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**VIA EMAIL AND FEDERAL EXPRESS**

Lily Fu Claffee, General Counsel  
Fox News Network, LLC  
1211 Avenue of the Americas  
New York, NY 10036-8701

Re: Legal Notice and Retraction Demand from Smartmatic USA Corp.

Dear Ms. Claffee:

I am litigation counsel for Smartmatic USA Corp (“Smartmatic”). Fox News has published numerous broadcasts, articles, and postings regarding Smartmatic in connection with the November 3, 2020 election (the “2020 U.S. election”). I identify some of those publications below and refer to the totality of your coverage of Smartmatic in November 2020 through today as the “Reports” for purposes of this letter. I am writing to provide you Smartmatic’s response to the Reports and put you on notice of potential legal claims.

Fox News has engaged in a concerted disinformation campaign against Smartmatic. Fox News told its millions of viewers and readers that Smartmatic was founded by Hugo Chávez, that its software was designed to fix elections, and that Smartmatic conspired with others to defraud the American people and fix the 2020 U.S. election by changing, inflating, and deleting votes. While Fox News holds itself out as a trusted news source, it has continually and repeatedly published demonstrably false information and defamatory statements about Smartmatic. Fox News used its anchors and on-air guests, including Rudy Giuliani and Sidney Powell, to spread lies about a company that had absolutely nothing to do with the voting that took place in areas at the heart of the “conspiracies” discussed following the 2020 U.S. election.

Smartmatic was the system integrator, manufacturing partner, and software developer for one county during the 2020 U.S. election – Los Angeles County, California – and that technology, developed per County specifications, does not count, tabulate, or store votes. No one has claimed irregularities in connection with the vote count in Los Angeles County, and no one could because it was a successful, transparent, and efficient process. Smartmatic’s technology was not used in any other county, including the states and counties that have received the most attention following election night. Nor does Smartmatic have any relationship with the company or companies who supplied voting technology in those states and counties. Smartmatic’s role in the 2020 U.S. election, while important to the company, was very limited.

Nonetheless, Fox News embarked on a disinformation campaign against Smartmatic shortly after the election closed and continuing today. Over the course of the campaign, Fox News published and republished dozens of false and misleading statements regarding Smartmatic. Fox

News stated and implied that (1) Smartmatic has a corporate relationship with Dominion Voting Systems (“Dominion”), (2) Smartmatic has a corrupt relationship with the Venezuelan government, including Hugo Chávez, (3) Smartmatic’s technology and software were designed and used to fix elections, (4) Smartmatic’s technology and software were widely used in the 2020 U.S. election, (5) Smartmatic’s technology and software were used to fix the 2020 U.S. election, (6) Smartmatic sent votes to foreign countries for tabulation, (7) Smartmatic’s technology has been banned from certain jurisdictions, (8) Smartmatic has ties to the Democratic party and George Soros, and (9) Smartmatic’s technology and software has numerous security weaknesses.

All these statements and implications are false and defamatory. Smartmatic is a global leader in election technology and support services. The over 300 men and women who work at Smartmatic have dedicated their careers to designing and building the most secure, transparent, and auditable voting systems in the world. Smartmatic has no ties to dictatorships. Smartmatic has no relationship with Dominion. Smartmatic had a limited role – one county – in the 2020 U.S. election. Smartmatic did nothing to justify or warrant the campaign Fox News launched against it.

Smartmatic believes Fox News had (and has) no evidence or credible source to support any of the false and misleading statements it published in the Reports. Indeed, Fox News would have easily discovered the falsity of the statements and implications being made about Smartmatic by performing even a modicum of investigation. Accurate information was and is readily available regarding Smartmatic on its website ([www.Smartmatic.com](http://www.Smartmatic.com)). Government agencies and election officials have published lists showing the providers of election technologies for the 2020 U.S. election. Both groups also verified the absence of evidence that voting systems deleted, lost, or changed votes. And, news organizations across the ideological spectrum, including the New York Times and Washington Post, have “fact checked” the false information published by Fox News. Your statements and implications are factually unsupportable.

To be clear, my client respects and appreciates the role that news organizations, including Fox News, play in educating readers and viewers. My client likewise appreciates the significant emotions and passions associated with the recently completed 2020 U.S. election. However, neither the importance of the role of news organization in our country, nor widespread interest in the outcome of the 2020 U.S. election, justifies the publication of false information. “[T]here is no constitutional value in false statements of fact. Neither the intentional lie nor the careless error materially advances society’s interest in uninhibited, robust, and wide-open debate on public issues.” *Gertz v. Welch*, 418 U.S. 323, 340 (1974).

Fox News had no right to defame my client when covering the 2020 U.S. election. Smartmatic demands a full and complete retraction of all false and defamatory statements and reports published by Fox News. This retraction must be done with the same intensity and level of coverage that you used to defame the company in the first place. Further, Smartmatic requests that you take all necessary steps to preserve communications, videos/recordings, documentation, drafts, and all other material related to the Reports. This letter serves as notice of potential legal claims against Fox News, its reporters, anchors, producers, and on-air guests by my client.

### **Fox News' False and Defamatory Statements/Implications**

Fox News' disinformation campaign against Smartmatic began in November 2020 and continues today. The disinformation campaign includes publication and republication of statements during morning and evening news programs, on Fox News' website ([www.foxnews.com](http://www.foxnews.com)) and in social media postings by Fox News as well as its reporters and anchors. Examples of Fox News' false and misleading statements are identified below. Please note that these are just a few examples of the countless false and defamatory statements and implications made by Fox News over the course of its ongoing campaign.<sup>1</sup>

#### **Category 1: False statements and implications regarding a corporate relationship between Smartmatic and Dominion**

Smartmatic has no corporate relationship with Dominion. Smartmatic does not own Dominion. Dominion does not own Smartmatic. Neither is a parent, subsidiary, or intermediary of the other. Smartmatic and Dominion are competitors. Notwithstanding these readily verifiable facts, Fox News reported the following:

- Rudy Giuliani: “*Dominion is a company that's owned by another company called Smartmatic, through an intermediary company named Indra.*” (Lou Dobbs Tonight, Fox Business, Interview of Rudy Giuliani (November 12, 2020)).
- Rudy Giuliani: “I'll give you another connection: *Smartmatic, the company that owns Dominion*, well, the guy who was running it [] was one of the [] people who is number two or three in Soros' Change the World organization – Open Society, right.” (Lou Dobbs Tonight, Fox Business, Interview of Rudy Giuliani (November 12, 2020)).
- Lou Dobbs: “*Dominion has connections to UK based Smartmatic*, a voting technology company established in 2000 that had ties to Venezuela's Hugo Chavez.” (Lou Dobbs Tonight, Fox Business, Interview of Rona McDaniel (November 16, 2020)).

#### **Category 2: False statements and implications regarding a corrupt relationship between Smartmatic and the Venezuelan government**

Antonio Mugica (CEO) and Roger Piñate (President) are Smartmatic's founders. The majority of the company shares are held by their families. The remaining shares (less than 15%) are held by employees and angel investors.

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<sup>1</sup> We have **not** prepared verbatim transcripts of the Reports, and we do not represent that the quotations identified below in each category are verbatim accounts of what was said during the Reports. The quotations represent our attempt to capture what was stated during the Reports, including adding punctuation to the oral communications. The broadcasts themselves should be watched for a complete and accurate recitation of what was actually said during the Reports. Any error in our quotations below is unintentional.

Smartmatic was founded in Boca Raton, Florida and incorporated in Delaware. Smartmatic has maintained its Florida office since its founding. It is not a Venezuelan company. SGO Corporation Limited, Smartmatic's parent company, is now headquartered in London. The Venezuelan government, including Hugo Chávez, did not participate in founding or creating the company.

Notwithstanding these readily verifiable facts, Fox News published the following:

- Rudy Giuliani: “Smartmatic is a company that was formed way back in about 2003--2004. You're going to be astonished when I tell you how it was formed. ***It was formed really by three Venezuelans who were very close to [ ] the dictator Chávez of Venezuela.*** And it was formed in order to fix elections. That's the company that owns Dominion. Dominion is a Canadian company, but all of its software is Smartmatic software, so the votes actually go to Barcelona, Spain. So we're using a foreign company that is ***owned by Venezuelans who are close to [ ] Chavez, are now close to Maduro.*** [They] have a history. They were founded as a company to fix elections.” (Lou Dobbs Tonight, Fox Business, Interview of Rudy Giuliani (November 12, 2020)).
- Sidney Powell: “Lord Malloch-Brown's name has been taken off the website for the company that he runs through the U.K. and Canada --- that has a role in there. It's either Semantic or Smartmatic . . . one is the [subsidiary] of the other. It's all inexplicably intertwined. ***The money creating it came out of Venezuela and Cuba. It was created for the express purpose of being able to alter votes and secure the reelection of Hugo Chávez and then Maduro.***” (Justice with Judge Jeanine, Fox News, Interview of Sidney Powell (November 14, 2020)).
- Rudy Giuliani: “This Dominion company is a radical left company, one of the people there is a big supporter of Antifa and has written horrible things about the President for the last three or four years, and the ***software that they use is done by a company called Smartmatic, a company that was founded by [ ]Chávez [ ] and by Chávez's two allies who still own it,*** and it's been used to cheat in elections in South America . . .” (Sunday Morning Futures with Maria Bartiromo, Fox News, Interview of Rudy Giuliani (November 15, 2020)).
- Rudy Giuliani: “I can prove that they did it in Michigan. I can prove it with witnesses. We're investigating the rest. In every one of those states though, we have more than enough illegal ballots already documented to overturn the results in that state. Because not only did ***they use a Venezuelan company*** to count our ballots [ ] ***which almost should be illegal per se...***” (Sunday Morning Futures with Maria Bartiromo, Fox News, Interview of Rudy Giuliani (November 15, 2020)).
- Rudy Giuliani: “And this has to be examined, Maria, beyond this election, which I believe will get overturned, but beyond this election, this whole thing has to be investigated as a national security matter, and the Governors who gave contracts to this company never bothered to do any due diligence. I mean, ***I can't imagine you'd give a contract to a company if you went one step further and found out it's really being run by people that are close to Maduro and Chávez!*** I can't imagine you would do that, unless you're out of your mind.” (Sunday Morning Futures with Maria Bartiromo, Fox News, Interview of Rudy Giuliani (November 15, 2020)).

- Sidney Powell: “I mean that's just logic [] it's been [] this [] affidavit also explains it's been used to change election results all over the world, and *it's all Venezuelan and Cuban and essentially communist money that's been doing this. It's a foreign-owned company* as you mentioned earlier.” (Lou Dobbs Tonight, Fox Business, Interview of Sidney Powell (November 16, 2020)).
- Lou Dobbs: “Dominion has connections to UK based *Smartmatic*, a voting technology company established in 2000 that *had ties to Venezuela's Hugo Chávez.*” (Lou Dobbs Tonight, Fox Business, Interview of Rona McDaniel (November 16, 2020)).
- Rudy Giuliani: “*We shouldn't be using this company that was founded by Chávez to call votes in America because their specialty in Venezuela is cheating.* Well apparently the governor signed them up and never bothered to do any due diligence of any kind.” (Lou Dobbs Tonight, Fox Business, Interview of Rudy Giuliani (November 18, 2020)).
- Rudy Giuliani: “They've since taken it down, but we have it, so we've got a very radical far-left company with [] some of their high-level people supporters of Antifa. Can you believe that? And they're *using a Venezuelan company [] as the vote counter*, which is known for changing votes and also known to have the most insecure computers in this business. I think you'd only [] because you [want to] cheat.” (Lou Dobbs Tonight, Fox Business, Interview of Rudy Giuliani (November 18, 2020)).

### **Category 3: False statements and implications regarding Smartmatic's technology and software being designed and used to fix elections**

Smartmatic has provided election services and support in more than 307 U.S. jurisdictions and 27 countries in the past 17 years. Smartmatic is an approved Department of Defense vendor and founding member of the Department of Homeland Security Election Infrastructure Sector Coordinating Council. Smartmatic's technology and software were designed to ensure secure, transparent, and auditable elections. They were not designed and cannot be used to change or alter votes.

Smartmatic's technology safeguards votes at every step of the electoral process and its record logs are fully auditable. Smartmatic's technology has been proven effective in audited elections for almost 20 years. Third-party validators have unequivocally authenticated Smartmatic's technology, including the State of California, PwC, and SLI Government Solutions, one of two accredited U.S. Election Assistance Commission Voting Systems Test Labs. The United Nations, Organization of American States, and the European Union have also validated Smartmatic's technology. The Carter Center has called Smartmatic's electronic voting solution “the best in the world.”

Moreover, Smartmatic has no operations in Venezuela. Smartmatic did election projects in Venezuela from 2004 to 2017. Smartmatic stopped doing business in Venezuela after Venezuela's National Electoral Counsel (“CNE”) announced election results that differed from the results reflected in Smartmatic's voting systems. Smartmatic publicly condemned the Venezuelan

election authorities' announcement of the election results as illegitimate. Smartmatic then ceased operations in Venezuela.

Notwithstanding these readily verifiable facts, Fox News published the following:

- Rudy Giuliani: “Smartmatic is a company that was formed way back in about 2003--2004. You're going to be astonished when I tell you how it was formed. It was formed really by three Venezuelans who were very close to [] the dictator Chávez of Venezuela. ***And it was formed in order to fix elections.*** That's the company that owns Dominion. Dominion is a Canadian company but all of its software is Smartmatic software, so the votes actually go to Barcelona, Spain. So we're using a foreign company that is owned by Venezuelans who are close to [] Chavez, are now close to Maduro. [They] have a history. ***They were founded as a company to fix elections.***” (Lou Dobbs Tonight, Fox Business, Interview of Rudy Giuliani (November 12, 2020)).
- Sidney Powell: “Now, we were fixing to overturn the results of the election in multiple States. And President Trump won by not just hundreds of thousands of votes, but by millions of ***votes that were shifted by this software that was designed expressly for that purpose.*** We have so much evidence I feel like it's coming in through a firehose.” (Sunday Morning Futures with Maria Bartiromo, Fox News, Interview of Sidney Powell (November 14, 2020)).
- Rudy Giuliani: “Republicans were shut out from enough of the count so they could accomplish [what] Smartmatic wanted to do. . . ***We have evidence that that's the same pattern Smartmatic used in other elections in which they would [be] disqualified.*** In other words, this is their pattern of activity, and, yes, there is a backdoor and we actually have proof of some of the connections to it.” (Sunday Morning Futures with Maria Bartiromo, Fox News, Interview of Rudy Giuliani (November 14, 2020)).
- Sidney Powell: “We're talking about the ***alteration and changes in millions of votes.*** Some being dumped that were for President Trump, some being flipped that were for President Trump. Computers being overwritten to ignore signatures, all kinds of different means of manipulating the Dominion and ***Smartmatic software,*** that of course we would not expect Dominion or ***Smartmatic*** to admit.” (Justice with Judge Jeanine, Fox News, Interview of Sidney Powell (November 14, 2020)).
- Sidney Powell: “The money creating it came out of Venezuela and Cuba. ***It was created for the express purpose of being able to alter votes and secure the reelection of Hugo Chávez and then Maduro.*** They've used it in Argentina, there's an American citizen who has exported it to other countries. And it's one huge, ***huge criminal conspiracy*** that should be investigated by military intelligence for its national security implications.” (Justice with Judge Jeanine, Fox News, Interview of Sidney Powell (November 14, 2020)).
- Rudy Giuliani: “[Smartmatic] was banned by the United States [] about a decade ago. It's come back now as a sub-contractor to other companies and so that hides in the weeds [] but Dominion sends everything [to] Smartmatic. Can you believe it? Our votes are sent overseas. They are sent to someplace else, some other country. Why do they leave our country? And ***this company***

*has tried and true methods for fixing elections by calling the halt to the voting when you're running too far behind. They've done that in prior elections.*" (Sunday Morning Futures with Maria Bartiromo, Fox News, Interview of Rudy Giuliani (November 15, 2020)).

- Maria Bartiromo: "One source says that the key point to understand is that the **Smartmatic system has a backdoor** that allows it to be, or that allows the votes to be, mirrored and monitored allowing an intervening party a real-time understanding of **how many votes will be needed to gain an electoral advantage.**" (Sunday Morning Futures with Maria Bartiromo, Fox News, Interview of Rudy Giuliani (November 15, 2020)).
- Rudy Giuliani: "Republicans were shut out from enough of the count, so they could accomplish [what] **Smartmatic wanted** to do. . . [W]e have evidence that that's **the same pattern Smartmatic used in other elections in which they were disqualified.** In other words, **this is their pattern of activity**, and, **yes, there is a backdoor** and we actually have proof of some of the connections to it." (Sunday Morning Futures with Maria Bartiromo, Fox News, Interview of Rudy Giuliani (November 15, 2020)).
- Sidney Powell: "Yes, well he's listed as retired Admiral Peter Neffenger. He is President of the Board of Directors of Smartmatic and it just so happens he's on Mr. Biden's presidential transition team that's going to be non-existent because we're fixing to overturn the results of the election in multiple states. [] President Trump won by not just hundreds of thousands of votes but by millions of votes that were **shifted by this software that was designed expressly for that purpose.**" (Sunday Morning Futures with Maria Bartiromo, Fox News, Interview of Sidney Powell (November 15, 2020)).
- Sidney Powell: "We have sworn witness testimony of why the software was designed. [] **It was designed to rig elections.** . . He was fully briefed on it. He saw it happen in other countries. It was exported internationally for profit by the **people that are behind Smartmatic** and Dominion. **They did this on purpose.** It was calculated. They've done it before. We have evidence from 2016 in California. We have so much evidence I feel like it's coming in through a fire hose." (Sunday Morning Futures with Maria Bartiromo, Fox News, Interview of Sidney Powell (November 15, 2020)).
- Sidney Powell: "[T]his is a massive election fraud, and I'm very concerned it involved not only Dominion and its **Smartmatic software** but that the software essentially was used by other election machines also. **It's the software that was the problem. Even their own manual explains how votes can be wiped away.** They can put, it's like drag-and-drop Trump votes to a separate folder and then delete that folder. It's absolutely brazen how people bought this system and why they bought this system." (Sunday Morning Futures with Maria Bartiromo, Fox News, Interview of Sidney Powell (November 15, 2020)).
- Maria Bartiromo: "What is the CIA's role, why do you think Gina Haspel should be fired immediately? [] You're saying the CIA is behind the Dominion or **Smartmatic voting software** as well?" Sidney Powell: "Well, the CIA and the FBI and other government organizations have received multiple reports of wrongdoing and failures and vulnerabilities in this company's products. **Their own manual, if you sat down and read it, would explain how and**

*why no honest person would use this system*, and it's not just Dominion. There are other companies in the voting machine business in this country too, that may very well and are likely using the same software. We've detected voting irregularities that are inexplicable and aligned with these problems in other states that think they have valid systems, but the people who bought the Dominion system for sure knew exactly what they were getting. It should never have been installed anywhere and we are going to show the public exactly how rotten the entire state is.” (Sunday Morning Futures with Maria Bartiromo, Fox News, Interview of Sidney Powell (November 15, 2020)).

- Sidney Powell: “Okay, that’s part of it. They can stick a thumb drive in the machine or upload software to it, even from the Internet. They can do it from Germany or Venezuela even. They can remote access anything. They can watch votes in real time. ***They can shift votes in real time. We’ve identified mathematically the exact algorithm they used and planned to use from the beginning to modify the votes in this case to make sure Biden won.*** [] Well, its massive election fraud. [I]t's going to undo the entire election, and ***they can do anything they want with the votes.*** They can have the machines not read the signature. They can have the machines not read the down ballot. They can make the machines read and catalog only the Biden votes. It's like drag-and-drop whatever you want, wherever you want, upload votes. [I]n fact we've got math in Michigan and Pennsylvania, I think it is, that all of a sudden, hundreds of thousands of votes at a 67% ratio for Biden, 23% for Trump, were uploaded multiple times into the system.” (Sunday Morning Futures with Maria Bartiromo, Fox News, Interview of Sidney Powell (November 15, 2020)).
- Sidney Powell: “I've just gotten some stunning evidence from a firsthand witness, a high-ranking military officer who was present when ***Smartmatic was designed in a way that this . . . and I'm going to just read you some of these statements if you don't mind, so I get them exactly right from [] the affidavit: ‘...designed in a way that the system could change the vote of each voter without being detected. . . Smartmatic agreed to create such a system and produced the software and hardware that accomplished the result for President Chávez. After the Smartmatic [] electoral management system was put in place, he closely observed several elections where the results were manipulated using the Smartmatic software. [] Persons controlling the vote tabulation computer had the ability to change the reporting of votes by moving votes from one candidate to another by using the Smartmatic software.’***” (Lou Dobbs Tonight, Fox Business, Interview of Sidney Powell (November 16, 2020)).
- Sidney Powell: “So here's the other kicker: ‘When the ***Smartmatic machines . . .*** when somebody's losing, like for example when Maduro and his supporters realized the size of the other guy’s lead, they were worried that they were in crisis mode and would lose the election. The Smartmatic’s machines used for voting in each state were connected to the Internet, reported their information over the Internet to the Caracas Control Center real time, says the ***decision was made to reset the entire system.*** Maduro and his supporters ordered the network controllers to take the Internet itself offline and practically all parts in Venezuela to change the results. It took the voting operators approximately two hours to make the adjustments in the vote from Radonski to Maduro. Then when they turned the internet back on and the online reporting was up and running again, they checked each screen, state by state, to be certain they

could see each *vote was changed in favor of Maduro.*” (Lou Dobbs Tonight, Fox Business, Interview of Sidney Powell (November 16, 2020)).

- Rudy Giuliani: “Lou I don't know if people can appreciate this but I think when they do they're going to be outraged. Our votes in 27 [or] 28 states that are counted by Dominion, and calculated and analyzed, they're sent outside the United States. And they're not sent to Canada. They're sent to Germany and Spain; and, the company counting, *it is not Dominion, it's Smartmatic*, which is a company that was *founded in 2005 in Venezuela for the specific purpose of fixing elections. That's their expertise, how to fix elections.* [] We shouldn't be using this company that was founded by Chávez to call votes in America *because their specialty in Venezuela is cheating.* Well apparently the governor signed them up and never bothered to do any due diligence of any kind.” (Lou Dobbs Tonight, Fox Business, Interview of Rudy Giuliani (November 18, 2020)).
- Rudy Giuliani: “Can you believe that? And they're using a Venezuelan company as the as the vote counter which is *known for changing votes* and also known to have the *most insecure computers in this business.* I think you'd only [] because you [want to] cheat.” (Lou Dobbs Tonight, Fox Business, Interview of Rudy Giuliani (November 18, 2020)).
- Jesse Watters: “Her focus was on Dominion voting systems and *Smartmatic*, a firm that operates voting technology software. There has been a lot of discussion in the country swirling around *the vote machines* and trust has been shattered.” (Watters' World, Fox News (November 21, 2020)).

#### **Category 4: False statements and implications regarding Smartmatic's technology and software being widely used during 2020 U.S. election**

Smartmatic was the system integrator, manufacturing partner, and software developer for one county during the 2020 U.S. election – Los Angeles County. Smartmatic is not subcontractor to any companies doing business in the United States. Its software was not used by any other company for the 2020 U.S. election, including Dominion. Dominion did not use Smartmatic's software in any county where its voting technology was used in the 2020 U.S. election. Smartmatic has never provided Dominion with any software, hardware, or other technology. There are no ties between Smartmatic and Dominion, including ownership ties, software licensing, or business at all.

Notwithstanding these readily verifiable facts, Fox News reported the following:

- Rudy Giuliani: “They have a terrible record, and they are extremely hackable, so I mean, Texas made the right decision. [] *What the heck was Georgia doing hiring this company.*” (Lou Dobbs Tonight, Fox Business, Interview of Rudy Giuliani (November 12, 2020)).
- Sidney Powell: “Definitely hundreds of thousands have stepped forward with their different experiences of voter fraud, but *this is a massive election fraud.* And I'm very concerned [it] involved, not only *Dominion and its Smartmatic software*, but that the *software essentially*

*was used by other election machines also.”* (Sunday Morning Futures with Maria Bartiromo, Fox News, Interview of Sidney Powell (November 15, 2020)).

- Rudy Giuliani: “*They did it in big cities where they have corrupt machines that will protect them, meaning in Pennsylvania, Philadelphia, and Pittsburgh, [and] in Detroit.* They didn't have to do it in Chicago, in New York or Boston. They could have they have corrupt machines there. *They did it absolutely in Phoenix, [Arizona]. They did it absolutely in Milwaukee, [Wisconsin].*” (Sunday Morning Futures with Maria Bartiromo, Fox News, Interview of Rudy Giuliani (November 15, 2020)).
- Sidney Powell: “We’re talking about the alteration and changes in millions of votes. Some being dumped that were for President Trump, some being flipped that were for President Trump. Computers being overwritten to ignore signatures, all kinds of different means of manipulating the *Dominion and Smartmatic software*, that of course we would not expect Dominion or Smartmatic to admit.” (Justice with Judge Jeanine, Fox News, Interview of Sidney Powell (November 14, 2020)).
- Rudy Giuliani: “[Smartmatic] was banned by the United States several... about a decade ago. It’s come back now as a sub-contractor to other companies and so that hides in the weeds... but *Dominion sends everything [to] Smartmatic*. Can you believe it? [] And this company has tried and true methods for fixing elections by calling the halt to the voting when you’re running too far behind. They've done that in prior elections.” (Sunday Morning Futures with Maria Bartiromo, Fox News, Interview of Rudy Giuliani (November 15, 2020)).
- Maria Bartiromo: “Will you be able to prove this, Rudy? Look, I want to show this *graphic of the swing states that were using Dominion and this software, the Smartmatic software*. You just said [] all this is Smartmatic, a Delaware entity registered in Boca Raton, Florida, activities in Caracas, Venezuela, the voting machines were used, Dominion voting machines were *used in Arizona, Georgia, Michigan, Nevada, Pennsylvania and Wisconsin* and I have a graphic showing the states where they stopped counting, which I thought was also strange to stop counting in the middle of Election Night.” (Sunday Morning Futures with Maria Bartiromo, Fox News, Interview of Rudy Giuliani (November 15, 2020)).
- Rudy Giuliani: “I can prove that *they did it in Michigan*. I can prove it with witnesses. We’re investigating the rest. In every one of those states though, we have more than enough illegal ballots already documented to overturn the results in that state. Because not only did they *use a Venezuelan company to count our ballots*, which almost should be illegal per se. [] Now, they didn’t do it everywhere, they did it in big cities where they have corrupt machines that will protect them . . . meaning in *Pennsylvania, Philadelphia, and Pittsburgh, [and] in Detroit*. They didn’t have to do it in Chicago, in New York or Boston. They could have their corrupt machines there. *They did it absolutely in Phoenix, Arizona*. They did it absolutely in *Milwaukee, Wisconsin*. Republicans were shut out from enough of the count, so they could accomplish what *Smartmatic wanted to do*. . . We have evidence that that’s the same pattern Smartmatic used in other elections in which they were disqualified.” (Sunday Morning Futures with Maria Bartiromo, Fox News, Interview of Rudy Giuliani (November 15, 2020)).

- Maria Bartiromo: “Sidney, thanks very much for being here. We appreciate your time this morning. I want to get right into it. We just heard about the *software made by Smartmatic* from Rudy, and I want to get your take on what you and I spoke about just a few minutes ago and that is a gentleman named Peter Neffenger. Tell me how he fits into all of this.” (Sunday Morning Futures with Maria Bartiromo, Fox News, Interview of Sidney Powell (November 15, 2020)).
- Rudy Giuliani: “Lou I don't know if people can appreciate this but I think when they do they're going to be outraged. Our votes in **27 [or] 28 states** that are counted by Dominion, and calculated and analyzed, they're sent outside the United States. And they're not sent to Canada. They're sent to Germany and Spain. And *the company counting, it is not Dominion, it's Smartmatic*, which is a company that was founded in 2005 in Venezuela for the specific purpose of fixing elections.” (Lou Dobbs Tonight, Fox Business, Interview of Rudy Giuliani (November 18, 2020)).

#### **Category 5: False statements and implications regarding Smartmatic's technology and software being used to fix 2020 U.S. election**

As you know, the members of the Election Infrastructure Government Coordinating Council (“GCC”) and the Election Infrastructure Sector Coordinating Council (“SCC”) issued a joint statement on November 12, 2020, concluding as follows: “The November 3<sup>rd</sup> election was the most secure in American history. . . There is no evidence that any voting system deleted or lost votes, changed votes, or was in any way compromised.”

Moreover, regardless of the above conclusion, Smartmatic developed technology could not have been used to “fix” the 2020 U.S. election given that technology and software supported by Smartmatic was only used in one county, Los Angeles County. President-elect Biden won approximately 71% of the vote in Los Angeles County compared to 27% for President Trump. This is similar to the voting percentages for the 2016 election, in which Secretary Clinton received 72% of the vote. No one has claimed improprieties relating to the results in Los Angeles County.

Finally, Smartmatic does not believe that Fox News has reviewed or obtained any evidence or credible source indicating that its technology or software were used to alter, change, eliminate, or increase votes in Los Angeles County or elsewhere in the 2020 U.S. election. Fox News could not have reviewed or obtained any such evidence because Smartmatic's technology and software were not used for that purpose during the 2020 U.S. election or any other election.

Notwithstanding these readily verifiable facts, Fox News reported the following:

- Sidney Powell: “Now we were fixing to overturn the results of the election in multiple States. And President Trump won by not just hundreds of thousands of votes, but by *millions of votes that were shifted by this software that was designed expressly for that purpose*. We have so much evidence I feel like it's coming in through a firehose.” (Sunday Morning Futures with Maria Bartiromo, Fox News, Interview of Sidney Powell (November 15, 2020)).

- Sidney Powell: “Well, let me put it this way. First of all, I never say anything I can't prove. Secondly, the evidence is coming in so fast I can't even process it all. Millions of Americans have written I would say by now. Definitely hundreds of thousands have stepped forward with their different experiences of voter fraud, but **this is a massive election fraud**. And I'm very concerned [it] involved, not only Dominion and **its Smartmatic software**, but that the software essentially was used by other election machines also.” (Sunday Morning Futures with Maria Bartiromo, Fox News, Interview of Sidney Powell (November 15, 2020)).
- Rudy Giuliani: “**They did it in big cities** where they have corrupt machines that will protect them, meaning in **Pennsylvania, Philadelphia, and Pittsburgh, [and] in Detroit**. They didn't have to do it in Chicago in New York or Boston. They could have they have corrupt machines there. **They did it absolutely in Phoenix, [Arizona]. They did it absolutely in Milwaukee, [Wisconsin]**.” (Sunday Morning Futures with Maria Bartiromo, Fox News, Interview of Rudy Giuliani (November 15, 2020)).
- Rudy Giuliani: “Republicans were shut out from enough of the count so they could accomplish [what] Smartmatic wanted to do. . . We have evidence that that's the **same pattern Smartmatic used in other elections** in which they would [be] disqualified. In other words, **this is their pattern of activity**, and, yes, there is a backdoor and we actually have proof of some of the connections to it.” (Sunday Morning Futures with Maria Bartiromo, Fox News, Interview of Rudy Giuliani (November 15, 2020)).
- Rudy Giuliani: “If you get that **Smartmatic machine** out, and you allow us, I mean, this is unprecedented—they're counting mail-in ballots, and they don't allow any Republican to inspect. That is **illegal, unlawful, against the law**.” (Sunday Morning Futures with Maria Bartiromo, Fox News, Interview of Rudy Giuliani (November 15, 2020)).
- Rudy Giuliani: “We have people that I can't really disclose, that can describe the hardware in great detail. We have some of the people former government employees, our government employees and others that were there at the creation of Smartmatic. They can describe it. They can show it. And then we have proofs that I can't disclose yet, but I'm confident that... And this has to be examined, Maria, beyond this election, which I believe will get overturned-- but beyond this election, **this whole thing has to be investigated as a national security matter**, and the Governors who gave contracts to this company never bothered to do any due diligence. I mean, I can't imagine you'd give a contract to a company if you went one step further and found out it's really being run by people that are close to Maduro and Chávez. I can't imagine you would do that, unless you're out of your mind.” (Sunday Morning Futures with Maria Bartiromo, Fox News, Interview of Rudy Giuliani (November 15, 2020)).
- Sidney Powell: “Yes, well he's listed as retired Admiral Peter Neffenger. He is President of the Board of Directors of Smartmatic, and it just so happens he's on Mr. Biden's presidential transition team that's going to be non-existent because we're fixing to overturn the results of the election in multiple States. [] President Trump won by not just hundreds of thousands of votes but by **millions of votes that were shifted by this software that was designed expressly**

*for that purpose.*” (Sunday Morning Futures with Maria Bartiromo, Fox News, Interview of Sidney Powell (November 15, 2020)).

- Sidney Powell: “First of all, I never say anything I can't prove. Secondly, the evidence is coming in so fast, I can't even process it all. Millions of Americans have written, I would say, by now, definitely hundreds of thousands have stepped forward with their different experiences of voter fraud, but this is a **massive election fraud**, and I'm very concerned [it] involved not only Dominion and its Smartmatic software but that the software essentially was used by other election machines also. It's the software that was the problem. Even their own manual explains how votes can be wiped away. **They can put, it's like drag-and-drop Trump votes to a separate folder and then delete that folder. It's absolutely brazen how people bought this system and why they bought this system.** In fact, every state that bought Dominion, for sure, should have a criminal investigation or at least a serious investigation of the officers in the state who bought the software. We've even got evidence from kickbacks, essentially.” (Sunday Morning Futures with Maria Bartiromo, Fox News, Interview of Sidney Powell (November 15, 2020)).
- Maria Bartiromo: “What is the CIA's role, why do you think Gina Haspel should be fired immediately? You're saying the CIA is behind the Dominion or Smartmatic voting software as well?” Sidney Powell: “Well, the CIA and the FBI and other government organizations have received multiple reports of wrongdoing and failures and vulnerabilities in this company's products. Their own manual, if you sat down and read it, would explain how and why no honest person would use this system, and it's not just Dominion. There are other companies in the voting machine business in this country too, that may very well and are likely using the same software. **We've detected voting irregularities that are inexplicable and aligned with these problems in other states that think they have valid systems but the people who bought the Dominion system for sure knew exactly what they were getting.** It should never have been installed anywhere and we are going to show the public exactly how rotten the entire state is.” (Sunday Morning Futures with Maria Bartiromo, Fox News, Interview of Sidney Powell (November 15, 2020)).
- Sidney Powell: “Okay, that's part of it. They can stick a thumb drive in the machine or upload software to it, even from the Internet. They can do it from Germany or Venezuela even. They can remote access anything. They can watch votes in real time. They can shift votes in real time. **We've identified mathematically the exact algorithm they used and planned to use from the beginning to modify the votes in this case to make sure Biden won.** That's why, he said, he didn't need your votes now. He would need you later. He was right. I mean, in his demented state he had no filter and he was speaking the truth more than once including when he said he had the largest voter fraud organization ever. **Well, its massive election fraud. It's going to undo the entire election, and they can do anything they want with the votes.** They can have the machines not read the signature. They can have the machines not read the down ballot. They can make the machines read and catalog only the Biden votes. **It's like drag-and-drop whatever you want wherever you want, upload votes. In fact we've got math in Michigan and Pennsylvania, I think it is, that all of a sudden, hundreds of thousands of votes at a 67% ratio for Biden, 23% for Trump, were uploaded multiple times into the system.**” (Sunday

Morning Futures with Maria Bartiromo, Fox News, Interview of Sidney Powell (November 15, 2020)).

- Lou Dobbs: “Your reaction to what the Trump election legal team and others are discovering about Dominion, Smartmatic, and many of the other voting companies . . . which seems like . . . probable cause for a complete and thorough investigation.” (Lou Dobbs Tonight, Fox Business, Interview of Rona McDaniel (November 16, 2020)).
- Maria Bartiromo: “What do you think went on here? When we spoke on Sunday we talked about the *software made by Smartmatic that was changing votes from Trump to Biden.*” (Mornings with Maria, Fox Business, Interview of Rudy Giuliani (November 17, 2020)).
- Lou Dobbs: “I am alarmed because of what is occurring in plain sight during this 2020 election for President of the United States. The circumstances and events are eerily reminiscent of what happened with Smartmatic software electronically changing votes in the 2013 presidential election in Venezuela.” (Lou Dobbs Tonight, Fox Business (November 18, 2020)).
- Lou Dobbs: “After all the chairman of Smartmatic is very very close to none other than Mr. Soros. So how do you think they're going to cheat? They're going to cheat Democratic. They're going to cheat left wing. They're going to cheat radical. That's what they are; left-wing radicals.” (Lou Dobbs Tonight, Fox Business (November 18, 2020)).

#### **Category 6: False statements and implications regarding Smartmatic’s technology and software sending votes to foreign countries**

Under County supervision, Smartmatic developed voting technology that was used in Los Angeles County in the 2020 U.S. election. That technology does not count, tabulate, or store votes. Vote tabulation, supervision, and oversight is done at a Los Angeles County facility in Downey, California by County staff. The County owns and operates the voting system, and manages and secures the count. Smartmatic has no involvement in the tabulation and results reporting processes. The technology is not controlled by a server located outside the United States and no votes were or could be transmitted outside the United States. Notwithstanding these readily verifiable facts, Fox News reported the following:

- Lou Dobbs: “And now we have to find out whether they did; and *with those servers whether they're in Canada, whether there in Barcelona or Spain or Germany.* We know a number of companies, all of them are private --- five of them, five of the top voting companies in this country at least --- if they're not in this country, they're processing our votes in this country -- - they comprise 90% of all of the election voting market in this country. It is stunning, and their private firms and very little is known about their ownership beyond what you're saying about Dominion but it's very difficult to get a handle on just who owns what and how they're being operated. And by the way, the states, as you well know now, *they have no ability to audit meaningfully the votes that are cast because the servers are somewhere else* and are considered proprietary and they won't touch them --- it won't permit them being touched so it's

really so.” (Lou Dobbs Tonight, Fox Business, Interview of Rudy Giuliani (November 12, 2020)).

- Lou Dobbs: “Is the FBI carrying out an investigation of these voting companies and whether *their servers are domiciled* in at least two instances...three instances... *we know they’re in foreign countries...*” (Lou Dobbs Tonight, Fox Business, Interview of Sidney Powell (November 14, 2020)).
- Rudy Giuliani: “[Smartmatic] was banned by the United States several... about a decade ago. It’s come back now as a sub-contractor to other companies and so that hides in the weeds... but Dominion sends everything [to] Smartmatic. Can you believe it? *Our votes are sent overseas.* They are sent to someplace else, some other country. Why do they leave our country? And this company has tried and true methods for fixing elections by calling the halt to the voting when you’re running too far behind. They’ve done that in prior elections.” (Sunday Morning Futures with Maria Bartiromo, Fox News, Interview of Rudy Giuliani (November 15, 2020)).
- Rudy Giuliani: “Lou I don’t know if people can appreciate this but I think when they do they’re going to be outraged. Our votes in 27 [or] 28 states that are counted by Dominion, and calculated and analyzed, *they’re sent outside the United States. And they’re not sent to Canada. They’re sent to Germany and Spain. And the company counting, it is not Dominion, it’s Smartmatic,* which is a company that was founded in 2005 in Venezuela for the specific purpose of fixing elections.” (Lou Dobbs Tonight, Fox Business, Interview of Rudy Giuliani (November 18, 2020)).

### **Category 7: False statements and implications regarding Smartmatic being banned from jurisdictions due to reported problems**

No protest case questioning the results of a Smartmatic assisted election, filed by a losing candidate, has ever prospered against Smartmatic technology. Smartmatic has never been banned or disqualified from doing business in the United States or any State or county. Notwithstanding these readily verifiable facts, Fox News published the following:

- Rudy Giuliani: “Republicans were shut out from enough of the count so they could accomplish [what] Smartmatic wanted to do... *We have evidence that that’s the same pattern Smartmatic used in other elections in which they would [be] disqualified.* In other words, this is their pattern of activity, and, yes, there is a backdoor and we actually have proof of some of the connections to it.” (Sunday Morning Futures with Maria Bartiromo, Fox News, Interview of Rudy Giuliani (November 15, 2020)).
- Rudy Giuliani: “[*Smartmatic*] was banned by the United States several ... about a decade ago. It’s come back now as a sub-contractor to other companies and so that hides in the weeds... but Dominion sends everything [to] Smartmatic. Can you believe it?” (Sunday Morning Futures with Maria Bartiromo, Fox News, Interview of Rudy Giuliani (November 15, 2020)).

- Maria Bartiromo: “What is the CIA's role, why do you think Gina Haspel should be fired immediately? You're saying the CIA is behind the Dominion or Smartmatic voting software as well?” Sidney Powell: “Well, ***the CIA and the FBI and other government organizations have received multiple reports of wrongdoing and failures and vulnerabilities in this company's products.***” (Sunday Morning Futures with Maria Bartiromo, Fox News, Interview of Sidney Powell (November 15, 2020)).
- Rudy Giuliani: “[T]he company counting, it is not Dominion, it's Smartmatic, which is a company that was founded in 2005 in Venezuela for the specific purpose of fixing elections. That's their expertise, how to fix elections. They did it a number of times in Venezuela. They did it in Argentina. They messed up an election . . . in Chicago and there's a whole congressional record that you can go look at about what a terrible company this is. . . It's all the more outrageous because Dominion [] and [] ***Smartmatic [] were denied [] use in the state of Texas, which called them out for what they are.***” (Lou Dobbs Tonight, Fox Business, Interview of Rudy Giuliani (November 18, 2020)).
- Lou Dobbs: “Among the many things that the agency failed to disclose is that Dominion Voting Systems and another, well several, voting companies are members of their election infrastructure sector coordinating council. That's a mouthful. It's an advisory council to CISA and the DHS, one of two entities that authored, that wrote, the CISA November 12th statement. Also sitting on that council, in addition to Dominion, is ***Smartmatic, another company that we have reported on, and detailed, on this broadcast with documented issues with their voting machine software.***” (Lou Dobbs Tonight, Fox Business (November 26, 2020)).

#### **Category 8: False statements and implications regarding a relationship between Smartmatic and the Democratic Party and George Soros**

Smartmatic has no ties to political parties. The company is not political. It has maintained an independent, apolitical operating philosophy in every country where Smartmatic has provided technology or services.

George Soros has no affiliation with the company. He is not an investor, owner, or Board member. Lord Mark Malloch-Brown sits on the Board of SGO Corporation (Smartmatic's parent company) and on the board of more than a dozen organizations. Lord Malloch-Brown is also on the Board of Open Society Foundation, a philanthropic organization founded by Mr. Soros, and was recently named president of the Foundation.

Peter Neffenger is a retired vice admiral of the U.S. Coast Guard. He received the Department of Homeland Security's Distinguished Service Medal twice during his time with the Coast Guard. He also served as the Transportation Security Administration chief from 2015 until 2017. Mr. Neffenger joined President-elect Biden's transition effort as a volunteer. Alongside about two dozen others, he will support one of the incoming review teams, assigned to the Homeland Security Department.

Notwithstanding these readily verifiable facts, Fox News published the following statements to imply that Smartmatic had an incentive to fix the 2020 U.S. election to favor President-elect Biden:

- Rudy Giuliani: “One of the—the chairman of Smartmatic is a close business associate of George Soros. I have to tell you more?” (Sunday Morning Futures with Maria Bartiromo, Fox News, Interview of Rudy Giuliani (November 15, 2020)).
- Sidney Powell: “Yes, well he's listed as retired Admiral Peter Neffenger. He is President of the Board of Directors of Smartmatic and it just so happens he's on Mr. Biden's presidential transition team that's going to be non-existent . . .” (Sunday Morning Futures with Maria Bartiromo, Fox News, Interview of Sidney Powell (November 15, 2020)).
- Sidney Powell: “The president of it is Mr. Neffenger, who is on Biden's very presumptuous and immediately failing transition team.” (Lou Dobbs Tonight, Fox Business, Interview of Sidney Powell (November 16, 2020)).
- Lou Dobbs: “After all the chairman of Smartmatic is very very close to none other than Mr. Soros. So how do you think they're going to cheat? They're going to cheat democratic they're going to cheat left wing they're going to cheat radical that's what they are; left-wing radicals.” (Lou Dobbs Tonight, Fox Business (November 18, 2020)).

### **Category 9: False statements and implications regarding security features of Smartmatic's technology and software**

Smartmatic designed its technology to enable election stakeholders to audit the entire process. Smartmatic's software has been open to audits in all countries where it operates and all audits have validated the accuracy of the results.

Moreover, since 2000, Smartmatic's technology has been used to register and count nearly 5 billion auditable votes without any security breaches. Smartmatic does not rely on a single security application or off-the-shelf protections. Smartmatic's systems employ multi-layered protection strategies, including security fragmentation, security layering, encryption, device identity assurance, multi-key combinations, and opposing-party auditing.

Finally, computers have been used for the last 50 years to count votes in the United States. There is no evidence that any of them have ever been hacked. None of them.

Notwithstanding these readily verifiable facts, Fox News published the following:

- Rudy Giuliani: “First of all, *the machines can be hacked*. There's no question about that. Their machines can be hacked, but it's far worse than that.” (Lou Dobbs Tonight, Fox Business, Interview of Rudy Giuliani (November 12, 2020)).
- Rudy Giuliani: “They have a terrible record, and they are *extremely hackable*. So I mean, Texas made the right decision. What the heck was Georgia doing hiring this company.” (Lou Dobbs Tonight, Fox Business, Interview of Rudy Giuliani (November 12, 2020)).

- Rudy Giuliani: “And yes, **they can be hacked**, and yes, they can change votes.” (Lou Dobbs Tonight, Fox Business, Interview of Rudy Giuliani (November 12, 2020)).
- Lou Dobbs: “It is stunning, and [they’re] private firms and very little is known about their ownership beyond what you're saying about Dominion, but it's very difficult to get a handle on just who owns what and how they're being operated. And, by the way, the states, as you well know now, **they have no ability to audit meaningfully the votes** that are cast because the servers are somewhere else and are considered proprietary and they won't touch them. It won't permit them being touched so it's really so.” (Lou Dobbs Tonight, Fox Business, Interview of Rudy Giuliani (November 12, 2020)).
- Maria Bartiromo: “One source says that the key point to understand is that the **Smartmatic system has a backdoor**, that allows it to be, or that allows the votes to be mirrored and monitored allowing an intervening party a real-time understanding of how many votes will be needed to gain an electoral advantage.” (Sunday Morning Futures with Maria Bartiromo, Fox News, Interview of Rudy Giuliani (November 15, 2020)).
- Rudy Giuliani: “Republicans were shut out from enough of the count, so they could accomplish [what] Smartmatic wanted to do. . . We have evidence that that’s the same pattern Smartmatic used in other elections in which they were disqualified. In other words, this is their pattern of activity, and, yes, **there is a backdoor and we actually have proof of some of the connections to it.**” (Sunday Morning Futures with Maria Bartiromo, Fox News, Interview of Rudy Giuliani (November 15, 2020)).
- Maria Bartiromo: “This has to do with Smartmatic election software. They say, number one, observers prevented them from seeing the ballots. Number two, there’s an inconsistent laws of curing ballots. Number three the in person voters told that they voted already, and officials told not to look for defects, and to backdate ballots before November third. Also, in terms of the computers and the software, **Smartmatic election software was developed, Sidney Powell says, in Venezuela with poorest security and built in functionality allowing the administrators to override security features.**” (Mornings with Maria, Fox Business, Interview of Alan Dershowitz (November 22, 2020)).

### **Smartmatic’s Retraction Demand**

Smartmatic believes that Fox News did not, and does not, have a good faith basis for any of the statements and implications made in the Reports regarding Smartmatic. There is no credible source – documented or otherwise – for any of these false and defamatory statements or implications. Nonetheless, Fox News allowed its reporters, anchors, and on-air guests to make these false and defamatory statements time and time again. This pattern of behavior qualifies as either knowingly publishing factually inaccurate information or a reckless disregard for the truth.

The most obvious transgression is your repeated claims that Smartmatic committed, perpetrated, and/or participated in a widespread voter fraud scheme for the 2020 U.S. election and switched millions of votes from President Trump to President-elect Biden. Discovering that this claim was factually inaccurate and impossible took nothing more than learning whether

Smartmatic's technology was widely used during the 2020 U.S. election. It was not. It was used in one county. From this simple truth, it was (or would have been) readily apparent that the statements being made about Smartmatic were factually inaccurate.

The damage your disinformation campaign has done, and will do, to Smartmatic's revenue and business valuation will be measured in the hundreds of millions, if not billions, of dollars. Smartmatic's reputation is one of its most valuable commodities. The government officials who elect to purchase Smartmatic's technology do so based on their belief and understanding that Smartmatic's technology will help them deliver a secure, transparent, and auditable election. They need the utmost trust in Smartmatic so that voters can have the utmost trust in the validity of their elections. Your false and defamatory statements undermine the reputation for reliability that Smartmatic has spent almost 20 years building.

Making matters worse, Fox News used various platforms to disseminate this disinformation campaign. The Reports were published on your morning and evening news programs. The Reports were then repeated and republished on your website ([www.foxnews.com](http://www.foxnews.com)) and further published by your anchors on their Twitter and other accounts. Your direct publication alone of the Reports reached millions of readers and viewers. The Reports were then further republished, as you knew they would be, by individuals and other news organizations. As a result, your false and defamatory statements regarding Smartmatic have irreparably damaged the company's reputation with millions of individuals and government officials.

Beyond the financial harm you have done to Smartmatic, your disinformation campaign has created personal risk for the men and women who work at the company. Smartmatic and its employees and management have received countless threats in the wake of your Reports. These threats have been communicated directly to Smartmatic employees and management across the globe, including threats of death and personal violence. The social media profiles of the company and its CEO have been filled with profanities and more threats. Family members, including children, of Smartmatic's executives have also received threats to their safety and well-being. That is another consequence of your actions.

Now is the time for Fox News to start to correct the record. Smartmatic demands that Fox News publish a full and complete retraction of all its false and defamatory statements regarding Smartmatic, including but not limited to those identified and categorized above. This retraction must be published on multiple occasions (as were the false and defamatory statements) and across the various platforms used by Fox News to disseminate the false and defamatory statements, including its morning and evening news programs, its website, and the social media platforms used by Fox News and its reporters and anchors. The prominence of the retraction, including being featured during prime time slots, must match the attention and audience targeted with the original defamatory publications. We ask that Fox News treat this retraction and the issues raised in this letter with the attention and seriousness that any reputable business deserves and that you owe to the public as a responsible journalistic operation.

Please confirm by December 15, 2020, that Fox News will publish this retraction. Smartmatic reserves all its legal rights and remedies, including its right to pursue defamation and

Lily Fu Claffee, General Counsel

December 10, 2020

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disparagement claims against Fox News and its anchors, reporters, and on-air guests. Accordingly, please confirm that Fox News will preserve all potentially relevant documents and information regarding the Reports and suspend all document destruction protocols related to these documents and information. The documents and information are relevant to and necessary for Smartmatic's potential claims.

Finally, Smartmatic requests that you provide it with advance notice of and sufficient time to respond to any additional assertions on the issues outlined above prior to any broadcast or other publication. It also requests that any sources Fox News intends to rely upon for factual statements about Smartmatic be properly examined.

Please direct all future communications on this matter to my attention. I look forward to your response regarding this important matter.

Very truly yours,

*/s/ J. Erik Connolly*

J. Erik Connolly

cc: Tom Lowell (via email)

Jay Wallace (via email)