



IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

GEOFFREY STRONG, JAMES :
CROSSEN, OLIVIA WASSENAAR, :
WILSON HANDLER, CHRISTINE :
HOMMES, JOSEPH ROMEO, JAN :
WILSON, JOHN STICE, and :
BEAZLEY INSURANCE COMPANY, :
Inc., :

Plaintiffs, :

v. :

C.A. No. _____

SUNLIGHT FINANCIAL HOLDINGS :
INC. and ED UMBRELLA :
HOLDINGS, LLC, :

Defendants.

VERIFIED COMPLAINT

Plaintiffs Geoffrey Strong, James Crossen, Olivia Wassenaar, Wilson Handler, Christine Hommes, Joseph Romeo, Jan Wilson, John Stice (collectively, “D&O Plaintiffs”), and Beazley Insurance Company, Inc. (“Beazley”) (the D&O Plaintiffs and Beazley are referred to collectively as “Plaintiffs”) submit this Verified Complaint against Defendants Sunlight Financial Holdings Inc. (“SFH”) and ED Umbrella Holdings, LLC (“EDUH”) (SFH and EDUH are referred to collectively as “Defendants”). The D&O Plaintiffs are entitled to indemnification and advancement pursuant to: the Business Combination Agreement dated January

23, 2021 (the “Merger Agreement,” attached as Exhibit A) between Spartan Acquisition Corp. II (“Spartan”), Sunlight Financial LLC (“Legacy Sunlight”), and certain other entities; Spartan’s Amended and Restated Certificate of Incorporation (the “Spartan Certificate,” attached as Exhibit M) and SFH’s Third Amended and Restated Certificate of Incorporation (the “SFH Certificate,” attached as Exhibit B, and together with the Spartan Certificate, the “Certificates”); Spartan’s Bylaws (the “Spartan Bylaws,” attached as Exhibit N) and SFH’s Second Amended and Restated Bylaws (the “SFH Bylaws,” attached as Exhibit C, and together with the Spartan Bylaws, the “Bylaws”); the Indemnification Agreements between SFH’s predecessor and each of the D&O Plaintiffs (the “Indemnification Agreements,” attached as Exhibit D), SFH’s Amended Joint Prepackaged Chapter 11 Plan Of Reorganization (the “Plan,” attached as Exhibit E), and the Investment Agreement between SFH and EDUH (the “Investment Agreement,” attached as Exhibit F). The Merger Agreement, the Certificates, the Bylaws, the Indemnification Agreements, the Plan, and the Investment Agreement are referred to collectively as the “Indemnification Sources.”

INTRODUCTION

1. This is an action to enforce the indemnification and advancement rights of the D&O Plaintiffs in connection with defense costs and settlement amounts incurred in *Fung v. Sunlight Financial Holdings Inc.*, Case No. 1:22-cv-10658

(S.D.N.Y.)¹ (the “Federal Securities Action”) and defense costs incurred and continuing to be incurred in ongoing action captioned *McCants v. Strong*, C.A. No. 2023-0694-PAF (Del. Ch.) and the books and records demands pursuant to 8 *Del. C.* § 220 that preceded that action (the “Delaware Action”).² The Federal Securities Action and the Delaware Action are referred to collectively as the “Sunlight Matters.”

2. SFH was formerly known as Spartan, a Delaware special purpose acquisition company (“SPAC”), of which the D&O Plaintiffs were all directors and/or officers. Spartan was the surviving entity of its merger with Legacy Sunlight that closed on July 9, 2021, upon which Spartan was renamed SFH. EDUH adopted SFH’s obligations of indemnification and advancement in agreements with SFH filed with the United States Bankruptcy Court for the District of Delaware.

3. The Sunlight Matters are brought against the D&O Plaintiffs in their capacities as directors and/or officers of Spartan and allegations against the D&O Plaintiffs in the Sunlight Matters exclusively relate to the D&O Plaintiffs’ actions in such capacities.

¹ The operative complaint Second Amended Class Action Complaint for Violations of the Federal Securities Laws in the Federal Securities Action is attached hereto as Exhibit G.

² The operative Verified Stockholder Second Amended Class Action Complaint in the Delaware Action is attached hereto as Exhibit H.

4. SFH has acknowledged that it owes indemnification and advancement obligations to D&O Plaintiffs.

5. Notwithstanding this acknowledgement and the obligations of SFH and EDUH to indemnify and advance costs to the D&O Plaintiffs in connection with the Sunlight Matters, Defendants have failed to fulfill their obligations, necessitating this action.

6. Beazley provided “Side A” directors and officers liability insurance coverage to Spartan’s officers and directors, including the D&O Plaintiffs. The policy issued by Beazley requires Beazley to provide coverage for claims against the officers and directors of Spartan if an indemnitor fails or refuses to meet its indemnification obligations.

7. Because SFH and EDUH have failed to fulfill their obligations as indemnitors of the D&O Plaintiffs, Beazley has paid some costs incurred by the D&O Plaintiffs in defending the Sunlight Matters. Beazley also contributed funds to the settlement of the Federal Securities Action.

8. SFH and EDUH are liable to the D&O Plaintiffs and Beazley for the defense and settlement costs incurred by the D&O Plaintiffs in the Sunlight Matters.

9. SFH and EDUH are also required to advance costs to the D&O Plaintiffs for the ongoing defense by the D&O Plaintiffs of the Delaware Action.

10. Consequently, Plaintiffs bring this action to ensure that SFH and EDUH

honor their unambiguous indemnification and advancement obligations. Plaintiffs seek (a) declaratory relief, (b) damages for SFH and EDUH's breach of their indemnity obligations with respect to the Sunlight Matters, (c) advancement of expenses with respect to the ongoing defense of the Delaware Action, (d) repayment, via subrogation, of the amounts Beazley paid on behalf of the D&O Plaintiffs in the defense of the Sunlight Matters and the settlement of the Federal Securities Action, and (e) the fees and costs Plaintiffs have incurred pursuing their indemnification rights.

THE PARTIES

11. SFH is a Delaware corporation. Pursuant to the Merger Agreement, dated January 23, 2021, Legacy Sunlight merged with Spartan on July 9, 2021 (the "Merger") with Spartan surviving the Merger renamed as SFH. In October 2023, SFH entered Chapter 11 bankruptcy. SFH emerged from bankruptcy in December 2023, with EDUH as its majority shareholder.

12. EDUH is a Delaware limited liability company. EDUH owns a substantial portion of the equity interests in SFH.

13. Geoffrey Strong was Spartan's pre-Merger CEO and board Chairman and was named as a defendant in the Sunlight Matters based on allegations that he violated federal securities laws in connection with public statements made regarding

the Merger and breached fiduciary duties to Spartan stockholders in connection with the Merger.

14. James Crossen was Spartan's pre-Merger CFO and Chief Accounting Officer and was named as a defendant in the Federal Securities Action based on allegations that he violated federal securities laws in connection with public statements made regarding the Merger.

15. Olivia Wassenaar was a pre-Merger Spartan Director and was named as a defendant in the Sunlight Matters based on allegations that she violated federal securities laws in connection with public statements made regarding the Merger and breached fiduciary duties to Spartan stockholders in connection with the Merger.

16. Wilson Handler was a pre-Merger Spartan Director and was named as a defendant in the Sunlight Matters based on allegations that he violated federal securities laws in connection with public statements made regarding the Merger and breached fiduciary duties to Spartan stockholders in connection with the Merger.

17. Christine Hommes was a pre-Merger Spartan Director and was named as a defendant in the Sunlight Matters based on allegations that she violated federal securities laws in connection with public statements made regarding the Merger and breached fiduciary duties to Spartan stockholders in connection with the Merger.

18. Joseph Romeo was a pre-Merger Spartan Director and was named as a defendant in the Sunlight Matters based on allegations that he violated federal

securities laws in connection with public statements made regarding the Merger and breached fiduciary duties to Spartan stockholders in connection with the Merger.

19. Jan Wilson was a pre-Merger Spartan Director and was named as a defendant in the Delaware Action based on allegations that she breached fiduciary duties to Spartan stockholders in connection with the Merger.

20. John Stice was a pre-Merger Spartan Director and was named as a defendant in the Delaware Action based on allegations that he breached fiduciary duties to Spartan stockholders in connection with the Merger.

21. Beazley provides “Side A” directors and officers liability insurance coverage to the D&O Plaintiffs pursuant to its Policy No. V2D3CB200101 (the “Policy”),³ which provides coverage for the period from November 25, 2020 to July 9, 2027 and up to a limit of \$5 million excess of certain other insurance.

JURISDICTION

22. This Court has jurisdiction over this action pursuant to 8 *Del. C.* § 145(k), which vests this Court with “exclusive jurisdiction to hear and determine all actions for advancement of expenses and indemnification brought under th[at] section or under any bylaw, agreement, vote of stockholders or disinterested directors, or otherwise.” Pursuant to Section 145(k), “[t]he Court of Chancery may

³ A copy of the Policy is attached hereto as Exhibit I.

summarily determine a corporation’s obligation to advance expenses (including attorneys’ fees).”

23. This Court has personal jurisdiction over SFH because it is a Delaware corporation and over EDUH because it is a Delaware limited liability company.

FACTUAL BACKGROUND

A. SPARTAN FORMS AS A SPAC

24. Spartan was formed as a Delaware corporation in August 2020, and was a SPAC with the stated purpose of seeking to acquire a business in the energy value chain.

25. Spartan completed its initial public offering on November 30, 2020.

26. Following the IPO, Spartan’s board was made up of seven directors: Strong, Wassenaar, Handler, Hommes, Romeo, Wilson, and Stice.

27. Strong also served as Spartan’s CEO, and Crossen was Spartan’s CFO and Chief Accounting Officer.

B. THE D&O PLAINTIFFS WERE ENTITLED TO BROAD INDEMNIFICATION AND ADVANCEMENT RIGHTS PRE-MERGER

28. As Spartan’s directors and officers, the D&O Plaintiffs were entitled to broad indemnification and advancement rights prior to and at the time of the Merger pursuant to i) Spartan’s certificate of incorporation, ii) Spartan’s bylaws, and iii) the

Indemnification Agreements entered into between each of the D&O Plaintiffs and Spartan.

29. *First*, Article VIII of the Spartan Certificate, dated November 24, 2020, provided broad indemnification and advancement rights to the D&O Plaintiffs:

To the fullest extent permitted by applicable law, as the same exists or may hereafter be amended, the Corporation shall indemnify and hold harmless each person who is or was made 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 he or she is or was a director or officer of the Corporation . . . whether the basis of such proceeding is alleged action in an official capacity as a director, officer, employee or agent, or in any other capacity while serving as a director, officer, employee or agent, against all liability and loss suffered and expenses (including, without limitation, attorneys’ fees, judgments, fines, ERISA excise taxes and penalties and amounts paid in settlement) reasonably incurred by such indemnitee in connection with such proceeding. The Corporation shall to the fullest extent not prohibited by applicable law pay the expenses (including attorneys’ fees) incurred by an indemnitee in defending or otherwise participating in any proceeding in advance of its final disposition.... The rights to indemnification and advancement of expenses conferred by this Section 8.2 [Indemnification and Advancement of Expenses] shall be contract rights and such rights shall continue as to an indemnitee who has ceased to be a director, officer, employee or agent and shall inure to the benefit of his or her heirs, executors and administrators.

* * *

The rights to indemnification and advancement of expenses conferred on any indemnitee by this Section 8.2 [Indemnification and Advancement of Expenses] shall not be exclusive of any other rights that any indemnitee may have or hereafter acquire under law, this Amended and Restated Certificate, the Bylaws, an agreement, vote of stockholders or disinterested directors, or otherwise.

30. *Second*, Article VIII of the Spartan Bylaws filed with the Securities Exchange Commission (“SEC”) on November 24, 2020 likewise provided indemnification and advancement rights to the D&O Plaintiffs:

To the fullest extent permitted by applicable law, as the same exists or may hereafter be amended, the Corporation shall indemnify and hold harmless each person who was or is made 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 (hereinafter a “proceeding”), by reason of the fact that he or she is or was a director or officer of the Corporation . . . whether the basis of such proceeding is alleged action in an official capacity as a director, officer, employee or agent, or in any other capacity while serving as a director, officer, employee or agent, against all liability and loss suffered and expenses (including, without limitation, attorneys’ fees, judgments, fines, ERISA excise taxes and penalties and amounts paid in settlement) reasonably incurred by such Indemnitee in connection with such proceeding.

* * *

In addition to the right to indemnification conferred in Section 8.1 an Indemnitee shall also have the right to be paid by the Corporation to the fullest extent not prohibited by applicable law the expenses (including, without limitation, attorneys’ fees) incurred in defending or

otherwise participating in any such proceeding in advance of its final disposition

31. Article VIII of the Bylaws of Spartan Acquisition Corp. II further provided that:

If a claim under Section 8.1 or Section 8.2 is not paid in full by the Corporation within 60 days after a written claim therefor has been received by the Corporation, except in the case of a claim for an advancement of expenses, in which case the applicable period shall be 20 days, the Indemnitee may at any time thereafter bring suit against the Corporation to recover the unpaid amount of the claim. If successful in whole or in part in any such suit, or in a suit brought by the Corporation to recover an advancement of expenses pursuant to the terms of an undertaking, the Indemnitee shall also be entitled to be paid the expense of prosecuting or defending such suit.

32. *Third*, Section 3 of the Indemnification Agreements between each of the D&O Plaintiffs and Spartan, dated November 24, 2020, each provided that:

To the fullest extent permitted by applicable law, [Spartan] shall indemnify, hold harmless and exonerate [the D&O Plaintiffs] in accordance with the provisions of this Section 2 if [the D&O Plaintiff] was, is, or is threatened to be made, a party to or a participant (as witness, deponent or otherwise) in any Proceeding Pursuant to this Section 3, [the D&O Plaintiff] shall be indemnified, held harmless and exonerated against all Expenses, judgments, liabilities, Fines, penalties and amounts paid in settlement (including all interest, assessments and other charges paid or paying in connection with or in respect of such Expenses, judgments, Fines, penalties and amounts paid in settlement) actually and reasonably incurred by [the D&O Plaintiff] or on [the D&O Plaintiff's] behalf in connection with such Proceeding or any claim, issue or matter therein,

if [the D&O Plaintiff] acted in good faith and in a manner Indemnitee reasonably believed to be in or not opposed to the best interests of [Spartan]

33. The Indemnification Agreements broadly defined “Proceeding,” to include:

[A]ny threatened, pending or completed action, suit, arbitration, mediation, alternate dispute resolution mechanism, investigation, inquiry, administrative hearing or any other actual, threatened or completed proceeding, whether brought in the right of [Spartan] or otherwise and whether of a civil (including intentional or unintentional tort claims), criminal, administrative, legislative or investigative nature, in which [the D&O Plaintiff] was, is, will or might be involved as a party, potential party, non-party witness or otherwise by reason of the fact that [the D&O Plaintiff] is or was a director or officer of [Spartan], by reason of any action (or failure to act) taken by [the D&O Plaintiff] or of any action (or failure to act) on [the D&O Plaintiff's] part while acting as a director or officer of [Spartan], or by reason of the fact that [the D&O Plaintiff] is or was Serving at the Request of the [Spartan] (as defined below) as a director, officer, trustee, general partner, managing member, fiduciary, employee or agent of any other Enterprise, in each case whether or not serving in such capacity at the time any liability or Expense is incurred for which indemnification, reimbursement, or advancement of Expenses can be provided under this Agreement.

34. Section 10 of the Indemnification Agreements provided that expenses would be advanced to the D&O Plaintiffs within ten days:

[T]o the fullest extent not prohibited by applicable law, the Company shall pay the Expenses incurred by Indemnitee (or reasonably expected by Indemnitee to be incurred by Indemnitee within three months) in connection with any

Proceeding within ten (10) days after the receipt by the Company of a statement or statements requesting such advances from time to time, prior to the final disposition of any Proceeding.

C. SPARTAN IDENTIFIES LEGACY SUNLIGHT, ISSUES PUBLIC STATEMENTS REGARDING THE MERGER, AND THE MERGER CLOSES

35. After a search for acquisition targets, Spartan identified Legacy Sunlight and negotiated a business combination.

36. On January 23, 2021, the Spartan board approved the final terms of the Merger Agreement and Spartan and Legacy Sunlight (among others) executed the Merger Agreement. The Merger was publicly announced on January 25, 2021.

37. On June 21, 2021, Spartan filed its definitive proxy statement (the “Proxy”) regarding the Merger with the SEC. On July 8, 2021, Spartan held its special meeting and stockholder vote regarding the Merger, and Spartan’s stockholder approved the Merger.

38. The Merger was completed on July 9, 2021, with Spartan being renamed as SFH and surviving the transaction.

D. SFH AGREES TO MAINTAIN THE D&O PLAINTIFFS’ INDEMNIFICATION AND ADVANCEMENT RIGHTS IN THE MERGER AGREEMENT

39. In the Merger Agreement, SFH agreed that it would continue to provide indemnification and advancement to the D&O Plaintiffs for a period of six years and

that it would not adversely modify their existing indemnification and advancement rights.

40. Specifically, Section 7.11(a) of the Merger Agreement provided, in relevant part, that:

For a period of six (6) years after the [Merger], *[SFH] agrees that it shall indemnify and hold harmless each present and former director, officer and manager of [SFH] . . . against any costs or expenses (including reasonable attorneys' fees), judgments, fines, losses, claims, damages or liabilities incurred in connection with any Action, whether civil, criminal, administrative or investigative, arising out of or pertaining to matters existing or occurring at or prior to the [Merger], whether asserted or claimed prior to, at or after the [Merger], to the fullest extent that ... [SFH] ... would have been permitted under applicable Law and its respective Organizational Documents in effect on the date of this Agreement to indemnify such person (including the advancing of expenses as incurred to the fullest extent permitted under applicable Law).*

41. Section 7.11(a) went on to confirm that SFH would be required to maintain provisions in its organizational documents providing indemnification and advancement and that it was barred from modifying these rights adversely to the D&O Plaintiffs:

Without limiting the foregoing, [SFH] shall for a period of not less than six (6) years from the [Merger] (i) maintain provisions in its Organizational Documents concerning the indemnification and exoneration (including provisions relating to expense advancement) of officers, directors and managers that are no less favorable to those persons than

the provisions of such Organizational Documents of each of [SFH] as of the date of this Agreement and (ii) not amend, repeal or otherwise modify such provisions in any respect that would adversely affect the rights of those persons thereunder, in each case, except as required by Law....

42. Merger Agreement Section 7.11(c) further provided that:

Notwithstanding anything contained in this Agreement to the contrary, this Section 7.11 shall survive the consummation of the [Merger] indefinitely and shall be binding on [SFH] and all successors and assigns of [SFH]. In the event that [SFH] or any of its successors or assigns consolidates with or merges into any other person and shall not be the continuing or surviving corporation or entity of such consolidation or merger or transfers or conveys all or substantially all of its properties and assets to any person, then, and in each such case, [SFH] shall ensure that proper provision shall be made so that the successors and assigns of Acquiror shall succeed to the obligations set forth in this Section 7.11.

E. THE EDUH ACQUISITION AND SFH'S BANKRUPTCY

43. On October 31, 2023, SFH announced that it would be acquired by EDUH and by SFH's secured lender. The terms of EDUH's acquisition of SFH were set forth in the Investment Agreement, including EDUH's agreement to "honor all of [SFH's] obligations to indemnify and hold harmless" the past, present, and future directors and officers of SFH, which encompasses the D&O Plaintiffs.

44. As part of the acquisition, SFH filed voluntary petitions for reorganization under Chapter 11 of the U.S. Bankruptcy Code. SFH filed the Plan in its bankruptcy proceeding, which incorporated the Investment Agreement.

Indeed, in the Plan, SFH expressly agreed that the SFH's indemnification obligations would survive the bankruptcy reorganization "Unimpaired and unaffected."

45. Pursuant to the terms of the Plan and the Investment Agreement, SFH and EDUH are obligated to indemnify the D&O Plaintiffs in the Sunlight Matters.

46. On December 5, 2023, the United States Bankruptcy Court for the District of Delaware entered an Order incorporating the Investment Agreement and other documents into the Plan and approving the Plan. SFH thereafter emerged from bankruptcy.

F. THE INDEMNIFICATION AND ADVANCEMENT SOURCES

47. Given the D&O Plaintiffs' service as former directors and/or officers of Spartan prior to, and at the time of, the Merger, the D&O Plaintiffs have non-exclusive rights to indemnification and advancement under multiple sources, including the Merger Agreement, the Certificates, the Bylaws, the Indemnification Agreements, the Plan, and the Investment Agreement.

48. *First*, SFH is contractually obligated to provide indemnification and advancement pursuant to Section 7.11 of the Merger Agreement, which requires SFH to provide indemnification and advancement to the D&O Plaintiffs to the fullest extent that Spartan would have been permitted to indemnify and advance expenses to the D&O Plaintiffs at the time of the Merger and prohibited SFH from amending the D&O Plaintiffs' indemnification and advancement rights adversely to the D&O

Plaintiffs.

49. As explained above, at the time of the Merger, the D&O Plaintiffs were entitled to broad indemnification and advancement rights pursuant to the Spartan Certificate, the Spartan Bylaws, and the Indemnification Agreements.

50. *Second*, SFH is obligated to indemnify the D&O Plaintiffs pursuant to the Indemnification Agreements with Spartan (renamed SFH after the Merger) which remain binding and enforceable agreements of SFH.

51. *Third*, the D&O Plaintiffs are entitled to indemnification and advancement pursuant to Article Eleventh of the SFH Certificate. Article Eleventh provides, in relevant part: “To the fullest extent permitted by applicable law, the Corporation is authorized to provide indemnification of (and advancement of expenses to) directors, officers and agents of the Corporation (and any other persons to which General Corporation Law permits the Corporation to provide indemnification) through bylaw provisions, agreements with such agents or other persons, vote of stockholders or disinterested directors or otherwise, in excess of the indemnification and advancement otherwise permitted by Section 145 of the General Corporation Law.”

52. *Fourth*, the D&O Plaintiffs are entitled to indemnification and advancement pursuant to the Bylaws. Article XI of the SFH Bylaws provides, in relevant part, as follows:

(a) Directors and Officers. The corporation shall indemnify its directors and officers to the fullest extent not prohibited by the DGCL or any other applicable law; provided, however, that the Corporation may modify the extent of such indemnification by individual contracts with its directors and officers; and, provided, further, that the Corporation shall not be required to indemnify any director or officer in connection with any proceeding (or part thereof) initiated by such person unless (i) such indemnification is expressly required to be made by law, (ii) the proceeding was authorized by the Board of Directors of the Corporation, (iii) such indemnification is provided by the Corporation, in its sole discretion, pursuant to the powers vested in the Corporation under the DGCL or any other applicable law or (iv) such indemnification is required to be made under subsection (d) of this Section 1.”

(c) Expenses. The corporation shall advance to any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, by reason of the fact that he 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, partnership, joint venture, trust or other enterprise, prior to the final disposition of the proceeding, promptly following request therefor, all expenses incurred by any director or officer in connection with such proceeding; provided, however, that, if the DGCL requires, an advancement of expenses incurred by a director or officer in his or her capacity as a director or officer (and not in any other capacity in which service was or is rendered by such indemnitee, including, without limitation, service to an employee benefit plan) shall be made only upon delivery to the Corporation of an undertaking, by or on behalf of such indemnitee, to repay all amounts so advanced if it shall ultimately be determined by final judicial decision from which there is

no further right to appeal that such indemnitee is not entitled to be indemnified for such expenses under this Section 1 or otherwise.

(d) Enforcement. Without the necessity of entering into an express contract, all rights to indemnification and advances to directors and officers under this Bylaw shall be deemed to be contractual rights and be effective to the same extent and as if provided for in a contract between the Corporation and the director or officer. Any right to indemnification or advances granted by this Bylaw to a director or officer shall be enforceable by or on behalf of the person holding such right in any court of competent jurisdiction if (i) the claim for indemnification or advances is denied, in whole or in part, or (ii) no disposition of such claim is made within ninety (90) days of request therefor. The claimant in such enforcement action, if successful in whole or in part, shall be entitled to be paid also the expense of prosecuting the claim. In connection with any claim for indemnification, the Corporation shall be entitled to raise as a defense to any such action that the claimant has not met the standards of conduct that make it permissible under the DGCL or any other applicable law for the Corporation to indemnify the claimant for the amount claimed. In connection with any claim by an officer of the Corporation (except in any action, suit or proceeding, whether civil, criminal, administrative or investigative, by reason of the fact that such officer is or was a director of the Corporation) for advances, the Corporation shall be entitled to raise a defense as to any such action clear and convincing evidence that such person acted in bad faith or in a manner that such person did not believe to be in or not opposed to the best interests of the Corporation, or with respect to any criminal action or proceeding that such person acted without reasonable cause to believe that his conduct was lawful. Neither the failure of the Corporation (including its Board of Directors, independent legal counsel or its stockholders) to have made a determination prior to the commencement

of such action that indemnification of the claimant is proper in the circumstances because he has met the applicable standard of conduct set forth in the DGCL or any other applicable law, nor an actual determination by the Corporation (including its Board of Directors, independent legal counsel or its stockholders) that the claimant has not met such applicable standard of conduct, shall be a defense to the action or create a presumption that claimant has not met the applicable standard of conduct. In any suit brought by a director or officer to enforce a right to indemnification or to an advancement of expenses hereunder, the burden of proving that the director or officer is not entitled to be indemnified, or to such advancement of expenses, under this Article XI or otherwise shall be on the Corporation.

(e) Non-Exclusivity of Rights. The rights conferred on any person by this Bylaw shall not be exclusive of any other right which such person may have or hereafter acquire under any applicable statute, provision of the Certificate of Incorporation, Bylaws, agreement, vote of stockholders or disinterested directors or otherwise, both as to action in his official capacity and as to action in another capacity while holding office. The corporation is specifically authorized to enter into individual contracts with any or all of its directors, officers, employees or agents respecting indemnification and advances, to the fullest extent not prohibited by the DGCL or any other applicable law.

(j) Certain Definitions. For the purposes of this Bylaw, the following definitions shall apply:

(1) The term “proceeding” shall be broadly construed and shall include, without limitation, the investigation, preparation, prosecution, defense, settlement, arbitration and appeal of, and the giving of testimony in, any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative.

(2) The term “expenses” shall be broadly construed and shall include, without limitation, court costs, attorneys’ fees, witness fees, fines, amounts paid in settlement or judgment and any other costs and expenses of any nature or kind incurred in connection with any proceeding.

(3) The term the “corporation” shall include, in addition to the resulting corporation, any constituent corporation (including any constituent of a constituent) absorbed in a consolidation or merger which, if its separate existence had continued, would have had power and authority to indemnify its directors, officers, and employees or agents, so that any person who is or was a director, officer, employee or agent of such constituent corporation, or is or was serving at the request of such constituent corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, shall stand in the same position under the provisions of this Bylaw with respect to the resulting or surviving corporation as he would have with respect to such constituent corporation if its separate existence had continued.

53. *Fifth*, SFH is obligated to indemnify and advance expenses to the D&O

Plaintiffs pursuant to Section 8.5 of the Plan which states:

Notwithstanding any other provision in the Plan, each Indemnification Obligation shall be assumed by the applicable Debtor effective as of the Effective Date, pursuant to sections 365 and 1123 of the Bankruptcy Code or otherwise. Each Indemnification Obligation shall remain in full force and effect, shall not be modified, reduced, discharged, Impaired, or otherwise affected in any way, and shall survive Unimpaired and unaffected, irrespective of when such Indemnification Obligation arose.

54. *Sixth*, EDUH is obligated to indemnify and advance expenses to the D&O Plaintiffs pursuant to Section 6.2(a) of the Investment Agreement, which states:

For six (6) years from and after the Effective Time, to the fullest extent permitted by applicable Law, Buyer [EDUH] shall honor all of the Company's obligations to indemnify and hold harmless (and advance funds in respect of each of the foregoing and costs of defense to the extent that such Person has the right to advancement of expenses from the Company or its Subsidiaries as of the date of this Agreement, *provided that* such indemnified Person agrees in advance to return any such funds to which a court of competent jurisdiction determines such indemnified party is not ultimately entitled) each person who is now, or has been at any time prior to the date of this Agreement or who becomes prior to the Effective Time an officer or director of the Company or any of its Subsidiaries (together with their respective heirs and representatives, the "***D&O Indemnified Parties***"), as provided the [sic] certificate of incorporation and bylaws (or equivalent organizational documents) of the Company and any Company Subsidiary, or pursuant to any other agreements in effect as of the date of this Agreement that have been made available to Buyer, in respect of acts or omissions occurring or alleged to have occurred at or prior to the Effective Time, whether asserted or claimed prior to, at or after the Effective Time, by reason of the fact that such Persons serving as an officer or director of the Company or any of its Subsidiaries. For a period of six (6) years from and after the Effective Time, the Company shall, and Buyer shall cause the Company to, maintain in effect the exculpation, indemnification and advancement of expenses equivalent to the provisions of the certificate of incorporation and bylaws (or equivalent organizational documents) of the Company and any Company Subsidiary as in effect immediately prior to the Effective Time with

respect to acts or omissions occurring, or alleged to have occurred, prior to the Effective Time and shall not amend, repeal or otherwise modify any such provisions in any manner that would adversely affect the rights thereunder of any D&O Indemnified Party without the prior written consent of such D&O Indemnified Party; *provided, however,* that all rights to indemnification in respect of any action pending or asserted or any claim made within such period shall continue until the disposition of such action or resolution of such claim.

55. The Indemnification Sources provide the D&O Plaintiffs with multiple, independent, and non-exclusive sources for their indemnification and advancement rights from Defendants. These indemnification and advancement rights provide that Defendants are obligated to pay and advance the costs incurred by the D&O Plaintiffs in connection with the defense of the Sunlight Matters, including defense costs and amounts paid in settlement of the Federal Securities Action, and the fees incurred in this action to enforce the indemnification and advancement rights that Defendants have failed to honor.

G. THE UNDERLYING SUNLIGHT MATTERS

56. Each of the D&O Plaintiffs were named as defendants in one or both of the Federal Securities Action and the Delaware Action by reason of the fact that they were directors and/or officers of Spartan and based on alleged actions taken by them in their capacities as such.

57. In March 2023, two of the plaintiffs in the Delaware Action demanded to inspect Sunlight documents pertaining to the Merger pursuant to 8 *Del. C.* § 220, and another plaintiff served another demand in June 2023 (collectively the “Delaware Section 220 Demands”). After a production of documents, the plaintiffs filed the Delaware Action on July 11, 2023. The defendants filed their opening brief in support of their motion to dismiss on September 28, 2023. The plaintiffs then filed two successive amended complaints, the first on October 30, 2023 and the second on November 15, 2023.

58. The operative Second Amended Complaint asserts breach of fiduciary duty claims, purportedly on behalf of a class of Spartan stockholders, against D&O Plaintiffs Strong, Wassenaar, Handler, Hommes, Romeo, Wilson, and Stice on the basis that these D&O Plaintiffs allegedly authorized false and misleading statements regarding the Merger that impaired Spartan stockholders’ rights to redeem their shares in the lead-up to the Merger.

59. The defendants in the Delaware Action filed a renewed motion to dismiss the Second Amended Complaint on December 26, 2023. After the motion to dismiss was fully briefed, the court held a hearing on the motion to dismiss on September 18, 2024.

60. The court has not yet ruled on the motion to dismiss. On April 8, 2025, the court granted the parties’ request to stay decision of the motions to dismiss

pending the parties' mediation of the Delaware Action scheduled for July 23, 2025. The Delaware Action, although stayed pending mediation, will result in continuing expenses to the D&O Plaintiffs. The mediation process will entail expenses, and if it is unsuccessful the litigation will resume.

61. The D&O Plaintiffs have provided undertakings to Sunlight with respect to the Delaware Action.

62. The Federal Securities Action was filed on December 16, 2022.

63. The operative Second Amended Class Action Complaint for Violations of the Federal Securities Laws asserts claims against D&O Plaintiffs Strong, Crossen, Wassenaar, Handler, Hommes, and Romeo, alleging that these defendants violated Section 14(a) of the Securities Exchange Act by issuing false and misleading statements in the Proxy and other solicitation materials in advance of the Merger.

64. These defendants in the Federal Securities Action filed a motion to dismiss the Second Amended Complaint on December 20, 2023 and a reply brief in support of that motion on April 12, 2024.

65. The parties to the Federal Securities Action then reached a settlement (the "Federal Securities Settlement"), which received preliminary court approval on August 15, 2024. The U.S. District Court for the Southern District of New York granted final approval of the Federal Securities Settlement and entered its final

judgment on December 16, 2024. The Federal Securities Settlement has been fully funded.

66. The defendants in the Federal Securities Action agreed to an allocation of the Federal Securities Settlement, including how much of the settlement would be allocated to the D&O Plaintiffs.

67. SFH and EDUH refused to fully fund the D&O Plaintiffs' allocable share of the Federal Securities Settlement, and instead only paid a portion of the settlement.

68. Because SFH and EDUH refused to fully fund the D&O Plaintiffs' allocable share of the Federal Securities Settlement, Beazley was obligated to pay into the settlement to fund the D&O Plaintiffs' share of the Federal Securities Settlement.

H. DEFENDANTS HAVE NOT FULFILLED THEIR OBLIGATIONS

69. The D&O Plaintiffs have incurred substantial costs in the defense of the Sunlight Matters.

70. The D&O Plaintiffs have sent multiple requests to SFH requesting that SFH comply with its indemnification and advancement obligations, including correspondence dated June 22, 2023, July 14, 2023, August 15, 2023, October 10, 2023, December 7, 2023, February 29, 2024, April 3, 2024, and April 22, 2024. The correspondence from the D&O Plaintiffs is attached as Group Exhibit J.

71. The D&O Plaintiffs also sent the April 22, 2024 letter to counsel for EDUH, requesting confirmation that EDUH would comply with its indemnification and advancement obligations (Exhibit O).

72. Beazley likewise sent a letter to SFH and EDUH on April 4, 2024, requesting that SFH and EDUH confirm that they will comply with their indemnification obligations (Exhibit K).

73. By letter dated April 19, 2024, SFH and EDUH responded to the April 4, 2024 letter from Beazley (Exhibit L), stating:

- a. SFH “is aware of its indemnification obligation to Spartan directors and officers and is working to meet those obligations.” And, “[i]n each [of the D&O Plaintiffs], there is an obligation to indemnify with the advancement of fees and expenses to be paid ‘prior to the final disposition’ of the proceeding for which indemnification is sought.”
- b. SFH contends its indemnification obligation is not implicated prior to the “final disposition” of the Sunlight Matters.
- c. EDUH contends that it has no obligation to indemnify the D&O Plaintiffs unless EDUH has “absolute control of Sunlight—which it does not.”

74. To date, SFH has paid only \$20,000 of the amounts incurred by the D&O Plaintiffs in connection with the Sunlight Matters or the Section 220 Demands—a tiny fraction of the amounts incurred. SFH failed to contribute the full amount of the Federal Securities Settlement allocable to the D&O Plaintiffs. EDUH has not paid any amounts to the D&O Plaintiffs’ defense costs and has not agreed to contribute any amounts toward the Federal Securities Settlement.

I. BEAZLEY AGREES TO DROP DOWN AND PROVIDE COVERAGE

75. The Policy provides coverage for the period from November 25, 2020 to July 9, 2027, providing \$5,000,000 of coverage excess of certain other insurance.

76. The D&O Plaintiffs are **Insured Persons**.⁴

77. Pursuant to the terms of the Policy, Beazley agreed to pay **Loss** incurred by **Insured Persons** where “the **Company** ... is required or permitted to pay or advance **Loss** on behalf of the **Insured Persons**, whether such indemnity or advancement is pursuant to law, charter or other similar formative document, by-laws or written agreements of the **Company**” and where the Company “refuses to pay or advance such **Loss** for any reason ... or ... fails to pay or advance such **Loss** for any reason.”

⁴ Terms in bold are defined in the Policy.

78. The Policy defines **Loss** to include all amounts that the **Insured Persons** are legally obligated to pay in the defense of **Claims**, including settlements and defense costs.

79. The Policy provides that in the event that Beazley makes any payment under the Policy, Beazley “shall be subrogated to the **Insured Persons**’ rights of recovery therefor against any person or entity ... to the extent of such payment.”

80. Because SFH and EDUH failed to fulfill their indemnity obligations to the D&O Plaintiffs, the D&O Plaintiffs requested that Beazley pay their **Loss** incurred in the Sunlight Matters, including defense costs and the portion of the D&O Plaintiffs’ share of the Federal Securities Settlement that Sunlight failed to indemnify.

81. In light of the failures of SFH and EDUH to fulfill their indemnity obligations, Beazley has paid **Defense Costs** incurred by the D&O Plaintiffs in the Sunlight Matters and has funded the portion of the D&O Plaintiffs’ share of the Federal Securities Settlement that Sunlight failed to indemnify, consistent with the terms and conditions of the Policy.

COUNT I

DECLARATORY JUDGMENT

82. Plaintiffs repeat and reallege each of the foregoing allegations as if fully set forth herein.

83. The Court has the “power to declare rights, status and other legal relations whether or not further relief is or could be claimed.” 10 *Del. C.* § 6501, 6503.

84. An actual controversy exists between Plaintiffs and Defendants with respect to the D&O Plaintiffs’ costs and expenses related to the Sunlight Matters as Plaintiffs contend that Defendants owe obligations of indemnification and advancement and, on information and belief, Defendants dispute these assertions as evidenced by, among other things, Defendants’ failure or refusal to fulfill their indemnification and advancement obligations to the D&O Plaintiffs in connection with the Sunlight Matters.

85. The D&O Plaintiffs are entitled to indemnification and advancement from Defendants for defense and settlement costs incurred in connection with the Sunlight Matters pursuant to the Indemnification Sources.

86. Beazley is subrogated to the rights of the D&O Plaintiffs by virtue of its payment of **Loss** on behalf of the D&O Plaintiffs and is entitled to recover from Defendants such amounts.

87. Defendants’ failure to pay for all defense and settlement costs incurred by the D&O Plaintiffs in connection with the Sunlight Matters is a violation of the D&O Plaintiffs’ rights under the Indemnification Sources and, by virtue of subrogation, Beazley’s rights.

88. Therefore, Plaintiffs are entitled to declarations that Defendants are presently obligated to defend and indemnify the D&O Plaintiffs in the Sunlight Matters as required by the Indemnification Sources, that Defendants are obligated to advance expenses to the D&O Plaintiffs in connection with the continued defense and potential resolution of the Delaware Action, that Defendants have breached those obligations, that Defendants have a going-forward obligation to advance costs and defend and indemnify the D&O Plaintiffs in the Sunlight Matters as required by the Indemnification Sources, and that Defendants are obligated to repay Beazley for amounts it has paid in defense and settlement of the Sunlight Matters.

COUNT II

ADVANCEMENT WITH RESPECT TO ONGOING DELAWARE ACTION⁵

89. Plaintiffs repeat and reallege each of the foregoing allegations as if fully set forth herein.

90. The D&O Plaintiffs are entitled to indemnification and advancement from SFH pursuant to the Indemnification Sources.

⁵ D&O Plaintiff James Crossen is not named as a defendant in the Delaware Action, and therefore, is not included among the D&O Plaintiffs seeking advancement of costs with respect to the ongoing Delaware Action.

91. Pursuant to the Investment Agreement, EDUH agreed to honor SFH's obligation to indemnify and advance costs to the D&O Plaintiffs to the fullest extent permitted by Delaware law.

92. The D&O Plaintiffs were directors and/or officers of SFH's predecessor, Spartan, are parties to the Delaware Action by reason of that fact, and are thus entitled to advancement of expenses in connection with the Delaware Action pursuant to the Indemnification Sources.

93. The D&O Plaintiffs have incurred, and will continue to incur, costs, fees, expenses, and other losses in connection with the Delaware Action.

94. The D&O Plaintiffs are entitled to judgment requiring Defendants to advance to the D&O Plaintiffs their reasonable expenses and costs, including attorneys' fees and pre- and post-judgment interest.

COUNT III

BREACH OF INDEMNIFICATION OBLIGATIONS WITH RESPECT TO COSTS INCURRED IN FEDERAL SECURITIES ACTION AND FEDERAL SECURITIES SETTLEMENT⁶

95. Plaintiffs repeat and reallege each of the allegations set forth above as if fully set forth herein.

⁶ D&O Plaintiffs Jan Wilson and John Stice are not named as a defendants in the Federal Securities Action, and therefore, are not included among the D&O Plaintiffs seeking indemnification of costs incurred in the Federal Securities Action and Federal Securities Settlement.

96. Pursuant to the Indemnification Sources, SFH agreed to indemnify and advance all costs, fees, expenses, and other losses of the D&O Plaintiffs with respect to the Federal Securities Action and the Federal Securities Settlement to the fullest extent permitted by Delaware law.

97. Pursuant to the Investment Agreement, EDUH agreed to honor SFH's obligation to indemnify the D&O Plaintiffs as provided in the Certificates and the Bylaws.

98. The D&O Plaintiffs were directors and/or officers of SFH's predecessor, Spartan, were parties to the Federal Securities Action by reason of that fact, and are thus entitled to indemnification of expenses in connection with the Federal Securities Action and Federal Securities Settlement pursuant to the Indemnification Sources.

99. At all times, the D&O Plaintiffs acted in good faith and in a manner that they reasonably believed to be in or not opposed to the best interests of Spartan.

100. The amounts incurred in defense of the Federal Securities Action and the Federal Securities Settlement were actually and reasonably incurred by the D&O Plaintiffs.

101. The D&O Plaintiffs and Beazley made requests to Defendants to honor their indemnification and advancement obligations to the D&O Plaintiffs, but these requests were wrongfully refused.

102. Defendants' failures to fulfill their indemnification and advancement obligations to the D&O Plaintiffs is a breach of Plaintiffs' rights under the Indemnification Sources and has caused damage to Plaintiffs.

103. Because Beazley has paid **Loss** pursuant to the terms of the Beazley Policy, Beazley is subrogated to the indemnification rights of the D&O Plaintiffs owed by Defendants. Thus, Beazley is entitled to indemnification from Defendants for the amounts Beazley paid in the defense and settlement of the Sunlight Matters.

COUNT IV

BREACH OF INDEMNIFICATION OBLIGATIONS WITH RESPECT TO COSTS INCURRED IN DELAWARE ACTION AND SECTION 220 DEMANDS⁷

104. Plaintiffs repeat and reallege each of the allegations set forth above as if fully set forth herein.

105. Pursuant to the Indemnification Sources, SFH agreed to indemnify and advance all costs, fees, expenses, and other losses of the D&O Plaintiffs with respect to the Delaware Action to the fullest extent permitted by Delaware law.

⁷ D&O Plaintiff James Crossen is not named as a defendant in the Delaware Action, and therefore, is not included among the D&O Plaintiffs seeking indemnification of costs incurred in the Delaware Action.

106. Pursuant to the Investment Agreement, EDUH agreed to honor SFH's obligation to indemnify the D&O Plaintiffs as provided in the Certificates and the Bylaws.

107. The D&O Plaintiffs were directors and/or officers of SFH's predecessor, Spartan, are parties to the Delaware Action by reason of that fact, and are thus entitled to indemnification for expenses in connection with the Delaware Action pursuant to the indemnification sources.

108. At all times, the D&O Plaintiffs acted in good faith and in a manner that they reasonably believed to be in or not opposed to the best interests of Spartan.

109. The amounts incurred in defense of the Delaware Action were actually and reasonably incurred by the D&O Plaintiffs.

110. The D&O Plaintiffs and Beazley made requests to Defendants to honor their indemnification and advancement obligations to the D&O Plaintiffs, but these requests were wrongfully refused.

111. Defendants' failures to fulfill their indemnification and advancement obligations to the D&O Plaintiffs is a breach of Plaintiffs' rights under Delaware law and has caused damage to Plaintiffs.

112. Because Beazley has paid **Loss** pursuant to the terms of the Beazley Policy, Beazley is subrogated to the indemnification rights of the D&O Plaintiffs

owed by Defendants. Thus, Beazley is entitled to indemnification from Defendants for the amounts Beazley paid in the defense and settlement of the Sunlight Matters.

COUNT V

SUBROGATION

113. Plaintiffs repeat and reallege each of the foregoing allegations as if fully set forth herein.

114. SFH and EDUH, as the D&O Plaintiffs' indemnitors, are primarily responsible for the payment of defense costs and settlements incurred by the D&O Plaintiffs in connection with the Sunlight Matters pursuant to the Indemnification Sources.

115. Beazley, pursuant to the Policy, is secondarily responsible for the amounts it has paid on behalf of the D&O Plaintiffs in connection with the Sunlight Matters.

116. By paying the amounts that it has paid on behalf of the D&O Plaintiffs, Beazley has extinguished the D&O Plaintiffs' liability for the amounts that Beazley has paid.

117. Beazley is subrogated to the extent of its payments to all of the rights of recovery which the D&O Plaintiffs would have had against SFH and EDUH.

118. Thus, Beazley, as subrogee of the D&O Plaintiffs, is entitled to payment from SFH and EDUH for the amounts that Beazley has paid on behalf of the D&O Plaintiffs in connection with the Sunlight Matters.

COUNT VI

REIMBURSEMENT OF ATTORNEYS' FEES AND EXPENSES INCURRED IN CONNECTION WITH THIS ACTION (FEES ON FEES)

119. Plaintiffs repeat and reallege each of the foregoing allegations as if fully set forth herein.

120. Plaintiffs have incurred substantial fees and expenses in connection with pursuing indemnification on behalf of the D&O Plaintiffs.

121. SFH and EDUH are obligated to indemnify Plaintiffs for their reasonable attorneys' fees and other expenses incurred in connection with pursuing the D&O Plaintiffs' indemnification rights and prosecuting this Action (i.e., fees-on-fees) under Delaware law and the Indemnification Sources.

WHEREFORE, Plaintiffs request judgment against Defendants:

A. Declaring that Defendants are required, pursuant to the Indemnification Sources, to indemnify for, and advance to, the D&O Plaintiffs (and Beazley to the extent Beazley is subrogated to the indemnification rights) all defense costs and any settlement payments incurred in connection with the Sunlight Matters;

- B. Awarding Plaintiffs damages for breach of the Indemnification Sources in an amount to be proven at trial;
- C. Ordering Defendants to advance costs to the D&O Plaintiffs in connection with the continued defense and/or resolution of the Delaware Action;
- D. Ordering Defendants to repay Beazley for the full amounts Beazley paid on behalf of the D&O Plaintiffs in connection with the Sunlight Matters;
- E. Awarding Plaintiffs “fees on fees” for this Action;
- F. Granting pre- and post-judgment interest in favor of Plaintiffs; and
- G. Granting any other and future relief to Plaintiffs as the Court deems just and proper.

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