrees not to conduct a proxy contest or engage in any solicitation of proxies regarding any matter, including the election of directors, with respect to any such annual meeting at which the Company has nominated Icahn Designees and such Icahn Designees have consented to being named, and are named, in the proxy statement relating to such annual meeting.
- (viii) that as of the date of this Agreement, the Company represents and warrants that, (A) prior to the Board appointing the Icahn Designees as directors, the Board is composed of eleven (11) directors and that there are no vacancies on the Board, and (B) immediately after the Board appoints the Icahn Designees as directors, the Board will be composed of thirteen (13) directors and that there will be no vacancies on the Board.
- (ix) that from and after the date of this Agreement, so long as an Icahn Designee is a member of the Board, any Board consideration of appointment and employment of the Chief Executive Officer or Chief Financial Officer of the Company, mergers and acquisitions of material assets, or dispositions of material assets, or similar extraordinary transactions, such consideration, and voting with respect thereto shall take place only at the full Board level or in committees of which one of the Icahn Designees is a member (for the avoidance of doubt, nothing in this Agreement changes, amends, or modifies the authority, duties and obligations of the Compensation Committee of the Board).
- (x) each of the Icahn Designees confirms that he or she will recuse himself or herself from such portions of Board or committee meetings, if any, involving actual conflicts between the Company and the Icahn Group. Promptly following the receipt of the Nomination Documents, the Board shall make a determination as to whether the Icahn Designees, based solely

upon the representations provided by the Icahn Group in Section 7 of this Agreement and the information provided to the Board by the Icahn Designees in the Nomination Documents, are independent under the Board's independence guidelines, the independence requirements of the New York Stock Exchange (the "NYSE Rules"), and the independence standards applicable to the Company under paragraph (a)(1) of Item 407 of Regulation S-K under the Securities Exchange Act of 1934, as amended (the "Exchange Act"). As applicable, the Icahn Designees (and the Replacement Designees) will comply with any additional requirements under the federal securities laws with respect to any specific committee on which they may serve.

- (xi) that, to the extent permitted by law and the Company's existing insurance coverage, from and after the time the Icahn Designees are members of the Board, the Icahn Designees shall be covered by the same indemnification and insurance provisions and coverage as are applicable to the individuals that are currently directors of the Company, and at such time the Icahn Designees are no longer members of the Board, then the same indemnification and insurance provisions and coverage as are applicable to former directors of the Company.
  - (xii) subject to compliance with all stock exchange rules, the Board will consider appropriate appointments for the Icahn Designees to applicable Board committees as they would consider such appointments for other Board candidates. Notwithstanding the foregoing, the Company acknowledges that for so long as the Icahn Designees are members of the Board, the Icahn Designees shall have the same rights as any other director with respect to being permitted to attend (as an observer and without voting rights) any committee meeting regardless of whether such director is a member of such committee, except in cases where privileged matters will be discussed or reviewed (unless the Icahn Designees commit, in writing, on terms reasonably satisfactory to the Company, not to share information relating to such matters with the Icahn Group, including its Affiliates, Associates and representatives), where the matters under consideration involve an actual conflict of interest between the Company and the Icahn Group or its Affiliates or Associates, or where, upon advice of outside counsel to the Company, the Icahn Designees attendance would jeopardize any legal privilege. Notwithstanding the foregoing, the Icahn Designees shall not be entitled to materials prepared by or for the Company or the Board in connection with its consideration and evaluation of the Icahn Group or the Icahn Designees or its negotiation of this Agreement.
- (b) At all times from the date of this Agreement through the termination of their service as a member of the Board, each of the Icahn Designees shall comply with all written policies, procedures, processes, codes, rules, standards and guidelines applicable to all non-employee Board members and of which the Icahn Designees have been provided written copies in advance (or which have been filed with the Securities

and Exchange Commission (“SEC”) or posted on the Company’s website), including the Company’s Code of Business Conduct and Ethics, Corporate Governance Guidelines, Securities Trading and SEC Compliance and Reporting Policy and its other corporate policies (collectively, the “**Company Policies**”), and shall preserve the confidentiality of Company business and information, including discussions or matters considered in meetings of the Board or Board committees (except to the extent permitted in the Confidentiality Agreement (as defined below) to be entered into pursuant to Section 5 of this Agreement). In addition, each of the Icahn Designees is aware of and shall act in accordance with his or her fiduciary duties with respect to the Company. For the avoidance of doubt, the Parties agree that notwithstanding the terms of any Company Policies, in no event shall any Company Policy apply to the Icahn Group, other than the Icahn Designees in their capacity as members of the Board or as provided in the Confidentiality Agreement or may be agreed with the Icahn Group from time to time.

- (c) Any provision in this Agreement to the contrary notwithstanding, if at any time after the date of this Agreement, the Icahn Group, together with any Icahn Affiliates (as defined below), ceases collectively to beneficially own (for all purposes in this Agreement, the terms “beneficially own” and “beneficial ownership” shall have the meaning ascribed to such terms as defined in Rule 13d-3 (as in effect from time to time) promulgated by the SEC under the Exchange Act), an aggregate Net Long Position (x) in at least 7,196,865 of the total outstanding shares of Common Stock, at a par value per share of \$5.00 (“**Common Shares**”) (as adjusted for any stock dividends, combinations, splits, recapitalizations and similar type events), (1) one of the Icahn Designees (or, if applicable, his or her Replacement Designee) shall, and the Icahn Group shall cause such Icahn Designee to, promptly tender his or her resignation from the Board and any committee of the Board on which he or she then sits and (2) the Icahn Group shall not have the right to replace such Icahn Designee; or (y) in at least 3,598,432 of the total outstanding Common Shares (as adjusted for any stock dividends, combinations, splits, recapitalizations and similar type events), (1) each of the Icahn Designees (or, if applicable, his or her Replacement Designee) shall, and the Icahn Group shall cause such Icahn Designee to, promptly tender his or her resignation from the Board and any committee of the Board on which he or she then sits and (2) the Icahn Group shall not have the right to replace such Icahn Designee(s).

The Icahn Group, upon request, shall keep the Company regularly apprised of the Net Long Position of the Icahn Group and the Icahn Affiliates to the extent that such position differs from the ownership positions publicly reported on the Icahn Group’s Schedule 13D and amendments thereto or, in the event the Icahn Group is no longer required to file or update a Schedule 13D regarding its ownership of Common Shares, the Icahn Group’s Form 13F.

For purposes of this Agreement, (a) the term “Net Long Position” shall mean such Common Shares beneficially owned, directly or indirectly, that constitute such person’s net long position as defined in Rule 14e-4 under the Exchange Act *mutatis mutandis*, provided that “Net Long Position” shall not include any shares as to which such person does not have the right to vote or direct the vote, or as to which such person has entered into a derivative or other agreement, arrangement or understanding that hedges or transfers, in whole or in part, directly or indirectly, any of the economic consequences of ownership of such shares; and (b) the terms “person” or “persons” shall mean any individual, corporation (including not-for-profit), general or limited partnership, limited liability or unlimited liability company, joint venture, estate, trust, association, organization or other entity of any kind or nature.

Each of the Icahn Designees shall, prior to his or her appointment to the Board (including any Replacement Designee), and each member of the Icahn Group shall cause each of the Icahn Designees (including any Replacement Designee) to, execute an irrevocable resignation in the form attached to this Agreement as **Exhibit A**.

- (d) So long as the Icahn Group, together with the Icahn Affiliates, beneficially owns an aggregate Net Long Position in at least 5,100,637 of the total outstanding Common Shares (as adjusted for any stock dividends, combinations, splits, recapitalizations or similar type events), the Company shall not adopt a Rights Plan with an “Acquiring Person” beneficial ownership threshold below 15% of the then-outstanding Common Shares, unless the “Acquiring Person” definition of such Rights Plan exempts the Icahn Group up to a beneficial ownership of 15%. The term “**Rights Plan**” shall mean any plan or arrangement of the sort commonly referred to as a “rights plan” or “shareholder rights plan” or “shareholder rights plan” or “poison pill” that is designed to increase the cost to a potential acquirer of exceeding the applicable ownership thresholds through the issuance of new rights, common stock or preferred shares (or any other security or device that may be issued to shareholders of the Company, other than ratably to all shareholders of the Company) that carry severe redemption provisions, favorable purchase provisions or otherwise, and any related rights agreement, including for the avoidance of doubt the Rights Agreement, dated as of November 7, 2022, between the Company and Equiniti Trust Company, as Rights Agent, which shall be terminated effective within one (1) business day after the date of this Agreement. If the Company permits any person to acquire beneficial ownership above 15% under a Rights Plan, the Company shall also permit the Icahn Group to increase its beneficial ownership to an amount equal to such person.

## 2. **Additional Agreements.**

- (a) Unless the Company or the Board has breached any material provision of this Agreement and failed to cure such breach within five (5) business days following the receipt of written notice from the Icahn Group specifying any such breach, solely in connection with the 2023 Annual Meeting, each member of the Icahn Group shall (1) cause, in the case of all Voting Securities owned of record, and (2) instruct and cause the record owner, in the case of all shares of Voting Securities beneficially owned but not owned of record, directly or indirectly, by it, or by any Icahn Affiliate, in each case as of the record date of the 2023 Annual Meeting or as



to which the member of the Icahn Group otherwise has the power to vote or direct the vote, in each case that are entitled to vote at the 2023 Annual Meeting, to be present for quorum purposes and to be voted, at the 2023 Annual Meeting or at any adjournment or postponement thereof, (A) for each nominee on the 2023 Crown Slate, (B) against any nominees that are not nominated by the Board for election at the 2023 Annual Meeting, (C) against any shareholder proposal to increase the size of the Board or any other shareholder proposal (including any submitted pursuant to Rule 14a-8 under the Securities Exchange Act of 1934) which the Board recommends Company shareholders vote against and (D) in favor of the ratification of the Company's auditors. Except as provided in the foregoing sentence and in **Section 2(b)**, the Icahn Group shall not be restricted from voting "For", "Against" or "Abstaining" from any other proposals at the 2023 Annual Meeting.

- (b) Unless the Company or the Board has breached any material provision of this Agreement and failed to cure such breach within five (5) business days following the receipt of written notice from the Icahn Group specifying any such breach, that for any annual meeting of shareholders subsequent to the 2023 Annual Meeting, if the Board has agreed to nominate the Icahn Designees then serving on the Board for election at such annual meeting and the Icahn Designees have consented to be nominated at such annual meeting, each member of the Icahn Group shall (1) cause, in the case of all Voting Securities owned of record, and (2) instruct and cause the record owner, in the case of all shares of Voting Securities beneficially owned but not owned of record, directly or indirectly, by it, or by any Icahn Affiliate, in each case as of the record date of the applicable annual meeting or as to which the member of the Icahn Group otherwise has the power to vote or direct the vote, in each case that are entitled to vote at such annual meeting, to be present for quorum purposes and to be voted at such annual meeting or at any adjournment or postponement thereof, (A) for each director nominated by the Board for election at such annual meeting, (B) against any (i) shareholder proposal to increase the size of the Board or any other shareholder proposal (including any submitted pursuant to Rule 14a-8 under the Securities Exchange Act of 1934) which the Board recommends Company shareholders vote against and (ii) nominees that are not nominated by the Board for election at such annual meeting, and (C) in favor of the ratification of the Company's auditors. Except as provided in the foregoing sentence, the Icahn Group shall not be restricted from voting "For", "Against" or "Abstaining" from any other proposals at any such annual meeting following the 2023 Annual Meeting.
- (c) Unless the Company or the Board has breached any material provision of this Agreement and failed to cure such breach within five (5) business days following the receipt of written notice from the Icahn Group specifying any such breach, that for any special meeting of shareholders, then so long as (x) any Icahn Designee (or Replacement Designee) is a member of the Board at the time of such special meeting or (y) the Icahn Group has the right to designate a Replacement Designee at such time (including at such special meeting), each member of the Icahn Group shall (1) cause, in the case of all Voting Securities owned of record, and (2) instruct and cause the record owner, in the case of all shares of Voting Securities

beneficially owned but not owned of record, directly or indirectly, by it, or by any Icahn Affiliate, in each case as of the record date of the applicable special meeting or as to which the member of the Icahn Group otherwise has the power to vote or direct the vote, in each case that are entitled to vote at such special meeting, to be present for quorum purposes and to be voted at such special meeting or at any adjournment or postponement thereof, (A) for each director nominated or supported by the Board for election at such special meeting, and (B) against any (i) proposal to remove directors or increase the size of the Board or any other shareholder proposal (including any submitted pursuant to Rule 14a-8 under the Securities Exchange Act of 1934) which the Board recommends Company shareholders vote against and (ii) nominees that are not nominated by the Board for election at such special meeting. Except as provided in the foregoing sentence, the Icahn Group shall not be restricted from voting “For”, “Against” or “Abstaining” from any other proposals at any such special meeting.

- (d) If the Icahn Group obtains (as a result of buybacks or repurchases by or on behalf of the Company, purchases by any member of the Icahn Group or otherwise) beneficial ownership in excess of 10% of the outstanding Voting Securities (the “**Excess Voting Rights**”), and for so long as the Icahn Group continues to (i) have the right to exercise such Excess Voting Rights and (ii) beneficially owns more than 10% of the outstanding Voting Securities, each member of the Icahn Group shall (A) on each and every matter that is submitted to the shareholders of the Company for their vote and with respect to which the Excess Voting Rights may be voted by such member of the Icahn Group (other than as set forth in **Sections 2(a), 2(b) and 2(c)**), except for the last sentence of each section, so long as such provisions are in effect), exercise such Excess Voting Rights in the same proportion in which all other Voting Securities voted on such matter are voted (without taking into consideration, in determining such proportions, (x) any Voting Securities that are not voted or with respect to which a “nonvote” or abstention is exercised or registered and (y) any Voting Securities that are voted by any member of the Icahn Group on such matter), and (B) take reasonable steps to cooperate with the Company in order to exercise such Excess Voting Rights in the manner contemplated by this **Section 2(d)**. For the avoidance of doubt, each member of the Icahn Group shall (x) exercise its voting rights with respect to beneficial ownership up to 10% of the outstanding Voting Securities in accordance with the provisions of **Sections 2(a), 2(b) and 2(c)** and (y) exercise its Excess Voting Rights in accordance with the provisions of **Sections 2(a), 2(b) and 2(c)**, except for the last sentence of each section, in the case of each of clause (x) and (y), so long as such provisions are in effect.
- (e) As used in this Agreement, the term “**Voting Securities**” shall mean the Common Shares that such person has the right to vote or has the right to direct the vote. For purposes of this **Section 2**, no person shall be, or be deemed to be, the “beneficial owner” of, or to “beneficially own,” any securities beneficially owned by any director of the Company to the extent such securities were acquired directly from the Company by such director as or pursuant to director compensation for serving as a director of the Company. For purposes of this Agreement, (x) the term

“**Affiliate**” shall have the meaning set forth in Rule 12b-2 promulgated by the SEC under the Exchange Act, and the term “**Icahn Affiliate**” shall mean such Affiliates that are controlled by the members of the Icahn Group, and (y) the term “**Associate**” shall mean (A) any trust or other estate in which such person has a substantial beneficial interest or as to which such person serves as trustee or in a similar fiduciary capacity, and (B) any relative or spouse of such person, or any relative of such spouse, who has the same home as such person or who is a director or officer of such person or of any of its parents or subsidiaries.

### 3. **Icahn Group Restrictions.**

- (a) From and after the date hereof, until the later of (x) thirty (30) days before the nomination deadline for shareholders to nominate candidates for the annual meeting following the 2023 Annual Meeting and (y) thirty (30) days after such date as no Icahn Designee is on the Board and the Icahn Group has no right to designate a Replacement Designee (including if the Icahn Group has irrevocably waived such right in writing) (the “**Standstill Period**”), so long as the Company has not breached any material provision of this Agreement and failed to cure such breach within five (5) business days following the receipt of written notice from the Icahn Group specifying any such breach, no member of the Icahn Group shall, directly or indirectly, and each member of the Icahn Group shall cause each of the Icahn Affiliates and Associates not to, directly or indirectly:
- (i) acquire, offer or propose to acquire any Voting Securities (or beneficial ownership thereof), rights or options to acquire any Voting Securities (or beneficial ownership thereof) or Synthetic Positions of the Company if after any such case, immediately after the taking of such action the Icahn Group, together with its respective Icahn Affiliates, would in the aggregate, have beneficial ownership or economic exposure (including through Synthetic Positions) of more than 15% of the then outstanding Common Shares; provided that, for purposes of this Section 3(a)(i), no Person shall be, or be deemed to be, the “beneficial owner” of, or to “beneficially own,” any securities beneficially owned by any director of the Company to the extent such securities were acquired directly from the Company by such director as or pursuant to director compensation for serving as a director of the Company;
  - (ii) except with respect to the signatories (all of whom are a member of the Icahn Group and a party to this Agreement) to the Icahn Group’s Schedule 13D filed with the SEC on November 3, 2022 (the “**Icahn Schedule 13D**”), form or join in a partnership, limited partnership, syndicate or a “group” as defined under Section 13(d) of the Exchange Act, with respect to the securities of the Company; provided that the Icahn Schedule 13D shall not be amended to add additional members to the Icahn Group other than persons that are wholly-owned by an existing member of the Icahn Group;

- (iii) present (or request to present) at any annual meeting or any special meeting of the Company's shareholders, any proposal for consideration for action by shareholders or engage in any solicitation of proxies or consents or become a "participant" in a "solicitation" (as such terms are defined in Regulation 14A under the Exchange Act) of proxies or consents (including any solicitation of consents that seeks to call a special meeting of shareholders) or, except as provided in this Agreement, otherwise publicly propose (or publicly request to propose) any nominee for election to the Board or seek representation on the Board or the removal of any member of the Board;
- (iv) grant any proxy, consent or other authority to vote with respect to any matters (other than to the named proxies included in the Company's proxy card for any annual meeting or special meeting of shareholders) or deposit any Voting Securities in a voting trust or subject them to a voting agreement or other arrangement of similar effect (excluding customary brokerage accounts, margin accounts, prime brokerage accounts and the like), in each case, except as provided in **Section 2(a)** or **Section 2(b)**;
- (v) call or seek to call any special meeting of the Company or action by consent resolutions or make any request under Section 1508 of the Pennsylvania Business Corporation Law or other applicable legal provisions regarding inspection of books and records or other materials (including stocklist materials) of the Company or any of its subsidiaries;
- (vi) institute, solicit, assist or join, as a party, any litigation, arbitration or other proceeding against or involving the Company;
- (vii) separately or in conjunction with any other person in which it is or proposes to be either a principal, partner or financing source or is acting or proposes to act as broker or agent for compensation, submit a proposal for or offer of (with or without conditions), any Extraordinary Transaction (as defined below); provided that the Icahn Group shall be permitted to sell or tender their Common Shares, and otherwise receive consideration, pursuant to any Extraordinary Transaction; and provided further that (A) if a third party (other than the Icahn Group or an Icahn Affiliate) commences a tender offer or exchange offer for all of the outstanding Common Shares that is not rejected by the Board in its Recommendation Statement on Schedule 14D-9, then the Icahn Group shall similarly be permitted to make an offer for the Company or commence a tender offer or exchange offer for all of the outstanding Common Shares at a higher consideration per share, provided that the foregoing (x) will not relieve the Icahn Group of its obligations under the Confidentiality Agreement and (y) will not be deemed to require the Company to make any public disclosures and (B) the Company may waive the restrictions in this Section 3(a)(vii) with the approval of the Board. "Extraordinary Transaction" means, collectively, any of the following involving the Company or any of its subsidiaries or its or their securities or all or substantially all of the assets or businesses of the Company and its subsidiaries: any tender offer or exchange offer, merger, acquisition, business combination, reorganization, restructuring, recapitalization, sale or acquisition of material assets, or liquidation or dissolution;

- (viii) seek, or encourage any person, to submit nominations in furtherance of a “contested solicitation” for the election or removal of directors with respect to the Company or, except as expressly provided in this Agreement, seek, encourage or take any other action with respect to the election or removal of any directors;
  - (ix) make any public communication in opposition to (A) any merger, acquisition, amalgamation, recapitalization, restructuring, disposition, distribution, spin-off, asset sale, joint venture or other business combination or (B) any financing transaction, in each case involving the Company;
  - (x) seek to advise, encourage, support or influence any person with respect to the voting or disposition of any securities of the Company at any annual meeting or special meeting of shareholders, except in accordance with **Section 2(a)** or **Section 2(b)** or **Section 2(c)**;
  - (xi) make any public proposal or request with respect to (A) controlling, changing or influencing the Board or management of the Company, including plans or proposals relating to any change in the number or term of directors or the filling of any vacancies on the Board, (B) any material change in the capitalization, stock repurchase programs and practices, capital allocation programs and practices or dividend policy of the Company, (C) any other material change in the Company’s management, business or corporate or governance structure or (D) any waiver, amendment or modification to the Company’s Articles of Incorporation or Bylaws, operations, business, corporate strategy, corporate structure, capital structure or allocation, share repurchase or dividend policies or other policy (it being understood that this clause (xi) shall not restrict private discussions with the Board regarding such matters that would not require the Company or any member of the Icahn Group to make any public disclosure);
  - (xii) publicly disclose any intention, plan or arrangement inconsistent with any provision of this Section 3; or
  - (xiii) encourage or support any other person to take any of the actions described in this Section 3 that the Icahn Group is restricted from doing.
- (b) Subject to applicable law, from the date of this Agreement until the end of the Standstill Period, (i) so long as the Company has not breached any material provision of this Agreement and failed to cure such breach within five (5) business days following the receipt of written notice from the Icahn Group specifying any

such breach, neither a member of the Icahn Group nor any of the Icahn Affiliates or Associates (including such persons' officers, directors and persons holding substantially similar positions however titled) shall make, or cause to be made, by press release or similar public statement, including to the press or media (including social media), or in an SEC or other public filing, any statement or announcement that disparages (as distinct from objective statements reflecting business criticism that do not address employees, officers or directors individually or as a group) the Company or the Company's respective current or former officers or directors and (ii) so long as the Icahn Group has not breached any material provision of this Agreement and failed to cure such breach within five (5) business days following the receipt of written notice from the Company specifying any such breach, neither the Company nor any of its Affiliates or Associates (including such persons' officers, directors and persons holding substantially similar positions however titled) shall make, or cause to be made, by press release or similar public statement, including to the press or media (including social media), or in an SEC or other public filing, any statement or announcement that disparages (as distinct from objective statements reflecting business criticism that do not address employees, officers or directors individually or as a group) any member of the Icahn Group or Icahn Affiliates or any of their respective current or former officers or directors.

- (c) The Icahn Group shall not enter into any agreement with, or compensate, any of the Icahn Designees with respect to his or her role or service (including voting) as a director of the Company.
4. **Public Announcements.** Unless otherwise agreed, no earlier than 6:30 a.m., New York City time, on the first trading day after the date of this Agreement, the Company shall announce the execution of this Agreement by means of a press release in the form attached to this Agreement as **Exhibit B** (the "**Press Release**"). The Company acknowledges that the Icahn Group intends to file this Agreement and the Press Release (if any) as an exhibit to an amendment to the Icahn Schedule 13D. The Icahn Group will file such amendment to the Icahn Schedule 13D with the SEC on the same trading day that the Company issues the Press Release. The Icahn Group has provided a complete and correct copy of such amendment to the Icahn Schedule 13D to the Company prior to the execution of this Agreement. The Icahn Group will not issue a separate press release. The Icahn Group shall have an opportunity to review in advance the Form 8-K filing to be made by the Company with respect to this Agreement. During the Standstill Period, the Company shall have an opportunity to review in advance any other amendment to Icahn Schedule 13D to be filed with the SEC by the Icahn Group on or after the date of this Agreement.
5. **Confidentiality Agreement.** The Company hereby agrees that: (a) the Icahn Designees are permitted to and may provide confidential information subject to and in accordance with the terms of the confidentiality agreement in the form attached to this Agreement as **Exhibit C** (the "**Confidentiality Agreement**") (which the Icahn Group agrees to execute and deliver to the Company and cause the Icahn Designees (and any Replacement Designees) to abide by) and (b) the Company will execute and deliver the Confidentiality

Agreement to the Icahn Group substantially contemporaneously with execution and delivery thereof by the other signatories thereto. At any time an Icahn Designee is a member of the Board, the Board shall not adopt a policy precluding members of the Board from speaking to Mr. Carl C. Icahn, and the Company confirms that it will advise members of the Board, including the Icahn Designees, that they may, but are not obligated to, speak to Mr. Carl C. Icahn (but subject to the Confidentiality Agreement), if they are willing to do so and subject to their fiduciary duties and Company Policies (but may caution them regarding specific matters, if any, that involve conflicts between the Company and the Icahn Group).

6. **Representations and Warranties of All Parties.** Each of the parties represents and warrants to the other party that: (a) such party has all requisite company power and authority to execute and deliver this Agreement and to perform its obligations hereunder; (b) this Agreement has been duly and validly authorized, executed and delivered by it and is a valid and binding obligation of such party, enforceable against such party in accordance with its terms; and (c) this Agreement will not result in a violation of any terms or conditions of any agreements to which such person is a party or by which such party may otherwise be bound or of any law, rule, license, regulation, judgment, order or decree governing or affecting such party.
7. **Representations and Warranties of Icahn Group.** Each member of the Icahn Group jointly represents and warrants that, as of the date of this Agreement, (a) the Icahn Group collectively beneficially own, an aggregate of 10,201,273 Common Shares, (b) except as set forth in the preceding clause (a), no member of the Icahn Group, individually or in the aggregate with any Icahn Affiliate, has any other beneficial ownership of, or economic exposure (including through Synthetic Positions) to, any Common Shares, nor does it currently have or have any right to acquire any interest in any other securities of the Company (or any rights, options or other securities convertible into or exercisable or exchangeable (whether or not convertible, exercisable or exchangeable immediately or only after the passage of time or the occurrence of a specified event) for such securities or any obligations measured by the price or value of any securities of the Company or any of its controlled Affiliates, including any swaps or other derivative arrangements designed to produce economic benefits and risks that correspond to the ownership of Common Shares, whether or not any of the foregoing would give rise to beneficial ownership (as determined under Rule 13d-3 promulgated under the Exchange Act), and whether or not to be settled by delivery of Common Shares, payment of cash or by other consideration, and without regard to any short position under any such contract or arrangement), and (c) no member of the Icahn Group has any knowledge of any other shareholder of the Company that intends to submit a notice to the Company to nominate directors at or bring other business before the 2023 Annual Meeting.
8. **Representations and Warranties and Covenants of the Company.** The Company represents and warrants, that as of the date of this Agreement, (a) none of the Company, the Board nor their respective advisors are engaged in discussions to grant board representation or board designation rights to any other shareholder of the Company, except for the Icahn Group, and (b) the Company will establish as the record date for the 2023 Annual Meeting a date within 30 days before or after the date that is the one-year

anniversary of the record date for the 2022 Annual Meeting (i.e., within 30 days before or 30 days after March 8, 2023). Once the record date for the 2023 Annual Meeting has been established and disclosed by the Board, except to the extent required by law, any court of competent jurisdiction, or any governmental or regulatory body, including the Securities and Exchange Commission or the rules or regulations of the New York Stock Exchange, without the written consent of the Icahn Group (which shall not be unreasonably withheld, conditioned or delayed), the Company shall not change the record date for the 2023 Annual Meeting. Further, the Company agrees that if the Company enters into an agreement, arrangement or understanding, or otherwise grants any rights, to any other shareholder of the Company to avoid a proxy or similar contest with such shareholder at the 2023 Annual Meeting, then to the extent such agreement, arrangement or understanding grants any right or rights that are more favorable than those set forth in this Agreement, the Company agrees it shall offer the same such rights to the Icahn Group.

- 9. Limitations on Sale.** No member of the Icahn Group shall execute or offer to execute a block sale (or series of related block sales) that aggregate to 10% or more of the outstanding Common Shares (or any voting rights decoupled from such shares) to any person or “group” (as defined under Section 13(d) of the Exchange Act) unless (a) such person or group has not filed a Schedule 13D with the SEC in respect of its ownership of securities of the Company and does not have an ownership interest of 5% or more of the Company’s outstanding Common Shares (except for Schedule 13G filers that are mutual funds, pension funds or index funds with no known history of activism) and (b) such member of the Icahn Group reasonably believes that such person or group would not, as a result of the acquisition of such securities, be required to file a Schedule 13D in respect of its ownership of securities of the Company or obtain an ownership interest of 5% or more of the Company’s outstanding Common Shares (except for Schedule 13G filers that are mutual funds, pension funds or index funds with no known history of activism).
- 10. Miscellaneous.** Following the appointment of the Icahn Designees to the Board pursuant to **Section 1(a)(i)**, this Agreement shall thereafter terminate and be of no further force or effect upon the termination of the Standstill Period (other than **Sections 2(d)** and **9** which shall survive termination of this Agreement). The parties hereto recognize and agree that if for any reason any of the provisions of this Agreement are not performed in accordance with their specific terms or are otherwise breached, immediate and irreparable harm or injury would be caused for which money damages would not be an adequate remedy. Accordingly, each party agrees that in addition to other remedies the other party shall be entitled to at law or equity, the other party shall be entitled to an injunction or injunctions to prevent breaches of this Agreement and to enforce specifically the terms and provisions of this Agreement exclusively in the state courts of the Commonwealth of Pennsylvania in and for Bucks County or the federal courts of the Eastern District of Pennsylvania. In the event that any action shall be brought in equity to enforce the provisions of this Agreement, no party shall allege, and each party hereby waives the defense, that there is an adequate remedy at law. Furthermore, each of the parties hereto (i) consents to submit itself to the personal jurisdiction of the state courts of the Commonwealth of Pennsylvania in and for Bucks County or the federal courts of the Eastern District of Pennsylvania in the event any dispute arises out of this Agreement or the transactions contemplated by this Agreement, (ii) agrees that it shall not attempt to deny or defeat such personal jurisdiction by



motion or other request for leave from any such court, (iii) agrees that it shall not bring any action relating to this Agreement or the transactions contemplated by this Agreement in any court other than the state courts of the Commonwealth of Pennsylvania in and for Bucks County or the federal courts of the Eastern District of Pennsylvania, and each of the parties irrevocably waives the right to trial by jury, (iv) agrees to waive any bonding requirement under any applicable law, in the case any other party seeks to enforce the terms by way of equitable relief, and (v) irrevocably consents to service of process by a reputable overnight mail delivery service, signature requested, to the address of such party's principal place of business or as otherwise provided by applicable law. THIS AGREEMENT SHALL BE GOVERNED IN ALL RESPECTS, INCLUDING VALIDITY, INTERPRETATION AND EFFECT, BY THE LAWS OF THE COMMONWEALTH OF PENNSYLVANIA APPLICABLE TO CONTRACTS EXECUTED AND TO BE PERFORMED WHOLLY WITHIN SUCH STATE WITHOUT GIVING EFFECT TO THE CHOICE OF LAW PRINCIPLES OF SUCH STATE.

11. **No Waiver.** Any waiver by any party of a breach of any provision of this Agreement shall not operate as or be construed to be a waiver of any other breach of such provision or of any breach of any other provision of this Agreement. The failure of a party to insist upon strict adherence to any term of this Agreement on one or more occasions shall not be considered a waiver or deprive that party of the right thereafter to insist upon strict adherence to that term or any other term of this Agreement.
12. **Entire Agreement.** This Agreement and the Confidentiality Agreement contain the entire understanding of the parties with respect to the subject matter hereof and may be amended only by an agreement in writing executed by the parties hereto.
13. **Notices.** All notices, consents, requests, instructions, approvals and other communications provided for herein and all legal process in regard hereto shall be in writing and shall be deemed validly given, made or served, if (a) given by email, when such email is transmitted to the email address set forth below (provided no "bounce back" or similar message of non-delivery is received with respect thereto; provided further that notice given by email shall not be effective until either (i) the receiving party's receipt of a duplicate copy of such email notice by one of the other methods described in this **Section 13** or (ii) the receiving party delivers a written confirmation of receipt of such notice by email or any other method described in this **Section 13**), (b) delivered by hand to the address specified in this **Section 13**, when actually received by hand providing proof of delivery, or (c) on the next Business Day if transmitted by national overnight courier (with confirmation of delivery) to the address specified in this **Section 13**:

if to the Company:

Crown Holdings, Inc.  
770 Township Line Road  
Yardley, PA 19067  
Attention: Adam J. Dickstein, Senior Vice President,  
General Counsel and Secretary  
Email: Adam.Dickstein@crowncork.com

With copies to (which shall not constitute notice):

Dechert LLP  
2929 Arch Street  
Philadelphia, PA 19104  
Attention: Ian A. Hartman  
Michael S. Darby  
Email: ian.hartman@dechert.com  
michael.darby@dechert.com

if to the Icahn Group:

Icahn Capital LP  
16690 Collins Avenue, PH-1  
Sunny Isles Beach, FL 33160  
Attention: Jesse Lynn, Chief Operating Officer  
Email: jlynn@sfire.com

14. **Severability.** If at any time subsequent to the date of this Agreement, any provision of this Agreement shall be held by any court of competent jurisdiction to be illegal, void or unenforceable, such provision shall be of no force and effect, but the illegality or unenforceability of such provision shall have no effect upon the legality or enforceability of any other provision of this Agreement.
15. **Counterparts.** This Agreement may be executed (including by PDF) in two or more counterparts which together shall constitute a single agreement.
16. **Successors and Assigns.** This Agreement shall not be assignable by any of the parties to this Agreement. This Agreement, however, shall be binding on successors of the parties hereto.
17. **No Third Party Beneficiaries.** This Agreement is solely for the benefit of the parties hereto and is not enforceable by any other persons.
18. **Fees and Expenses.** Neither the Company, on the one hand, nor the Icahn Group, on the other hand, will be responsible for any fees or expenses of the other in connection with this Agreement.
19. **Interpretation and Construction.** Each of the parties hereto acknowledges that it has been represented by counsel of its choice throughout all negotiations that have preceded the execution of this Agreement, and that it has executed the same with the advice of said independent counsel. Each party and its counsel cooperated and participated in the drafting and preparation of this Agreement and the documents referred to herein, and any and all drafts relating thereto exchanged among the parties shall be deemed the work product of all of the parties and may not be construed against any party by reason of its drafting or preparation. Accordingly, any rule of law or any legal decision that would require interpretation of any ambiguities in this Agreement against any party that drafted or prepared it is of no application and is hereby expressly waived by each

of the parties hereto, and any controversy over interpretations of this Agreement shall be decided without regards to events of drafting or preparation. The section headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement. Unless context otherwise requires, references herein to Exhibits, Sections or Schedules mean the Exhibits, Sections or Schedules attached to this Agreement. The term “including” shall be deemed to mean “including without limitation” in all instances. In all instances, the term “or” shall not be deemed to be exclusive. As used in this Agreement, the term “**Synthetic Position**” shall mean any option, warrant, convertible security, stock appreciation right, or other security, contract right or derivative position or similar right (including any “swap” transaction with respect to any security, other than a broad based market basket or index), whether or not presently exercisable, that has an exercise or conversion privilege or a settlement payment or mechanism at a price related to the value of any equity securities of the Company or a value determined in whole or in part with reference to, or derived in whole or in part from, the value of any equity securities of the Company and that increases in value as the market price or value of any such securities increases or that provides an opportunity, directly or indirectly, to profit or share in any profit derived from any increase in the value of any such securities, in each case regardless of whether (i) it conveys any voting rights in such securities to any Person, (ii) it is required to be or capable of being settled, in whole or in part, in cash or in equity securities of the Company or otherwise or (iii) any Person (including the holder of such Synthetic Position) may have entered into other transactions that hedge its economic effect.

[Signature Pages Follow]

**IN WITNESS WHEREOF**, each of the parties hereto has executed this Agreement, or caused the same to be executed by its duly authorized representative as of the date first above written.

**CROWN HOLDINGS, INC.**

By: /s/ Kevin C. Clothier  
Name: Kevin C. Clothier  
Title: Senior Vice President and Chief Financial Officer

[Signature Page to Director Appointment and Nomination Agreement between Crown Holdings, Inc. and the Icahn Group]

**ICAHN GROUP**

CARL C. ICAHN

/s/ Carl C. Icahn

Carl C. Icahn

JESSE LYNN

/s/ Jesse Lynn

Jesse Lynn

ANDREW TENO

/s/ Andrew Teno

Andrew Teno

ICAHN PARTNERS LP

By: /s/ Jesse Lynn

Name: Jesse Lynn

Title: Chief Operating Officer

ICAHN PARTNERS MASTER FUND LP

By: /s/ Jesse Lynn

Name: Jesse Lynn

Title: Chief Operating Officer

ICAHN ENTERPRISES G.P. INC.

By: /s/ Ted Papapostolou

Name: Ted Papapostolou

Title: Chief Financial Officer

[Signature Page to Director Appointment and Nomination Agreement between Crown Holdings, Inc. and the Icahn Group]

ICAHN ENTERPRISES HOLDINGS L.P.

By: Icahn Enterprises G.P. Inc., its general partner

By: /s/ Ted Papapostolou

Name: Ted Papapostolou

Title: Chief Financial Officer

IPH GP LLC

By: /s/ Jesse Lynn

Name: Jesse Lynn

Title: Chief Operating Officer

ICAHN CAPITAL LP

By: /s/ Jesse Lynn

Name: Jesse Lynn

Title: Chief Operating Officer

ICAHN ONSHORE LP

By: /s/ Jesse Lynn

Name: Jesse Lynn

Title: Chief Operating Officer

ICAHN OFFSHORE LP

By: /s/ Jesse Lynn

Name: Jesse Lynn

Title: Chief Operating Officer

BECKTON CORP

By: /s/ Jesse Lynn

Name: Jesse Lynn

Title: Vice President

[Signature Page to Director Appointment and Nomination Agreement between Crown Holdings, Inc. and the Icahn Group]

By: /s/ Jesse Lynn

Name: Jesse Lynn

Title: Chief Operating Officer

[Signature Page to Director Appointment and Nomination Agreement between Crown Holdings, Inc. and the Icahn Group]

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**SCHEDULE A**

Beckton Corp.

Icahn Capital LP

Icahn Enterprises Holdings L.P.

Icahn Enterprises G.P. Inc.

Icahn Offshore LP

Icahn Onshore LP

Icahn Partners LP

Icahn Partners Master Fund LP

IPH GP LLC

Matsumura Fishworks LLC

Carl C. Icahn

Jesse Lynn



EXHIBIT A

[FORM OF RESIGNATION]

December 12, 2022

Board of Directors  
Crown Holdings, Inc.  
770 Township Line Road  
Yardley, PA 19067

Re: Resignation

Ladies and Gentlemen:

This irrevocable resignation is delivered pursuant to that certain Director Appointment and Nomination Agreement, dated as of December 12, 2022 (the "Agreement") among Crown Holdings, Inc. and the Icahn Group. Capitalized terms used herein but not defined shall have the meaning set forth in the Agreement.

Pursuant to Section 1(c) of the Agreement, effective only upon, and subject to, such time as the Icahn Group (together with the Icahn Affiliates) ceases collectively to beneficially own (as defined in Rule 13d-3 (as in effect from time to time) promulgated by the SEC under the Exchange Act) an aggregate Net Long Position in at least 7,196,865 Common Shares, I hereby irrevocably resign from my position as a director of the Company and from any and all committees of the Board on which I serve; *provided, however*, that if this resignation is tendered pursuant to Section 1(c) of the Agreement, this resignation shall not be effective if any other resignation of an Icahn Designee is tendered and accepted pursuant to Section 1(c) of the Agreement (and the Icahn Group shall determine in its sole discretion which resignation of the Icahn Designees shall be effective) unless and until the Icahn Group (together with the Icahn Affiliates) ceases collectively to beneficially own (as defined in Rule 13d-3 (as in effect from time to time) promulgated by the SEC under the Exchange Act) an aggregate Net Long Position in at least 3,598,432 Common Shares.

Sincerely,

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Name:

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**EXHIBIT B**

[PRESS RELEASE]

B-1

## **Crown Holdings Appoints Two New Independent Directors to Board**

*Enters Into Cooperation Agreement with Icahn Enterprises*

*Icahn to Support All Crown Nominees for Election at 2023 Annual Meeting*

YARDLEY, Pa., Dec. 13, 2022 – Crown Holdings, Inc. (NYSE: CCK) (“Crown” or the “Company”) today announced that it has entered into an agreement with Icahn Enterprises L.P., whereby Jesse Lynn and Andrew Teno, General Counsel of Icahn Enterprises and Portfolio Manager of Icahn Capital, respectively, will join the Company’s Board of Directors, effective immediately. Mr. Lynn and Mr. Teno will also stand for election at the Company’s upcoming 2023 Annual Meeting of Shareholders (“2023 AGM”), and Crown has agreed to include Mr. Teno and Mr. Lynn on its recommended slate of nominees for election at the Company’s 2023 AGM.

With the additions of Mr. Lynn and Mr. Teno, the Crown Board will expand to 13 directors, 12 of whom are independent. Since 2019, the Company has refreshed over half the Board and added eight new independent directors, including the appointments announced today.

Timothy J. Donahue, Chairman, President and Chief Executive Officer said, “We have valued the constructive dialogue we have had with the Icahn team over the last several weeks. We welcome Jesse and Andrew to the Board and look forward to working together to deliver enhanced value for Crown shareholders.”

“We have appreciated Crown’s constructive engagement, and we welcome the opportunity to work closely with the Company to deliver value to shareholders,” said Carl Icahn, Chairman of the Board of Directors of Icahn Enterprises.

Pursuant to the Director Appointment and Nomination Agreement, Icahn Enterprises, which owns 8.5% percent of Crown’s outstanding common stock, has agreed to customary standstill, voting commitments and other provisions. The Director Appointment and Nomination Agreement between the Company and Icahn Enterprises will be filed on a Form 8-K to be filed with the Securities and Exchange Commission.

Evercore is serving as Crown’s financial advisor and Dechert LLP is serving as legal counsel.

### **About Jesse Lynn**

Jesse A. Lynn has been general counsel of Icahn Enterprises L.P., a diversified holding company engaged in a variety of businesses, including investment, energy, automotive, food packaging, real estate, home fashion and pharma, since 2014. From 2004 to 2014, Mr. Lynn was Assistant General Counsel of Icahn Enterprises. Mr. Lynn has been a director of Xerox, a leader in office and production print technology, since November 2021; FirstEnergy, an electric utility company with one of the nation’s largest investor-owned electric systems, since March 2021; and Conduent Incorporated, a provider of business process outsourcing services, since April 2019. Mr. Lynn was previously a director of Cloudera, Inc., a company that provides a software platform for data engineering, data warehousing, machine learning and analytics, from August 2019 to October 2021;

Herbalife Nutrition Ltd., a nutrition company, from 2014 to January 2021; and The Manitowoc Company, Inc., a capital goods manufacturer, from April 2015 to February 2018. Prior to joining Icahn, Mr. Lynn worked as an associate in the New York office of Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C. in its business and finance department from 2000 until 2004. From 1996 until 2000, Mr. Lynn was an associate in the corporate group at Gordon Altman Butowsky Weitzen Shalov & Wein. Mr. Lynn received a Bachelor of Arts degree from the University of Michigan and a Juris Doctor from the Boston University School of Law.

#### **About Andrew Teno**

Andrew Teno has been a portfolio manager of Icahn Capital LP, the investment management subsidiary of Icahn Enterprises L.P., since October 2020. Mr. Teno has been a director of Southwest Gas, a provider of natural gas and utility infrastructure services across North America, since May 2022; FirstEnergy, an electric utility company with one of the nation's largest investor-owned electric systems, since March 2021; and Herc Holdings Inc., an international provider of equipment rental and services, since February 2021. Mr. Teno was previously a director of Cheniere Energy, Inc., a developer of natural gas liquefaction and export facilities and related pipelines, from February 2021 to June 2022. Prior to joining Icahn, Mr. Teno worked at Fir Tree Partners, a New York-based private investment firm that invests worldwide in public and private companies, real estate and sovereign debt. Mr. Teno's focus was on value investing across capital structures, industries and geographies. During his time at Fir Tree, he also served on the Board of Directors of Eco-Stim Energy Solutions. Prior to Fir Tree, he worked at Crestview Partners from July 2009 to July 2011 as an associate in their Private Equity business. Prior to Crestview, Mr. Teno worked at Gleacher Partners, an M&A boutique, from July 2007 to July 2009. Mr. Teno received an undergraduate business degree from the Wharton School at the University of Pennsylvania in 2007.

#### **About Crown**

Crown Holdings, Inc., through its subsidiaries, is a leading global supplier of rigid packaging products to consumer marketing companies, as well as transit and protective packaging products, equipment and services to a broad range of end markets. World headquarters are located in Yardley, Pennsylvania. For more information, visit [www.crowncork.com](http://www.crowncork.com).

#### **Forward-Looking Statements**

Except for historical information, all other information in this press release consists of forward-looking statements. These forward-looking statements involve a number of risks, uncertainties and other factors, including risks and uncertainties relating to changes in market environment and the Company's operating position, the impact of board refreshment efforts, the plans and objectives of management, and potential increases in shareholder returns, that may cause actual results to be materially different from those expressed or implied in the forward-looking statements. Important factors that could cause the statements made in this press release or the actual results of operations or financial condition of the Company to differ are discussed under the caption "Forward Looking Statements" in the Company's Form 10-K Annual Report for the year ended December 31, 2021 and in subsequent filings made prior to or after the date hereof. The Company does not intend to review or revise any particular forward-looking statement in light of future events.

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**For more information, contact:**

Kevin C. Clothier, Senior Vice President and Chief Financial Officer, (215) 698-5281, or  
Thomas T. Fischer, Vice President, Investor Relations and Corporate Affairs, (215) 552-3720  
Nick Lamplough or Scott Bisang, Joele Frank, Wilkinson Brimmer Katcher, (212) 355-4449

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**EXHIBIT C**

[CONFIDENTIALITY AGREEMENT]

C-1

## CONFIDENTIALITY AGREEMENT

**CROWN HOLDINGS, INC.**

December 12, 2022

To: Each of the persons or entities listed on Schedule A (the "Icahn Group" or "you")

Ladies and Gentlemen:

This letter agreement shall become effective upon the appointment of any Icahn Designee to the Board of Directors (the "Board") of Crown Holdings, Inc. (the "Company"). Capitalized terms used but not otherwise defined herein shall have the meanings given to such terms in the Director Appointment and Nomination Agreement (the "Nomination Agreement"), dated as of December 12, 2022, among the Company and the Icahn Group. The Company understands and agrees that, subject to the terms of, and in accordance with, this letter agreement, an Icahn Designee may, if and to the extent he or she desires to do so, disclose non-privileged information he or she obtains while serving as a member of the Board to you and your Representatives (as hereinafter defined), and may discuss such information with any and all such persons, subject to the terms and conditions of this letter agreement, and that other members of the Board may similarly disclose information to you if they wish to do so, subject to the Company Policies and subject to their fiduciary duties. The Company may also furnish non-privileged information to you and your Representatives. As a result, you may receive certain non-public information regarding the Company. You acknowledge that this information is proprietary to the Company and may include trade secrets or other business information the disclosure of which could harm the Company. In consideration for, and as a condition of, the information being furnished to you and your agents, affiliates, representatives, attorneys, advisors, directors, officers or employees, subject to the restrictions in paragraph 2 (collectively, the "Representatives"), you agree to treat any and all information concerning or relating to the Company or any of its subsidiaries or current or former affiliates that is furnished to you or your Representatives (regardless of the manner in which it is furnished, including in written or electronic format or orally, gathered by visual inspection or otherwise) by any Icahn Designee, or by or on behalf of the Company or any Company Representative (as defined below), including discussions or matters considered in meetings of the Board or Board committees, together with any notes, analyses, reports, models, compilations, studies, interpretations, documents, records or extracts thereof containing, referring, relating to, based upon or derived from such information, in whole or in part (collectively, "Evaluation Material"), in accordance with the provisions of this letter agreement, and to take or abstain from taking the other actions hereinafter set forth.

1. The term "Evaluation Material" does not include information that (i) is or has become generally available to the public other than as a result of a direct or indirect disclosure by you or your Representatives in violation of this letter agreement or any other obligation of confidentiality, (ii) was within your or any of your Representatives' possession on a non-confidential basis prior to its being furnished to you by any Icahn Designee, or by or on behalf of the Company or its agents, representatives, attorneys, advisors, directors (other than the Icahn Designees), officers or employees (collectively, the "Company Representatives"), or (iii) is received from a source other than any Icahn Designee, the Company or any of

the Company Representatives; *provided*, that in the case of (ii) or (iii) above, the source of such information was not believed by you, after reasonable inquiry, to be bound by a confidentiality agreement with or other contractual, legal or fiduciary obligation of confidentiality to the Company or any other person with respect to such information at the time the information was disclosed to you.

2. You and your Representatives will, and you will cause your Representatives to, (a) keep the Evaluation Material strictly confidential and (b) not disclose any of the Evaluation Material in any manner whatsoever without the prior written consent of the Company; *provided, however*, that you may privately disclose any of such information: (A) to your Representatives (i) who need to know such information for the purpose of advising you on your investment in the Company and (ii) who are informed by you of the confidential nature of such information and agree to be bound by the terms of this letter agreement as if they were a party hereto; *provided, further*, that you will be responsible for any violation of this letter agreement by your Representatives as if they were parties to this letter agreement; and (B) to the Company and the Company Representatives. It is understood and agreed that no Icahn Designee (including any Replacement Designee) shall disclose to you or your Representatives any Legal Advice (as defined below) that may be included in the Evaluation Material with respect to which such disclosure would constitute waiver of the Company's attorney client privilege or attorney work product privilege. "Legal Advice" as used in this letter agreement shall be solely and exclusively limited to the advice provided by legal counsel and any discussions, deliberations or materials concerning such advice or which would otherwise be subject to legal privileges and protections and shall not include factual information or the formulation or analysis of business strategy solely to the extent that it is not protected by the attorney-client, attorney work product or other legal privilege.
3. In the event that you or any of your Representatives are required by applicable subpoena, legal process or other legal requirement to disclose any of the Evaluation Material, you will (a) promptly notify (except where such notice would be legally prohibited) the Company in writing by email, facsimile and certified mail so that the Company may seek a protective order or other appropriate remedy (and if the Company seeks such an order, you will provide such cooperation as the Company shall reasonably request), at its cost and expense and (b) produce or disclose only that portion of the Evaluation Material which your outside legal counsel of national standing advises you in writing is legally required to be so produced or disclosed and you inform the recipient of such Evaluation Material of the existence of this letter agreement and the confidential nature of such Evaluation Material. In no event will you or any of your Representatives oppose action by the Company to obtain a protective order or other relief to prevent the disclosure of the Evaluation Material or to obtain reliable assurance that confidential treatment will be afforded the Evaluation Material. For the avoidance of doubt, it is understood that there shall be no "legal requirement" requiring you to disclose any Evaluation Material solely by virtue of the fact that, absent such disclosure, you would be prohibited from purchasing, selling, or engaging in derivative or other voluntary transactions with respect to the Common Shares of the Company or otherwise proposing or making an offer to do any of the foregoing, or you would be unable to file any proxy or other solicitation materials in compliance with Section 14(a) of the Exchange Act or the rules promulgated thereunder.



4. You acknowledge that (a) none of the Company or any of the Company Representatives makes any representation or warranty, express or implied, as to the accuracy or completeness of any Evaluation Material, and (b) none of the Company or any of the Company Representatives shall have any liability to you or to any of your Representatives relating to or resulting from the use of the Evaluation Material or any errors therein or omissions therefrom. You and your Representatives (or anyone acting on your or their behalf) shall not directly or indirectly initiate contact or communication with any executive or employee of the Company (other than the Chairman of the Board, President and Chief Executive Officer, Chief Financial Officer, General Counsel, or such other persons approved in writing by the foregoing or the Board) concerning Evaluation Material, or to seek any information in connection therewith from any such person other than the foregoing, without the prior consent of the Company; provided, however, the restriction in this sentence shall not prevent any Icahn Designee acting in his capacity as a Board member from seeking Company information in the discharge of his or her fiduciary duties (nor shall it apply to any other Board members).
5. All Evaluation Material shall remain the property of the Company. Neither you nor any of your Representatives shall by virtue of any disclosure of or your use of any Evaluation Material acquire any rights with respect thereto, all of which rights (including all intellectual property rights) shall remain exclusively with the Company. At any time after the date on which no Icahn Designee is a director of the Company, upon the request of the Company for any reason, you will promptly return to the Company or destroy all hard copies of the Evaluation Material and use reasonable best efforts to permanently erase or delete all electronic copies of the Evaluation Material in your or any of your Representatives' possession or control (and, upon the request of the Company, shall promptly certify to the Company that such Evaluation Material has been erased or deleted, as the case may be). Notwithstanding the foregoing, the obligation to return or destroy Evaluation Material shall not cover information (i) that is maintained on routine computer system backup tapes, disks or other backup storage devices as long as such backed-up information is not used, disclosed, or otherwise recovered from such backup devices or (ii) retained on a confidential basis solely to the extent required to comply with applicable law and/or any internal record retention requirements; *provided* that such materials referenced in this sentence shall remain subject to the terms of this letter agreement applicable to Evaluation Material, and you and your Representatives will continue to be bound by the obligations contained herein for as long as any such materials are retained by you or your Representatives.
6. You acknowledge, and will advise your Representatives, that the Evaluation Material may constitute material non-public information under applicable federal or state securities laws, and you agree that you shall not, and you shall use reasonable best efforts to ensure that your Representatives do not, trade or engage in any derivative or other transaction in the Company Shares or any of the Company's other securities on the basis of such information in violation of such laws.

7. You hereby represent and warrant to the Company that (i) you have all requisite company power and authority to execute and deliver this letter agreement and to perform your obligations hereunder, (ii) this letter agreement has been duly authorized, executed and delivered by you, and is a valid and binding obligation, enforceable against you in accordance with its terms, (iii) this letter agreement will not result in a violation of any terms or conditions of any agreements to which you are a party or by which you may otherwise be bound or of any law, rule, license, regulation, judgment, order or decree governing or affecting you, and (iv) your entry into this letter agreement does not require approval by any owners or holders of any equity or other interest in you (except as has already been obtained).
8. Any waiver by the Company of a breach of any provision of this letter agreement shall not operate as or be construed to be a waiver of any other breach of such provision or of any breach of any other provision of this letter agreement. The failure of the Company to insist upon strict adherence to any term of this letter agreement on one or more occasions shall not be considered a waiver or deprive the Company of the right thereafter to insist upon strict adherence to that term or any other term of this letter agreement.
9. You acknowledge and agree that the value of the Evaluation Material to the Company is unique and substantial, but may be impractical or difficult to assess in monetary terms. You further acknowledge and agree that in the event of an actual or threatened violation of this letter agreement, immediate and irreparable harm or injury would be caused for which money damages would not be an adequate remedy. Accordingly, you acknowledge and agree that, in addition to any and all other remedies which may be available to the Company at law or equity, the Company shall be entitled to an injunction or injunctions to prevent breaches of this letter agreement and to enforce specifically the terms and provisions of this letter agreement exclusively in the state courts of the Commonwealth of Pennsylvania in and for Bucks County or the federal courts of the Eastern District of Pennsylvania. In the event that any action shall be brought in equity to enforce the provisions of this letter agreement, you shall not allege, and you hereby waive the defense, that there is an adequate remedy at law.
10. Each of the parties (a) consents to submit itself to the personal jurisdiction of the state courts of the Commonwealth of Pennsylvania in and for Bucks County or the federal courts of the Eastern District of Pennsylvania in the event any dispute arises out of this letter agreement or the transactions contemplated by this letter agreement, (b) agrees that it shall not attempt to deny or defeat such personal jurisdiction by motion or other request for leave from any such court, (c) agrees that it shall not bring any action relating to this letter agreement or the transactions contemplated by this letter agreement in any court other than the state courts of the Commonwealth of Pennsylvania in and for Bucks County or the federal courts of the Eastern District of Pennsylvania, and each of the parties irrevocably waives the right to trial by jury, (d) agrees to waive any bonding requirement under any applicable law, in the case any other party seeks to enforce the terms by way of equitable relief, and (e) irrevocably consents to service of process by a reputable overnight delivery service, signature requested, to the address of such party's principal place of business or as otherwise provided by applicable law. THIS LETTER AGREEMENT SHALL BE GOVERNED IN ALL RESPECTS, INCLUDING VALIDITY, INTERPRETATION AND EFFECT, BY THE LAWS OF THE COMMONWEALTH OF PENNSYLVANIA APPLICABLE TO CONTRACTS EXECUTED AND TO BE PERFORMED WHOLLY WITHIN SUCH STATE WITHOUT GIVING EFFECT TO THE CHOICE OF LAW PRINCIPLES OF SUCH STATE.

11. This letter agreement and the Nomination Agreement contain the entire understanding of the parties with respect to the subject matter hereof and thereof and supersedes all prior or contemporaneous agreements or understandings, whether written or oral. This letter agreement may be amended only by an agreement in writing executed by the parties hereto.
12. All notices, consents, requests, instructions, approvals and other communications provided for in this letter agreement and all legal process in regard to this letter agreement shall be in writing and shall be deemed validly given, made or served, if (a) given by email, when such email is transmitted to the email address set forth below (provided no "bounce back" or similar message of non-delivery is received with respect thereto; provided further that notice given by email shall not be effective until either (i) the receiving party's receipt of a duplicate copy of such email notice by one of the other methods described in this **Section 12** or (ii) the receiving party delivers a written confirmation of receipt of such notice by email or any other method described in this **Section 12**), (b) delivered by hand to the address specified in this **Section 12**, when actually received by hand providing proof of delivery, or (c) on the next Business Day if transmitted by national overnight courier (with confirmation of delivery) to the address specified in this **Section 12**:

if to the Company:

Crown Holdings, Inc.  
770 Township Line Road  
Yardley, PA 19067

Attention: Adam J. Dickstein, Senior Vice President,  
General Counsel and Secretary

Email: Adam.Dickstein@crowncork.com

With copies to (which shall not constitute notice):

Dechert LLP  
2929 Arch Street  
Philadelphia, PA 19104

Attention: Ian A. Hartman  
Michael S. Darby

Email: ian.hartman@dechert.com  
michael.darby@dechert.com

if to the Icahn Group:

Icahn Capital LP  
16690 Collins Avenue, PH-1  
Sunny Isles Beach, FL 33160

Attention: Jesse Lynn, Chief Operating Officer

Email: jlynn@sfire.com

13. If at any time subsequent to the date hereof, any provision of this letter agreement shall be held by any court of competent jurisdiction to be illegal, void or unenforceable, such provision shall be of no force and effect, but the illegality or unenforceability of such provision shall have no effect upon the legality or enforceability of any other provision of this letter agreement.
14. This letter agreement may be executed (including by PDF) in two or more counterparts which together shall constitute a single agreement.
15. This letter agreement and the rights and obligations herein may not be assigned or otherwise transferred, in whole or in part, by you without the express written consent of the Company. This letter agreement, however, shall be binding on successors of the parties to this letter agreement.
16. The Icahn Group shall cause any Replacement Designee appointed to the Board pursuant to the Nomination Agreement to execute a copy of this letter agreement.
17. This letter agreement shall expire three (3) years from the date on which no Icahn Designee remains a director of the Company; except that you shall maintain in accordance with the confidentiality obligations set forth herein any Evaluation Material constituting trade secrets for such longer time as such information constitutes a trade secret of the Company as defined under 18 U.S.C. § 1839(3) and (ii) retained pursuant to Section 5.
18. No licenses or rights under any patent, copyright, trademark, or trade secret are granted or are to be implied by this letter agreement.
19. Each of the parties acknowledges that it has been represented by counsel of its choice throughout all negotiations that have preceded the execution of this letter agreement, and that it has executed the same with the advice of said counsel. Each party and its counsel cooperated and participated in the drafting and preparation of this letter agreement and the documents referred to herein, and any and all drafts relating thereto exchanged among the parties shall be deemed the work product of all of the parties and may not be construed against any party by reason of its drafting or preparation. Accordingly, any rule of law or any legal decision that would require interpretation of any ambiguities in this letter agreement against any party that drafted or prepared it is of no application and is hereby expressly waived by each of the parties, and any controversy over interpretations of this letter agreement shall be decided without regards to events of drafting or preparation. The term “including” shall in all instances be deemed to mean “including without limitation.” In all instances, the term “or” shall not be deemed to be exclusive.

[Signature Pages Follow]

Please confirm your agreement with the foregoing by signing and returning one copy of this letter agreement to the undersigned, whereupon this letter agreement shall become a binding agreement between you and the Company.

Very truly yours,

CROWN HOLDINGS, INC.

By: \_\_\_\_\_

Name: Kevin C. Clothier

Title: Senior Vice President and Chief Financial Officer

Accepted and agreed as of the date first written above:

CARL C. ICAHN

\_\_\_\_\_  
Carl C. Icahn

JESSE LYNN

\_\_\_\_\_  
Jesse Lynn

ANDREW TENO

\_\_\_\_\_  
Andrew Teno

[Signature Page to Confidentiality Agreement between Crown Holdings, Inc. and the Icahn Group]

ICAHN PARTNERS LP

By: \_\_\_\_\_  
Name: Jesse Lynn  
Title: Chief Operating Officer

ICAHN PARTNERS MASTER FUND LP

By: \_\_\_\_\_  
Name: Jesse Lynn  
Title: Chief Operating Officer

ICAHN ENTERPRISES G.P. INC.

By: \_\_\_\_\_  
Name: Ted Papapostolou  
Title: President; and Chief Executive Officer

ICAHN ENTERPRISES HOLDINGS L.P.

By: Icahn Enterprises G.P. Inc., its general partner

By: \_\_\_\_\_  
Name: Ted Papapostolou  
Title: President; and Chief Executive Officer

IPH GP LLC

By: \_\_\_\_\_  
Name: Jesse Lynn  
Title: Chief Operating Officer

ICAHN CAPITAL LP

By: \_\_\_\_\_  
Name: Jesse Lynn  
Title: Chief Operating Officer

[Signature Page to Confidentiality Agreement between Crown Holdings, Inc. and the Icahn Group]

ICAHN ONSHORE LP

By: \_\_\_\_\_  
Name: Jesse Lynn  
Title: Chief Operating Officer

ICAHN OFFSHORE LP

By: \_\_\_\_\_  
Name: Jesse Lynn  
Title: Chief Operating Officer

BECKTON CORP

By: \_\_\_\_\_  
Name: Jesse Lynn  
Title: Vice President

MATSUMURA FISHWORKS LLC

By: \_\_\_\_\_  
Name: Jesse Lynn  
Title: Chief Operating Officer

[Signature Page to Confidentiality Agreement between Crown Holdings, Inc. and the Icahn Group]

SCHEDULE A

Beckton Corp.

Icahn Capital LP

Icahn Enterprises Holdings L.P.

Icahn Enterprises G.P. Inc.

Icahn Offshore LP

Icahn Onshore LP

Icahn Partners LP

Icahn Partners Master Fund LP

IPH GP LLC

Matsumura Fishworks LLC

Carl C. Icahn

Jesse Lynn

Andrew Teno



**Crown Holdings Appoints Two New Independent Directors to Board***Enters Into Cooperation Agreement with Icahn Enterprises**Icahn to Support All Crown Nominees for Election at 2023 Annual Meeting*

YARDLEY, Pa., Dec. 13, 2022 – Crown Holdings, Inc. (NYSE: CCK) (“Crown” or the “Company”) today announced that it has entered into an agreement with Icahn Enterprises L.P., whereby Jesse Lynn and Andrew Teno, General Counsel of Icahn Enterprises and Portfolio Manager of Icahn Capital, respectively, will join the Company’s Board of Directors, effective immediately. Mr. Lynn and Mr. Teno will also stand for election at the Company’s upcoming 2023 Annual Meeting of Shareholders (“2023 AGM”), and Crown has agreed to include Mr. Teno and Mr. Lynn on its recommended slate of nominees for election at the Company’s 2023 AGM.

With the additions of Mr. Lynn and Mr. Teno, the Crown Board will expand to 13 directors, 12 of whom are independent. Since 2019, the Company has refreshed over half the Board and added eight new independent directors, including the appointments announced today.

Timothy J. Donahue, Chairman, President and Chief Executive Officer said, “We have valued the constructive dialogue we have had with the Icahn team over the last several weeks. We welcome Jesse and Andrew to the Board and look forward to working together to deliver enhanced value for Crown shareholders.”

“We have appreciated Crown’s constructive engagement, and we welcome the opportunity to work closely with the Company to deliver value to shareholders,” said Carl Icahn, Chairman of the Board of Directors of Icahn Enterprises.

Pursuant to the Director Appointment and Nomination Agreement, Icahn Enterprises, which owns 8.5% percent of Crown’s outstanding common stock, has agreed to customary standstill, voting commitments and other provisions. The Director Appointment and Nomination Agreement between the Company and Icahn Enterprises will be filed on a Form 8-K to be filed with the Securities and Exchange Commission.

Evercore is serving as Crown’s financial advisor and Dechert LLP is serving as legal counsel.

**About Jesse Lynn**

Jesse A. Lynn has been general counsel of Icahn Enterprises L.P., a diversified holding company engaged in a variety of businesses, including investment, energy, automotive, food packaging, real estate, home fashion and pharma, since 2014. From 2004 to 2014, Mr. Lynn was Assistant General Counsel of Icahn Enterprises. Mr. Lynn has been a director of Xerox, a leader in office and production print technology, since November 2021; FirstEnergy, an electric utility company with one of the nation’s largest investor-owned electric systems, since March 2021; and Conduent Incorporated, a provider of business process outsourcing services, since April 2019. Mr. Lynn was previously a director of Cloudera, Inc., a company that provides a software platform for data engineering, data warehousing, machine learning and analytics, from August 2019 to October 2021; Herbalife Nutrition Ltd., a nutrition company, from 2014 to January 2021; and The Manitowoc Company, Inc., a capital goods manufacturer, from April 2015 to February 2018. Prior to joining Icahn, Mr. Lynn worked as an associate in the New York office of Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C. in its business and finance department from 2000 until 2004. From 1996 until 2000, Mr. Lynn was an associate in the corporate group at Gordon Altman Butowsky Weitzen Shalov & Wein. Mr. Lynn received a Bachelor of Arts degree from the University of Michigan and a Juris Doctor from the Boston University School of Law.

### **About Andrew Teno**

Andrew Teno has been a portfolio manager of Icahn Capital LP, the investment management subsidiary of Icahn Enterprises L.P., since October 2020. Mr. Teno has been a director of Southwest Gas, a provider of natural gas and utility infrastructure services across North America, since May 2022; FirstEnergy, an electric utility company with one of the nation's largest investor-owned electric systems, since March 2021; and Herc Holdings Inc., an international provider of equipment rental and services, since February 2021. Mr. Teno was previously a director of Cheniere Energy, Inc., a developer of natural gas liquefaction and export facilities and related pipelines, from February 2021 to June 2022. Prior to joining Icahn, Mr. Teno worked at Fir Tree Partners, a New York-based private investment firm that invests worldwide in public and private companies, real estate and sovereign debt. Mr. Teno's focus was on value investing across capital structures, industries and geographies. During his time at Fir Tree, he also served on the Board of Directors of Eco-Stim Energy Solutions. Prior to Fir Tree, he worked at Crestview Partners from July 2009 to July 2011 as an associate in their Private Equity business. Prior to Crestview, Mr. Teno worked at Gleacher Partners, an M&A boutique, from July 2007 to July 2009. Mr. Teno received an undergraduate business degree from the Wharton School at the University of Pennsylvania in 2007.

### **About Crown**

Crown Holdings, Inc., through its subsidiaries, is a leading global supplier of rigid packaging products to consumer marketing companies, as well as transit and protective packaging products, equipment and services to a broad range of end markets. World headquarters are located in Yardley, Pennsylvania. For more information, visit [www.crowncork.com](http://www.crowncork.com).

### **Forward-Looking Statements**

Except for historical information, all other information in this press release consists of forward-looking statements. These forward-looking statements involve a number of risks, uncertainties and other factors, including risks and uncertainties relating to changes in market environment and the Company's operating position, the impact of board refreshment efforts, the plans and objectives of management, and potential increases in shareholder returns, that may cause actual results to be materially different from those expressed or implied in the forward-looking statements. Important factors that could cause the statements made in this press release or the actual results of operations or financial condition of the Company to differ are discussed under the caption "Forward Looking Statements" in the Company's Form 10-K Annual Report for the year ended December 31, 2021 and in subsequent filings made prior to or after the date hereof. The Company does not intend to review or revise any particular forward-looking statement in light of future events.

### **For more information, contact:**

Kevin C. Clothier, Senior Vice President and Chief Financial Officer, (215) 698-5281, or  
Thomas T. Fischer, Vice President, Investor Relations and Corporate Affairs, (215) 552-3720  
Nick Lamplough or Scott Bisang, Joele Frank, Wilkinson Brimmer Katcher, (212) 355-4449