

1. The highest per share price (including any brokerage commissions, transfer taxes and soliciting dealers' fees) paid by the interested stockholder for any shares of common stock of the same class or series acquired by it within the [2 year] 5-YEAR period immediately prior to the announcement date, over

2. The market value per share of common stock of the same class or series on the first day in such [2 year] 5-YEAR period on which the interested stockholder acquired any shares of common stock.

(2) The aggregate amount of the cash and the market value as of the valuation date of consideration other than cash to be received per share by holders of shares of any class or series of outstanding stock other than common stock IN THE BUSINESS COMBINATION is at least equal to the highest of the following (whether or not the interested stockholder has previously acquired any shares of [a] THE particular class or series of stock):

(i) The highest per share price (including any brokerage commissions, transfer taxes and soliciting dealers' fees) paid by the interested stockholder for any shares of such class OR SERIES of stock acquired by it[:

1. Within the 2 year] WITHIN THE 5-YEAR period immediately prior to the announcement date of the proposal of the business combination, PLUS AN AMOUNT EQUAL TO INTEREST COMPOUNDED ANNUALLY FROM THE EARLIEST DATE ON WHICH THE HIGHEST PER SHARE ACQUISITION PRICE WAS PAID THROUGH THE VALUATION DATE AT THE RATE FOR 1-YEAR UNITED STATES TREASURY OBLIGATIONS FROM TIME TO TIME IN EFFECT, LESS THE AGGREGATE AMOUNT OF ANY CASH DIVIDENDS PAID AND THE MARKET VALUE OF ANY DIVIDENDS PAID IN OTHER THAN CASH, PER SHARE OF THE CLASS OR SERIES OF STOCK FROM THE EARLIEST DATE THROUGH THE VALUATION DATE, UP TO THE AMOUNT OF THE INTEREST; or

[2.] (II) [In the transaction in which it became an interested stockholder, whichever is higher] THE HIGHEST PER SHARE PRICE (INCLUDING ANY BROKERAGE COMMISSIONS, TRANSFER TAXES AND SOLICITING DEALERS' FEES) PAID BY THE INTERESTED STOCKHOLDER FOR ANY SHARES OF SUCH CLASS OR SERIES OF STOCK ACQUIRED BY IT ON, OR WITHIN THE 5-YEAR PERIOD IMMEDIATELY PRIOR TO, THE DETERMINATION DATE, PLUS AN AMOUNT EQUAL TO INTEREST COMPOUNDED ANNUALLY FROM THE EARLIEST DATE ON WHICH THE HIGHEST PER SHARE ACQUISITION PRICE WAS PAID THROUGH THE VALUATION DATE AT THE RATE FOR 1-YEAR UNITED STATES TREASURY OBLIGATIONS FROM TIME TO TIME IN EFFECT, LESS THE AGGREGATE AMOUNT OF ANY CASH DIVIDENDS PAID AND THE MARKET VALUE OF ANY DIVIDENDS PAID IN OTHER THAN CASH, PER SHARE OF THE CLASS OR SERIES OF STOCK FROM THE EARLIEST DATE THROUGH THE VALUATION DATE, UP TO THE AMOUNT OF THE INTEREST; or