

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549
FORM 10-Q

(Mark One)

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

For the quarterly period ended

September 24, 2022

or

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

For the transition period from

to

Commission file number 000-23314



TRACTOR SUPPLY COMPANY

(Exact Name of Registrant as Specified in Its Charter)

Delaware

13-3139732

(State or Other Jurisdiction of Incorporation or Organization)

(I.R.S. Employer Identification No.)

5401 Virginia Way, Brentwood, Tennessee 37027

(Address of Principal Executive Offices and Zip Code)

(615) 440-4000

(Registrant's Telephone Number, Including Area Code)

Not Applicable

(Former name, former address, and former fiscal year, if changed since last report)

Securities registered pursuant to Section 12(b) of the Act:

<u>Title of each class</u>	<u>Trading Symbol(s)</u>	<u>Name of each exchange on which registered</u>
Common Stock, \$0.008 par value	TSCO	NASDAQ Global Select Market

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days.

Yes ☒ No ☐

Indicate by check mark whether the registrant has submitted electronically every Interactive Data File required to be submitted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit such files).

Yes ☒ No ☐

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, a smaller reporting company, or an emerging growth company. See the definitions of "large accelerated filer," "accelerated filer," "smaller reporting company," and "emerging growth company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer	☒	Accelerated filer	☐
Non-accelerated filer	☐	Smaller reporting company	☐
		Emerging growth company	☐

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

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act.)

Yes ☐ No ☒

Indicate the number of shares outstanding of each of the issuer's classes of common stock as of the latest practicable date.

<u>Class</u>	<u>Outstanding at October 22, 2022</u>
Common Stock, \$0.008 par value	110,463,245

TRACTOR SUPPLY COMPANY

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PART I. FINANCIAL INFORMATION

Item 1. Financial Statements

TRACTOR SUPPLY COMPANY **CONDENSED CONSOLIDATED BALANCE SHEETS** (in thousands, except per share amounts) *(Unaudited)*

	September 24, 2022	December 25, 2021	September 25, 2021
ASSETS			
Current assets:			
Cash and cash equivalents	\$ 211,241	\$ 878,030	\$ 1,111,711
Inventories	2,678,193	2,191,192	2,199,773
Prepaid expenses and other current assets	211,941	164,118	149,550
Income taxes receivable	8,430	17,100	6,827
Total current assets	3,109,805	3,250,440	3,467,861
Property and equipment, net	1,843,324	1,617,806	1,441,704
Operating lease right-of-use assets	2,803,798	2,785,858	2,725,510
Goodwill and other intangible assets	55,520	55,520	55,520
Deferred income taxes	—	2,437	16,590
Other assets	99,281	55,406	38,009
Total assets	\$ 7,911,728	\$ 7,767,467	\$ 7,745,194
LIABILITIES AND STOCKHOLDERS' EQUITY			
Current liabilities:			
Accounts payable	\$ 1,219,593	\$ 1,155,630	\$ 1,197,813
Accrued employee compensation	80,390	109,618	122,007
Other accrued expenses	453,747	474,412	408,887
Current portion of finance lease liabilities	3,140	3,897	4,242
Current portion of operating lease liabilities	333,388	321,285	312,296
Income taxes payable	4,942	—	762
Total current liabilities	2,095,200	2,064,842	2,046,007
Long-term debt	1,077,926	986,382	985,867
Finance lease liabilities, less current portion	35,460	32,848	30,041
Operating lease liabilities, less current portion	2,608,832	2,574,882	2,536,875
Deferred income taxes	39,540	—	—
Other long-term liabilities	113,625	105,848	125,651
Total liabilities	5,970,583	5,764,802	5,724,441
Stockholders' equity:			
Preferred stock	—	—	—
Common stock	1,414	1,411	1,410
Additional paid-in capital	1,236,161	1,210,512	1,191,785
Treasury stock	(4,763,862)	(4,155,846)	(3,954,926)
Accumulated other comprehensive income/(loss)	12,298	1,345	(592)
Retained earnings	5,455,134	4,945,243	4,783,076
Total stockholders' equity	1,941,145	2,002,665	2,020,753
Total liabilities and stockholders' equity	\$ 7,911,728	\$ 7,767,467	\$ 7,745,194

Preferred Stock (shares in thousands): \$1.00 par value; 40 shares authorized; no shares were issued or outstanding during any period presented.

Common Stock (shares in thousands): \$0.008 par value; 400,000 shares authorized for all periods presented. 176,771, 176,371, and 176,290 shares issued; 110,587, 113,125, and 113,946 shares outstanding at September 24, 2022, December 25, 2021, and September 25, 2021, respectively.

Treasury Stock (at cost, shares in thousands): 66,184, 63,246, and 62,344 shares at September 24, 2022, December 25, 2021, and September 25, 2021, respectively.

The accompanying notes are an integral part of these Condensed Consolidated Financial Statements.

TRACTOR SUPPLY COMPANY
CONDENSED CONSOLIDATED STATEMENTS OF INCOME
(in thousands, except per share amounts)
(Unaudited)

	For the Fiscal Three Months Ended		For the Fiscal Nine Months Ended	
	September 24, 2022	September 25, 2021	September 24, 2022	September 25, 2021
Net sales	\$ 3,270,804	\$ 3,017,926	\$ 10,198,342	\$ 9,411,821
Cost of merchandise sold	2,104,989	1,932,616	6,589,763	6,055,246
Gross profit	1,165,815	1,085,310	3,608,579	3,356,575
Selling, general and administrative expenses	772,167	718,261	2,284,604	2,148,200
Depreciation and amortization	87,236	69,824	248,242	194,731
Operating income	306,412	297,225	1,075,733	1,013,644
Interest expense, net	6,226	6,146	20,392	20,068
Income before income taxes	300,186	291,079	1,055,341	993,576
Income tax expense	66,049	66,679	237,499	217,800
Net income	<u>\$ 234,137</u>	<u>\$ 224,400</u>	<u>\$ 817,842</u>	<u>\$ 775,776</u>
Net income per share – basic	<u>\$ 2.11</u>	<u>\$ 1.96</u>	<u>\$ 7.32</u>	<u>\$ 6.74</u>
Net income per share – diluted	<u>\$ 2.10</u>	<u>\$ 1.95</u>	<u>\$ 7.27</u>	<u>\$ 6.68</u>
Weighted average shares outstanding:				
Basic	110,861	114,223	111,660	115,170
Diluted	111,560	115,193	112,461	116,170
Dividends declared per common share outstanding	<u>\$ 0.92</u>	<u>\$ 0.52</u>	<u>\$ 2.76</u>	<u>\$ 1.56</u>

The accompanying notes are an integral part of these Condensed Consolidated Financial Statements.

TRACTOR SUPPLY COMPANY
CONDENSED CONSOLIDATED STATEMENTS OF COMPREHENSIVE INCOME
(in thousands)
(Unaudited)

	For the Fiscal Three Months Ended		For the Fiscal Nine Months Ended	
	September 24, 2022	September 25, 2021	September 24, 2022	September 25, 2021
Net income	\$ 234,137	\$ 224,400	\$ 817,842	\$ 775,776
Other comprehensive income:				
Change in fair value of interest rate swaps, net of taxes	3,150	206	10,953	2,651
Total other comprehensive income	3,150	206	10,953	2,651
Total comprehensive income	\$ 237,287	\$ 224,606	\$ 828,795	\$ 778,427

The accompanying notes are an integral part of these Condensed Consolidated Financial Statements.

TRACTOR SUPPLY COMPANY
CONDENSED CONSOLIDATED STATEMENTS OF STOCKHOLDERS' EQUITY
(in thousands)
(Unaudited)

	Common Stock		Additional	Treasury	Accum. Other	Retained	Total
	Shares	Dollars	Paid-in	Stock	Comp. Income	Earnings	Stockholders' Equity
Stockholders' equity at December 25, 2021	113,125	\$ 1,411	\$ 1,210,512	\$ (4,155,846)	\$ 1,345	\$ 4,945,243	\$ 2,002,665
Common stock issuance under stock award plans & ESPP	308	2	7,908				7,910
Share-based compensation expense			12,316				12,316
Repurchase of shares to satisfy tax obligations			(26,442)				(26,442)
Repurchase of common stock	(1,358)			(296,180)			(296,180)
Cash dividends paid to stockholders						(103,467)	(103,467)
Change in fair value of interest rate swaps, net of taxes					5,993		5,993
Net income						187,227	187,227
Stockholders' equity at March 26, 2022	112,075	\$ 1,413	\$ 1,204,294	\$ (4,452,026)	\$ 7,338	\$ 5,029,003	\$ 1,790,022
Common stock issuance under stock award plans & ESPP	64	1	5,084				5,085
Share-based compensation expense			12,534				12,534
Repurchase of shares to satisfy tax obligations			(1,230)				(1,230)
Repurchase of common stock	(942)			(188,210)			(188,210)
Cash dividends paid to stockholders						(102,622)	(102,622)
Change in fair value of interest rate swaps, net of taxes					1,810		1,810
Net income						396,478	396,478
Stockholders' equity at June 25, 2022	111,197	\$ 1,414	\$ 1,220,682	\$ (4,640,236)	\$ 9,148	\$ 5,322,859	\$ 1,913,867
Common stock issuance under stock award plans & ESPP	28	—	2,502				2,502
Share-based compensation expense			13,681				13,681
Repurchase of shares to satisfy tax obligations			(704)				(704)
Repurchase of common stock	(638)			(123,626)			(123,626)
Cash dividends paid to stockholders						(101,862)	(101,862)
Change in fair value of interest rate swaps, net of taxes					3,150		3,150
Net income						234,137	234,137
Stockholders' equity at September 24, 2022	110,587	\$ 1,414	\$ 1,236,161	\$ (4,763,862)	\$ 12,298	\$ 5,455,134	\$ 1,941,145

	Common Stock		Additional	Treasury	Accum. Other	Retained	Total
	Shares	Dollars	Paid-in	Stock	Comp. (Loss) /	Earnings	Stockholders' Equity
			Capital		Income		
Stockholders' equity at December 26, 2020	116,246	\$ 1,401	\$ 1,095,500	\$ (3,356,953)	\$ (3,243)	\$ 4,187,135	\$ 1,923,840
Common stock issuance under stock award plans & ESPP	941	8	58,700				58,708
Share-based compensation expense			12,318				12,318
Repurchase of shares to satisfy tax obligations			(12,067)				(12,067)
Repurchase of common stock	(1,600)			(253,409)			(253,409)
Cash dividends paid to stockholders						(60,570)	(60,570)
Change in fair value of interest rate swaps, net of taxes					2,125		2,125
Net income						181,354	181,354
Stockholders' equity at March 27, 2021	115,587	\$ 1,409	\$ 1,154,451	\$ (3,610,362)	\$ (1,118)	\$ 4,307,919	\$ 1,852,299
Common stock issuance under stock award plans & ESPP	154	1	11,317				11,318
Share-based compensation expense			10,876				10,876
Repurchase of shares to satisfy tax obligations			(1,521)				(1,521)
Repurchase of common stock	(1,118)			(203,305)			(203,305)
Cash dividends paid to stockholders						(59,896)	(59,896)
Change in fair value of interest rate swaps, net of taxes					320		320
Net income						370,022	370,022
Stockholders' equity at June 26, 2021	114,623	\$ 1,410	\$ 1,175,123	\$ (3,813,667)	\$ (798)	\$ 4,618,045	\$ 1,980,113
Common stock issuance under stock award plans & ESPP	67	—	5,167				5,167
Share-based compensation expense			12,543				12,543
Repurchase of shares to satisfy tax obligations			(1,048)				(1,048)
Repurchase of common stock	(744)			(141,259)			(141,259)
Cash dividends paid to stockholders						(59,369)	(59,369)
Change in fair value of interest rate swaps, net of taxes					206		206
Net income						224,400	224,400
Stockholders' equity at September 25, 2021	113,946	\$ 1,410	\$ 1,191,785	\$ (3,954,926)	\$ (592)	\$ 4,783,076	\$ 2,020,753

The accompanying notes are an integral part of these Condensed Consolidated Financial Statements.

TRACTOR SUPPLY COMPANY
CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS
(in thousands)
(Unaudited)

	For the Fiscal Nine Months Ended	
	September 24, 2022	September 25, 2021
Cash flows from operating activities:		
Net income	\$ 817,842	\$ 775,776
Adjustments to reconcile net income to net cash provided by operating activities:		
Depreciation and amortization	248,242	194,731
Loss on disposition of property and equipment	1,453	3,295
Share-based compensation expense	38,531	35,737
Deferred income taxes	41,977	14,996
Change in assets and liabilities:		
Inventories	(487,001)	(416,503)
Prepaid expenses and other current assets	(47,823)	(15,891)
Accounts payable	63,963	221,717
Accrued employee compensation	(29,228)	2,306
Other accrued expenses	(40,241)	74,680
Income taxes	13,612	(26,003)
Other	5,003	6,996
Net cash provided by operating activities	626,330	871,837
Cash flows from investing activities:		
Capital expenditures	(451,154)	(382,358)
Proceeds from sale of property and equipment	169	1,094
Net cash used in investing activities	(450,985)	(381,264)
Cash flows from financing activities:		
Borrowings under debt facilities	120,000	—
Repayments under debt facilities	(30,000)	—
Principal payments under finance lease liabilities	(3,288)	(3,367)
Repurchase of shares to satisfy tax obligations	(28,376)	(14,636)
Repurchase of common stock	(608,016)	(597,973)
Net proceeds from issuance of common stock	15,497	75,193
Cash dividends paid to stockholders	(307,951)	(179,835)
Net cash used in financing activities	(842,134)	(720,618)
Net decrease in cash and cash equivalents	(666,789)	(230,045)
Cash and cash equivalents at beginning of period	878,030	1,341,756
Cash and cash equivalents at end of period	\$ 211,241	\$ 1,111,711
Supplemental disclosures of cash flow information:		
Cash paid during the period for:		
Interest	\$ 16,130	\$ 16,008
Income taxes	184,887	229,122
Supplemental disclosures of non-cash activities:		
Non-cash accruals for property and equipment	\$ 43,984	\$ 22,036
Increase of operating lease assets and liabilities from new or modified leases	264,318	534,222
Increase of finance lease assets and liabilities from new or modified leases	5,143	—

The accompanying notes are an integral part of these Condensed Consolidated Financial Statements.

TRACTOR SUPPLY COMPANY

NOTES TO UNAUDITED CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

Note 1 – General:

Nature of Business

Founded in 1938, Tractor Supply Company (the “Company,” “Tractor Supply,” “we,” “our,” or “us”) is the largest rural lifestyle retailer in the United States (“U.S.”). The Company is focused on supplying the needs of recreational farmers, ranchers, and all those who enjoy living the rural lifestyle (which we refer to as the “*Out Here*” lifestyle). The Company's stores are located primarily in towns outlying major metropolitan markets and in rural communities. The Company also owns and operates Petsense, LLC (“Petsense by Tractor Supply”), a small-box pet specialty supply retailer focused on meeting the needs of pet owners, primarily in small and mid-sized communities, and offering a variety of pet products and services. At September 24, 2022, the Company operated a total of 2,207 retail stores in 49 states (2,027 Tractor Supply retail stores and 180 Petsense by Tractor Supply retail stores) and also offered an expanded assortment of products through the Tractor Supply mobile application and online at [TractorSupply.com](#) and [Petsense.com](#).

On October 12, 2022, the Company completed the acquisition of Orscheln Farm and Home, LLC (“Orscheln”). The Company acquired 166 Orscheln stores for approximately \$320 million before working capital adjustments. As part of the remedy reached with the Federal Trade Commission (“FTC”), the Company divested 85 store locations to two buyers shortly after the closing of the acquisition. Proceeds from the store divestitures were approximately \$72 million. The acquisition was financed with cash-on-hand and borrowings under the 2022 Senior Credit Facility (as defined below). Refer to [Note 11](#), “Subsequent Events” for more information.

Basis of Presentation

The accompanying interim unaudited Condensed Consolidated Financial Statements have been prepared in accordance with accounting principles generally accepted in the United States of America (“U.S. GAAP”) and the rules and regulations of the Securities and Exchange Commission (“SEC”). Accordingly, they do not include all of the information and notes required by U.S. GAAP for complete financial statements. In the opinion of management, all adjustments (consisting of normal recurring accruals) considered necessary for a fair presentation have been included. These statements should be read in conjunction with our [Annual Report on Form 10-K](#) for the fiscal year ended December 25, 2021. The results of operations for our interim periods are not necessarily indicative of results for the full fiscal year.

New Accounting Pronouncements Not Yet Adopted

In September 2022, the Financial Accounting Standards Board (“FASB”) issued Accounting Standards Update (“ASU”) 2022-04, “Liabilities - Supplier Finance Programs (Subtopic 405-50): Disclosure of Supplier Finance Program Obligations,” which makes a number of changes meant to add certain disclosure requirements for a buyer in a supplier finance program. The amendments are effective for all companies for fiscal years beginning after December 15, 2022 on a retrospective basis. The Company plans to adopt this ASU effective January 1, 2023 and is currently evaluating the impact these disclosures will have on our Consolidated Financial Statements.

In March 2020, the FASB issued ASU 2020-04, “Reference Rate Reform (Topic 848): Facilitation of the Effects of Reference Rate Reform on Financial Reporting.” In January 2021, the FASB issued ASU 2021-01, “Reference Rate Reform (Topic 848): Scope.” This collective guidance is in response to accounting concerns regarding contract modifications and hedge accounting because of impending rate reform associated with structural risks of interbank offered rates (“IBORs”), and, particularly, the risk of cessation of the London Inter-Bank Offer Rate (“LIBOR”) related to regulators in several jurisdictions around the world having undertaken reference rate reform initiatives to identify alternative reference rates. The guidance provides optional expedients and exceptions for applying U.S. GAAP to contracts, hedging relationships, and other transactions affected by reference rate reform if certain criteria are met. The adoption of this guidance is effective for all entities as of March 12, 2020 through December 31, 2022. The primary contract and hedging relationship for which LIBOR was used as of September 24, 2022 are the Senior Credit Facility (as defined below) and related interest rate swap. The Senior Credit Facility was replaced by the 2022 Senior Credit Facility (as defined below) on September 30, 2022. In connection with the debt refinancing, the Company transitioned from LIBOR to the Secured Overnight Financing Rate (“SOFR”) and elected the optional expedients under the standard. Refer to [Note 11](#), “Subsequent Events” for more information.

Note 2 – Fair Value of Financial Instruments:

Fair value is defined as the price that would be received to sell an asset or paid to transfer a liability (an exit price) in an orderly transaction between market participants on the measurement date. The Company uses a three-tier fair value hierarchy, which prioritizes the inputs used in measuring fair value. These tiers include:

- Level 1 - defined as observable inputs such as quoted prices in active markets;
- Level 2 - defined as inputs other than quoted prices in active markets that are either directly or indirectly observable; and
- Level 3 - defined as unobservable inputs in which little or no market data exists, therefore requiring an entity to develop its own assumptions.

The Company's financial instruments consist of cash and cash equivalents, short-term receivables, trade payables, debt instruments, and interest rate swaps. Due to their short-term nature, the carrying values of cash and cash equivalents, short-term receivables, and trade payables approximate current fair value at each balance sheet date.

As described in further detail in [Note 5](#) to the Condensed Consolidated Financial Statements, the Company had \$1.09 billion in borrowings under its debt facilities as of September 24, 2022 and \$1.00 billion in borrowings at each of December 25, 2021 and September 25, 2021. The fair value of the Company's \$150 million 3.70% Senior Notes (the "3.70% Senior Notes"), the \$200 million term loan (the "November 2020 Term Loan"), and the \$90 million in borrowings under the Company's revolving credit facility (the "Revolver") were determined based on market interest rates (Level 2 inputs). The carrying value of borrowings in the 3.70% Senior Notes, the November 2020 Term Loan, and the Revolver all approximate fair value for each period reported.

The fair value of the Company's \$650 million 1.75% Senior Notes (the "1.75% Senior Notes") is determined based on quoted prices in active markets, which are considered Level 1 inputs. The carrying value and the fair value of the 1.75% Senior Notes, net of discount were as follows (in thousands):

	September 24, 2022		December 25, 2021		September 25, 2021	
	Carrying Value	Fair Value	Carrying Value	Fair Value	Carrying Value	Fair Value
1.75% Senior Notes	\$ 638,876	\$ 492,902	\$ 637,844	\$ 614,881	\$ 637,500	\$ 628,654

The Company's interest rate swap is carried at fair value, which is determined based on the present value of expected future cash flows using forward rate curves, which is considered a Level 2 input. In accordance with hedge accounting, the gains and losses on interest rate swaps that are designated and qualify as cash flow hedges are recorded as a component of Other Comprehensive Income, net of related income taxes, and reclassified into earnings in the same income statement line and period in which the hedged transactions affect earnings. The fair value of the interest rate swap, excluding accrued interest, was as follows (in thousands):

	Fair Value Measurements at		
	September 24, 2022	December 25, 2021	September 25, 2021
Interest rate swap assets (Level 2)	\$ 16,537	\$ 1,809	\$ —
Interest rate swap liabilities (Level 2)	\$ —	\$ —	\$ 795

Note 3 – Share-Based Compensation:

Share-based compensation includes stock options, restricted stock units, performance-based restricted share units, and transactions under the Company's Employee Stock Purchase Plan (the "ESPP"). Share-based compensation expense is recognized based on grant date fair value of all stock options, restricted stock units, and performance-based restricted share units. Share-based compensation expense is also recognized for the value of the 15% discount on shares purchased by employees as a part of the ESPP. The discount under the ESPP represents the difference between the market value on the first day of the purchase period or the market value on the purchase date, whichever is lower, and the employee's purchase price.

There were no significant modifications to the Company's share-based compensation plans during the fiscal nine months ended

September 24, 2022.

Share-based compensation expense was \$13.7 million and \$12.5 million for the third quarter of fiscal 2022 and 2021, respectively, and \$38.5 million and \$35.7 million for the first nine months of fiscal 2022 and 2021, respectively.

Stock Options

The following table summarizes information concerning stock option grants during the first nine months of fiscal 2022:

	Fiscal Nine Months Ended	
	September 24, 2022	
Stock options granted		141,264
Weighted average exercise price	\$	220.70
Weighted average grant date fair value per option	\$	49.64

As of September 24, 2022, total unrecognized compensation expense related to non-vested stock options was approximately \$9.5 million with a remaining weighted average expense recognition period of 1.9 years.

Restricted Stock Units and Performance-Based Restricted Share Units

The following table summarizes information concerning restricted stock unit and performance-based restricted share unit grants during the first nine months of fiscal 2022:

	Fiscal Nine Months Ended	
	September 24, 2022	
Restricted stock units granted		196,545
Weighted average grant date fair value per share - Restricted stock units	\$	208.86
Performance-based restricted share units granted ^(a)		53,050
Weighted average grant date fair value per share - Performance-based restricted share units	\$	223.76

(a) Assumes 100% target level achievement of the relative performance targets.

In the first nine months of fiscal 2022, the Company granted performance-based restricted share unit awards that are subject to the achievement of specified performance goals. The performance metrics for the units are growth in net sales and growth in earnings per diluted share and also include a relative total shareholder return modifier. The number of performance-based restricted share units presented in the foregoing table represent the shares that can be achieved at the performance metric target value. The actual number of shares that will be issued under the performance-based restricted share unit awards, which may be higher or lower than the target, will be determined by the level of achievement of the performance goals and the relative total shareholder return modifier. If the performance targets are achieved, the units will be issued based on the achievement level, inclusive of the relative total shareholder return modifier, and the grant date fair value and will cliff vest in full on the third anniversary of the date of the grant, subject to continued employment.

As of September 24, 2022, total unrecognized compensation expense related to non-vested restricted stock units and non-vested performance-based restricted share units was approximately \$68.9 million with a remaining weighted average expense recognition period of 2.0 years.

Note 4 – Net Income Per Share:

The Company presents both basic and diluted net income per share on the Condensed Consolidated Statements of Income. Basic net income per share is calculated by dividing net income by the weighted average number of shares outstanding during the period. Diluted net income per share is calculated by dividing net income by the weighted average diluted shares outstanding during the period. Dilutive shares are computed using the treasury stock method for share-based awards. Performance-based restricted share units are included in diluted shares only if the related performance conditions are considered satisfied as of the end of the reporting period. Net income per share is calculated as follows (in thousands, except per share amounts):

	Fiscal Three Months Ended					
	September 24, 2022			September 25, 2021		
	Income	Shares	Per Share Amount	Income	Shares	Per Share Amount
Basic net income per share:	\$ 234,137	110,861	\$ 2.11	\$ 224,400	114,223	\$ 1.96
Dilutive effect of share-based awards	—	699	(0.01)	—	970	(0.01)
Diluted net income per share:	<u>\$ 234,137</u>	<u>111,560</u>	<u>\$ 2.10</u>	<u>\$ 224,400</u>	<u>115,193</u>	<u>\$ 1.95</u>

	Fiscal Nine Months Ended			Fiscal Nine Months Ended		
	September 24, 2022			September 25, 2021		
	Income	Shares	Per Share Amount	Income	Shares	Per Share Amount
Basic net income per share:	\$ 817,842	111,660	\$ 7.32	\$ 775,776	115,170	\$ 6.74
Dilutive effect of share-based awards	—	801	(0.05)	—	1,000	(0.06)
Diluted net income per share:	<u>\$ 817,842</u>	<u>112,461</u>	<u>\$ 7.27</u>	<u>\$ 775,776</u>	<u>116,170</u>	<u>\$ 6.68</u>

Anti-dilutive stock awards excluded from the above calculations totaled approximately 0.1 million for fiscal three months ended September 24, 2022 and less than 0.1 million shares for the fiscal three months ended September 25, 2021. Anti-dilutive stock awards excluded from the above calculations totaled approximately 0.1 million shares for the fiscal nine months ended September 24, 2022 and less than 0.1 million shares for the fiscal nine months ended September 25, 2021.

Note 5 – Debt:

The following table summarizes the Company's outstanding debt as of the dates indicated (in millions):

	September 24, 2022	December 25, 2021	September 25, 2021
1.75% Senior Notes due 2030	\$ 650.0	\$ 650.0	\$ 650.0
3.70% Senior Notes due 2029 ^(a)	150.0	150.0	150.0
Senior Credit Facility:			
November 2020 Term Loan	200.0	200.0	200.0
Revolver	90.0	—	—
Total outstanding borrowings	1,090.0	1,000.0	1,000.0
Less: unamortized debt discounts and issuance costs	(12.1)	(13.6)	(14.1)
Total debt	1,077.9	986.4	985.9
Less: current portion of long-term debt	—	—	—
Long-term debt	\$ 1,077.9	\$ 986.4	\$ 985.9
Outstanding letters of credit	\$ 55.8	\$ 52.9	\$ 46.5

(a) Also referred to herein as the "Note Purchase Agreement," referring to the Note Purchase and Private Shelf Agreement dated as of August 14, 2017 by and among the Company, PGIM, Inc. ("Prudential") and the noteholders party thereto, as amended through September 24, 2022, under which the notes were purchased. The Note Purchase Agreement was further amended on September 30, 2022 and November 2, 2022. Refer to [Note 11](#), "Subsequent Events" for information regarding the amendments.

Borrowings under both the Company's \$500 million Revolver and the Company's November 2020 Term Loan, each under the Company's senior credit facility (the "Senior Credit Facility"), bore interest either at the bank's base rate (6.250% at September 24, 2022) plus an additional amount ranging from 0.000% to 0.375% (0.125% at September 24, 2022) or at LIBOR (3.080% at September 24, 2022) plus an additional amount ranging from 0.875% to 1.375% per annum (1.125% at September 24, 2022), adjusted based on the Company's public credit ratings. The Company was also required to pay, quarterly in arrears, a commitment fee related to unused capacity on the Revolver ranging from 0.090% to 0.200% per annum (0.125% at September 24, 2022), adjusted based on the Company's public credit ratings. Refer to [Note 11](#), "Subsequent Events" for information regarding the Company's entry into a new credit facility on September 30, 2022. The 2022 Senior Credit Facility (as defined below) replaced the Company's Senior Credit Facility. Proceeds from borrowings under the 2022 Senior Credit Facility were used to pay off the Senior Credit Facility.

The Company has entered into an interest rate swap agreement in order to hedge its exposure to variable rate interest payments associated with the Senior Credit Facility, which was replaced by the 2022 Senior Credit Facility (as defined below). The interest rate swap agreement will mature on March 18, 2025 and the notional amount of the agreement is fixed at \$200 million.

Covenants and Default Provisions of the Debt Agreements

As of September 24, 2022, the Senior Credit Facility and the Note Purchase Agreement (collectively, the "Debt Agreements") required quarterly compliance with respect to two material covenants: a fixed charge coverage ratio and a leverage ratio. Both ratios are calculated on a trailing twelve-month basis at the end of each fiscal quarter. The fixed charge coverage ratio compares earnings before interest, taxes, depreciation, amortization, share-based compensation, and rent expense ("consolidated EBITDAR") to the sum of interest paid and rental expense (excluding any straight-line rent adjustments). The fixed charge coverage ratio was required to be greater than or equal to 2.0 to 1.0 as of the last day of each fiscal quarter. The leverage ratio compares total funded debt to consolidated EBITDAR. The leverage ratio was required to be less than or equal to 4.0 to 1.0 as of the last day of each fiscal quarter. The Debt Agreements also contain certain other restrictions regarding additional subsidiary indebtedness, business operations, subsidiary guarantees, mergers, consolidations and sales of assets, transactions with subsidiaries or affiliates, and liens. As of September 24, 2022, the Company was in compliance with all debt covenants.

The Debt Agreements contain customary events of default, including payment defaults, breaches of representations and warranties, covenant defaults, cross-defaults to other material indebtedness, certain events of bankruptcy and insolvency, material judgments, certain ERISA events, and invalidity of loan documents. Upon certain changes of control, amounts outstanding under the Debt Agreements could become due and payable. In addition, under the Note Purchase Agreement, upon an event of default or change of control, a whole payment may become due and payable.

The Note Purchase Agreement also requires that, in the event the Company amends its Senior Credit Facility, or any subsequent credit facility of \$100 million or greater, such that it contains covenant or default provisions that are not provided in the Note Purchase Agreement or that are similar to those contained in the Note Purchase Agreement but which contain percentages, amounts, formulas, or grace periods that are more restrictive than those set forth in the Note Purchase Agreement or are otherwise more beneficial to the lenders thereunder, the Note Purchase Agreement shall be automatically amended to include such additional or amended covenants and/or default provisions.

Note 6 – Capital Stock and Dividends:

Capital Stock

The authorized capital stock of the Company consists of common stock and preferred stock. The Company is authorized to issue 400 million shares of common stock. The Company is also authorized to issue 40 thousand shares of preferred stock, with such designations, rights and preferences as may be determined from time to time by the Company's Board of Directors.

Dividends

During the first nine months of fiscal 2022 and fiscal 2021, the Company's Board of Directors declared the following cash dividends:

Date Declared	Dividend Amount Per Share of Common Stock	Record Date	Date Paid
August 4, 2022	\$ 0.92	August 22, 2022	September 7, 2022
May 10, 2022	\$ 0.92	May 25, 2022	June 8, 2022
January 26, 2022	\$ 0.92	February 21, 2022	March 8, 2022
August 4, 2021	\$ 0.52	August 23, 2021	September 8, 2021
May 5, 2021	\$ 0.52	May 24, 2021	June 8, 2021
January 27, 2021	\$ 0.52	February 22, 2021	March 9, 2021

It is the present intention of the Company's Board of Directors to continue to pay a quarterly cash dividend; however, the declaration and payment of future dividends will be determined by the Company's Board of Directors in its sole discretion and will depend upon the earnings, financial condition, and capital needs of the Company, along with any other factors that the Company's Board of Directors deem relevant.

On November 2, 2022, the Company's Board of Directors declared a quarterly cash dividend of \$0.92 per share of the Company's outstanding common stock. The dividend will be paid on December 6, 2022, to stockholders of record as of the close of business on November 21, 2022.

Note 7 – Treasury Stock:

The Company's Board of Directors has authorized common stock repurchases under a share repurchase program which was announced in February 2007. The total authorized amount was increased by the Company's Board of Directors on January 26, 2022 by \$2.00 billion for a total authorization of \$6.50 billion, exclusive of any fees, commissions, or other expenses related to such repurchases. The share repurchase program does not have an expiration date. The repurchases may be made from time to time on the open market or in privately negotiated transactions. The timing and amount of any shares repurchased under the program will depend on a variety of factors, including price, corporate and regulatory requirements, capital availability, and other market conditions. Repurchased shares are accounted for at cost and will be held in treasury for future issuance. The program may be limited, temporarily paused, or terminated at any time without prior notice. As of September 24, 2022, the Company had remaining authorization under the share repurchase program of \$1.74 billion, exclusive of any fees, commissions, or other expenses.

The following table provides the number of shares repurchased, average price paid per share, and total amount paid for share repurchases during the fiscal three months and fiscal nine months ended September 24, 2022 and September 25, 2021, respectively (in thousands, except per share amounts):

	Fiscal Three Months Ended		Fiscal Nine Months Ended	
	September 24, 2022	September 25, 2021	September 24, 2022	September 25, 2021
Total number of shares repurchased	638	744	2,938	3,462
Average price paid per share	\$ 193.70	\$ 190.03	\$ 206.95	\$ 172.73
Total cash paid for share repurchases	\$ 123,626	\$ 141,259	\$ 608,016	\$ 597,973

Note 8 – Income Taxes:

The Company's effective income tax rate was 22.0% in the third quarter of fiscal 2022 compared to 22.9% in the third quarter of fiscal 2021. The decrease in the effective income tax rate in the third quarter of fiscal 2022 compared to the third quarter of fiscal 2021 was driven primarily by an increase in certain state tax credits. The effective income tax rate was 22.5% in the first nine months of fiscal 2022 compared to 21.9% in the first nine months of fiscal 2021. The increase in the effective income tax rate in the first nine months of fiscal 2022 compared to the first nine months of fiscal 2021 was driven primarily by a decrease in the benefit derived from share-based compensation awards.

Note 9 – Commitments and Contingencies:

Construction and Real Estate Commitments

The Company is building new distribution centers in Maumelle, Arkansas and Navarre, Ohio, for which, as of September 24, 2022, the Company had contractual commitments of approximately \$94.3 million and \$20.5 million, respectively.

Letters of Credit

At September 24, 2022, the Company had \$55.8 million in outstanding letters of credit under the Senior Credit Facility.

Litigation

The Company is involved in various litigation matters arising in the ordinary course of business. The Company believes that, based upon information currently available, any estimated loss related to such matters has been adequately provided for in accrued liabilities to the extent probable and reasonably estimable. Accordingly, the Company currently expects these matters will be resolved without material adverse effect on its consolidated financial position, results of operations, or cash flows. However, litigation and other legal matters involve an element of uncertainty. Future developments in such matters, including adverse decisions or settlements or resulting required changes to the Company's business operations, could affect our consolidated operating results when resolved in future periods or could result in liability or other amounts material to the Company's Condensed Consolidated Financial Statements.

Note 10 – Segment Reporting:

The Company has one reportable segment which is the retail sale of products that support the rural lifestyle. The following table indicates the percentage of net sales represented by each major product category during the fiscal three and nine months ended September 24, 2022 and September 25, 2021:

Product Category:	Fiscal Three Months Ended		Fiscal Nine Months Ended	
	September 24, 2022	September 25, 2021	September 24, 2022	September 25, 2021
Livestock and Pet	54 %	49 %	51 %	48 %
Seasonal, Gift and Toy Products	18	19	20	21
Hardware, Tools and Truck	19	22	19	21
Clothing and Footwear	5	5	6	6
Agriculture	4	5	4	4
Total	100 %	100 %	100 %	100 %

Note 11 – Subsequent Events:

Credit Facility Refinancing

On September 30, 2022, the Company entered into a new credit agreement, providing for a credit facility (the “2022 Senior Credit Facility”), consisting of a revolving credit facility in the maximum principal amount of \$1.20 billion (with a sublimit of \$50 million for swingline loans and a sublimit of \$150 million for letters of credit). In addition, the Company has an option to increase the revolving credit facility or establish term loans in an amount not to exceed \$500 million in the aggregate, subject to, among other things, the receipt of commitments for the increased amount. The 2022 Senior Credit Facility is unsecured and has a five-year term with two options to request that the lenders extend the maturity date of the notes held by each lender for one year.

Borrowings for the revolving credit facility will bear interest at either the bank’s base rate plus an additional margin ranging from 0.000% to 0.250% or adjusted SOFR plus an additional margin ranging from 0.750% to 1.250% adjusted based on the Company’s public credit ratings. The Company is also required to pay, quarterly in arrears, a commitment fee related to unused capacity ranging from 0.080% to 0.150% per annum, adjusted based on the Company’s public credit ratings.

The 2022 Senior Credit Facility replaced the Company’s Senior Credit Facility. Proceeds from borrowings under the 2022 Senior Credit Facility were used to pay off the Senior Credit Facility.

In connection with the debt refinancing, the Company amended its interest rate swap agreement to convert the reference rate from one-month LIBOR to one-month term SOFR and elected the optional expedients offered under the Accounting Standards Codification 848, *Reference Rate Reform*, which allows the cash flow hedge to continue being recognized under hedge accounting without dedesignation.

Amendments to Note Purchase and Private Shelf Agreement

On September 30, 2022, the Company entered into a Third Amendment to Note Purchase and Private Shelf Agreement (the “Third Amendment”) by and among the Company, PGIM, Inc. (“Prudential”) and other holders of the notes. The Third Amendment modifies certain provisions of the Note Purchase and Private Shelf Agreement dated as of August 14, 2017 by and among the Company, Prudential and the noteholders party thereto, as amended (collectively as amended by the Amendment, the “Note Purchase Facility”) and conforms certain representations, warranties and covenants with the 2022 Senior Credit Facility.

On November 2, 2022, the Company entered into a Fourth Amendment to Note Purchase and Private Shelf Agreement (the “Fourth Amendment”) by and among the Company, Prudential and other holders of the notes which also amends the Note Purchase Facility. The Fourth Amendment extends the issuance period in which the Company may issue and sell, and Prudential may consider in its sole discretion the purchase of, in one or a series of transactions, additional senior unsecured notes of the Company (the “Shelf Note”), in an aggregate principal amount of up to \$150 million under the Note Purchase Facility. The Shelf Notes may be issued through November 1, 2025, unless either party terminates such issuance right.

Acquisition of Orscheln Farm and Home, LLC

On October 12, 2022, the Company completed the acquisition of Orscheln. The Company acquired 166 Orscheln stores for approximately \$320 million before working capital adjustments. Consistent with the remedy negotiated with the FTC, the Company divested 85 locations to two buyers, Bomgaars Supply, Inc. (73 stores) and Buchheit Enterprises, Inc. (12 stores), shortly after closing the acquisition. Proceeds from the store divestitures were approximately \$72 million. In addition, the

Company has agreed to sell the Orscheln corporate headquarters and distribution center to Bomgaars for approximately \$10 million within 15 months after the closing of the acquisition. The acquisition was financed with cash-on-hand and borrowings under the 2022 Senior Credit Facility.

Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations

General

The following discussion and analysis should be read in conjunction with our [Annual Report on Form 10-K](#) for the fiscal year ended December 25, 2021 (the "2021 Form 10-K") and subsequent Quarterly reports on Form 10-Q. This Quarterly Report on Form 10-Q contains forward-looking statements and information. The forward-looking statements included herein are made pursuant to the safe harbor provisions of the Private Securities Litigation Reform Act of 1995 (the "Act"). All statements, other than statements of historical facts, which address activities, events, or developments that we expect or anticipate will or may occur in the future, including sales and earnings growth, new store growth, the effects of the 53rd week in fiscal 2022, estimated results of operations in future periods (including, but not limited to, sales, comparable store sales, operating margins, net income, and earnings per diluted share), the declaration and payment of dividends, the timing and amount of share repurchases, future capital expenditures (including their amount and nature), and acquisitions, business strategy, strategic initiatives, expansion and growth of our business operations, and other such matters are forward-looking statements. Forward-looking statements are usually identified by or are associated with such words as "will," "intend," "expect," "believe," "anticipate," "optimistic," "forecasted" and similar terminology. These forward-looking statements may be affected by certain risks and uncertainties, any one, or a combination of which, could materially affect the results of our operations. To take advantage of the safe harbor provided by the Act, we are identifying certain factors that could cause actual results to differ materially from those expressed in any forward-looking statements.

As with any business, all phases of our operations are subject to factors outside our control. These factors may include, without limitation:

- economic uncertainty, including rising costs for commodities, raw materials, energy, and finished goods;
- rising interest rates;
- tightening of credit markets;
- continued domestic impact of global geopolitical unrest, including the heightened risk of cyberattacks as a result of the hostilities between Russia and Ukraine;
- continued disruption and uncertainty in the supply chain and shipping channels, including potential disruption to domestic transportation channels;
- the timing and acceptance of new products;
- delays or difficulty in integration following the acquisition of Orscheln Farm and Home (the "Transaction"), the potential for conflicts with regulators if the sale of the Orscheln headquarters and distribution center are delayed, the potential for litigation or governmental investigations relating to the Transaction, the impact of divestitures required as a condition to receipt of required regulatory approvals for the Transaction;
- potential adverse reactions or changes to business or employee relationships, including those resulting from the announcement of an acquisition;
- significant increases in costs or significant delays associated with new store openings, remodels, relocations, or conversion of Orscheln stores;
- our ability to meet our sustainability, stewardship, carbon emission and Diversity, Equity & Inclusion related Environmental, Social and Governance projections, goals and commitments; and
- those factors described in "Item 1A. Risk Factors" and "Part II, Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations – Significant Accounting Policies and Estimates" in our most recent Annual Report on Form 10-K and as may be updated from time to time in our quarterly reports on Form 10-Q or other subsequent filings with the SEC.

Forward-looking statements made by or on behalf of the Company are based on our knowledge of our business and the environment in which we operate, but because of the factors listed above or other factors, actual results could differ materially from those reflected by any forward-looking statements. Consequently, all of the forward-looking statements made are qualified by these cautionary statements and those contained in the Company's [Annual Report on Form 10-K](#) and other filings with the Securities and Exchange Commission (the "SEC"). There can be no assurance that the actual results or developments anticipated by the Company will be realized or, even if substantially realized, that they will have the expected consequences to or effects on the Company or our business and operations. Readers are cautioned not to place undue reliance on these forward-looking statements, which speak only as of the date hereof. We do not undertake any obligation to release publicly any revisions to these forward-looking statements to reflect events or circumstances after the date hereof or to reflect the occurrence of unanticipated events, except as required by law.

Seasonality and Weather

Our business is seasonal. Historically, our sales and profits are the highest in the second and fourth fiscal quarters due to the sale of seasonal products. We usually experience our highest inventory and accounts payable balances during our first fiscal quarter for purchases of seasonal products to support the higher sales volume of the spring selling season, and again during our third fiscal quarter to support the higher sales volume of the cold weather selling season. We believe that our business can be more accurately assessed by focusing on the performance of the halves, not the quarters, due to the fact that different weather patterns from year-to-year can shift the timing of sales and profits between quarters, particularly between the first and second fiscal quarters and the third and fourth fiscal quarters.

Historically, weather conditions, including unseasonably warm weather in the fall and winter months and unseasonably cool weather in the spring and summer months, have unfavorably affected the timing and volume of our sales and results of operations. In addition, extreme weather conditions, including snow and ice storms, flood and wind damage, hurricanes, tornadoes, extreme rain, and droughts have impacted operating results both negatively and positively, depending on the severity and length of these conditions. Our strategy is to manage product flow and adjust merchandise assortments and depth of inventory to capitalize on seasonal demand trends.

Performance Metrics

Comparable Store Metrics

Comparable store metrics are a key performance indicator used in the retail industry and by the Company to measure the performance of the underlying business. Our comparable store metrics are calculated on an annual basis using sales generated from all stores open at least one year and all online sales and exclude certain adjustments to net sales. Stores closed during either of the years being compared are removed from our comparable store metrics calculations. Stores relocated during either of the years being compared are not removed from our comparable store metrics calculations. If the effect of relocated stores on our comparable store metrics calculations became material, we would remove relocated stores from the calculations.

Transaction Count and Transaction Value

Transaction count and transaction value metrics are used by the Company to measure sales performance. Transaction count represents the number of customer transactions during a given period. Transaction value represents the average amount paid per transaction and is calculated as net sales divided by the total number of customer transactions during a given period.

Results of Operations

Fiscal Three Months (Third Quarter) Ended September 24, 2022 and September 25, 2021

Net sales for the third quarter of fiscal 2022 increased 8.4% to \$3.27 billion from \$3.02 billion for the third quarter of fiscal 2021. Comparable store sales for the third quarter of fiscal 2022 were \$3.19 billion, a 5.7% increase as compared to the third quarter of fiscal 2021. In the third quarter of fiscal 2021, net sales increased 15.8% and comparable store sales increased 13.1%.

The comparable store sales results for the third quarter of fiscal 2022 included an increase in comparable average transaction value of 7.0% and a decrease in comparable average transaction count of 1.3%, each as compared to the third quarter of fiscal 2021. Comparable store sales growth reflects continued strength in everyday, needs-based merchandise, including consumable, usable and edible (“C.U.E.”) products and year-round product categories.

In addition to comparable store sales growth for the third quarter of fiscal 2022, sales from stores open less than one year were \$71.9 million for the third quarter of fiscal 2022, which represented 2.4 percentage points of the 8.4% increase over third quarter fiscal 2021 net sales. For the third quarter of fiscal 2021, sales from stores open less than one year were \$70.3 million, which represented 3.2 percentage points of the 15.8% increase over third quarter fiscal 2020 net sales.

The following table summarizes store growth for the fiscal three months ended September 24, 2022 and September 25, 2021:

	Fiscal Three Months Ended	
	September 24, 2022	September 25, 2021
Store Count Information:		
<i>Tractor Supply</i>		
Beginning of period	2,016	1,955
New stores opened	11	12
Stores closed	—	—
End of period	2,027	1,967
<i>Petsense by Tractor Supply</i>		
Beginning of period	178	174
New stores opened	2	3
Stores closed	—	—
End of period	180	177
Consolidated, end of period	2,207	2,144
Stores relocated	3	1

The following table indicates the percentage of net sales represented by each of our major product categories for the fiscal three months ended September 24, 2022 and September 25, 2021:

	Percent of Net Sales Fiscal Three Months Ended	
	September 24, 2022	September 25, 2021
Product Category:		
Livestock and Pet	54 %	49 %
Seasonal, Gift and Toy Products	18	19
Hardware, Tools and Truck	19	22
Clothing and Footwear	5	5
Agriculture	4	5
Total	100 %	100 %

Gross profit increased 7.4% to \$1.17 billion for the third quarter of fiscal 2022 from \$1.09 billion for the third quarter of fiscal 2021. As a percent of net sales, gross margin in the third quarter of fiscal 2022 decreased 32 basis points to 35.6% from 36.0% in the third quarter of fiscal 2021. The gross margin rate decrease was primarily attributable to product mix from the growth of C.U.E. products as the Company's price management actions and other margin driving initiatives were able to offset the impact from product cost inflation pressures and higher transportation costs. Heightened transportation costs were experienced in domestic and import freight, along with rising fuel prices.

Selling, general and administrative ("SG&A") expenses, including depreciation and amortization, increased 9.0% to \$859.4 million for the third quarter of fiscal 2022 from \$788.1 million for the third quarter of fiscal 2021. As a percent of net sales, SG&A expenses increased 16 basis points to 26.3% from 26.1% in the third quarter of 2021. The increase in SG&A as a percent of net sales was primarily attributable to the Company's strategic growth initiatives, including depreciation and amortization, and investments in hourly wage rates and benefits. These items were partially offset by a moderation of COVID-19 response costs, more normalized incentive compensation, and leverage in occupancy and other costs from the increase in comparable store sales.

Operating income for the third quarter of fiscal 2022 increased 3.1% to \$306.4 million compared to \$297.2 million in the third quarter of fiscal 2021.

The effective income tax rate was 22.0% in the third quarter of fiscal 2022 compared to 22.9% in the third quarter of fiscal 2021. The decrease in the effective income tax rate in the third quarter of fiscal 2022 compared to the third quarter of fiscal 2021 was driven primarily due to an increase in certain state tax credits.

As a result of the foregoing factors, net income for the third quarter of fiscal 2022 increased 4.3% to \$234.1 million, or \$2.10 per diluted share, as compared to net income of \$224.4 million, or \$1.95 per diluted share, for the third quarter of fiscal 2021.

During the third quarter of fiscal 2022, we repurchased approximately 0.6 million shares of the Company's common stock at a total cost of \$123.6 million as part of our share repurchase program and paid quarterly cash dividends totaling \$101.9 million, returning approximately \$225.5 million to our stockholders.

Fiscal Nine Months Ended September 24, 2022 and September 25, 2021

Net sales increased 8.4% to \$10.20 billion for the first nine months of fiscal 2022 from \$9.41 billion for the first nine months of fiscal 2021. Comparable store sales for the first nine months of fiscal 2022 were \$9.95 billion, a 5.5% increase as compared to the first nine months of fiscal 2021. Net sales increased 21.6% and comparable store sales increased 18.5% in the first nine months of fiscal 2021.

The comparable store sales results for the first nine months of fiscal 2022 included an increase in comparable average transaction value of 7.1% and a decrease in comparable average transaction count of 1.6%, each as compared to the first nine months of fiscal 2021. Comparable stores sales growth reflects continued strength in everyday, needs-based merchandise, including C.U.E. products and strength in winter seasonal goods and year-round product categories, partially offset by a delayed start to the spring selling season in the first quarter of fiscal 2022 and continued unfavorable weather conditions into the second and third quarters of fiscal 2022. The comparable store sales in the prior year benefited from favorable weather conditions in the first quarter as well as government stimulus throughout the first nine months of fiscal 2021.

In addition to comparable store sales growth for the first nine months of fiscal 2022, sales from stores open less than one year were \$236.5 million for the first nine months of fiscal 2022, which represented 2.5 percentage points of the 8.4% increase over the first nine months of fiscal 2021 net sales. For the first nine months of fiscal 2021, sales from stores open less than one year were \$253.7 million, which represented 3.3 percentage points of the 21.6% increase over the first nine months of fiscal 2020 net sales.

The following table summarizes store growth for the fiscal nine months ended September 24, 2022 and September 25, 2021:

	Fiscal Nine Months Ended	
	September 24, 2022	September 25, 2021
Store Count Information:		
<i>Tractor Supply</i>		
Beginning of period	2,003	1,923
New stores opened	24	44
Stores closed	—	—
End of period	2,027	1,967
<i>Petsense by Tractor Supply</i>		
Beginning of period	178	182
New stores opened	3	6
Stores closed	(1)	(11)
End of period	180	177
Consolidated, end of period	2,207	2,144
Stores relocated	7	1

The following table indicates the percentage of net sales represented by each of our major product categories for the fiscal nine months ended September 24, 2022 and September 25, 2021:

	Percent of Net Sales	
	Fiscal Nine Months Ended	
	September 24, 2022	September 25, 2021
Product Category:		
Livestock and Pet	51 %	48 %
Seasonal, Gift and Toy Products	20	21
Hardware, Tools and Truck	19	21
Clothing and Footwear	6	6
Agriculture	4	4
Total	100 %	100 %

Gross profit increased 7.5% to \$3.61 billion for the first nine months of fiscal 2022 from \$3.36 billion for the first nine months of fiscal 2021. As a percent of net sales, gross margin in the first nine months of fiscal 2022 decreased 28 basis points to 35.4% from 35.7% in the first nine months of fiscal 2021. The decrease in gross margin as a percent of net sales was primarily driven by higher product cost inflation, higher transportation costs, and, to a lesser extent, product mix shift towards C.U.E. products, which run at a slightly lower margin rate. Heightened transportation costs were experienced in domestic and import freight, along with rising fuel prices. The Company's price management program and other key gross margin enhancing initiatives effectively offset a significant portion of these gross margin pressures.

SG&A expenses, including depreciation and amortization, increased 8.1% to \$2.53 billion for the first nine months of fiscal 2022 from \$2.34 billion for the first nine months of fiscal 2021. As a percent of net sales, SG&A expenses improved 5 basis points to 24.8% for the first nine months of fiscal 2022 from 24.9% for the first nine months of fiscal 2021. The improvement in SG&A as a percent of net sales was primarily attributable to more normalized incentive compensation and a moderation of COVID-19 response costs, as well as leverage in occupancy and other costs from the increase in comparable store sales. The improvement was partially offset by the Company's strategic growth initiatives, including depreciation and amortization, and investments in hourly wage rates and benefits.

Operating income for the first nine months of fiscal 2022 increased 6.1% to \$1.08 billion compared to \$1.01 billion in the first nine months of fiscal 2021.

The effective income tax rate was 22.5% in the first nine months of fiscal 2022 compared to 21.9% in the first nine months of fiscal 2021. The increase in the effective income tax rate in the first nine months of fiscal 2022 compared to the first nine months of fiscal 2021 was driven primarily by a decrease in the benefit derived from share-based compensation awards.

As a result of the foregoing factors, net income for the first nine months of fiscal 2022 increased 5.4% to \$817.8 million, or \$7.27 per diluted share, as compared to net income of \$775.8 million, or \$6.68 per diluted share, for the first nine months of fiscal 2021.

During the first nine months of fiscal 2022, we repurchased approximately 2.9 million shares of the Company's common stock at a total cost of \$608.0 million as part of our share repurchase program and paid quarterly cash dividends totaling \$308.0 million, returning \$916.0 million to stockholders.

Liquidity and Capital Resources

In addition to normal operating expenses, our primary ongoing cash requirements are for new store expansion, existing store remodeling and improvements, store relocations, distribution facility capacity and improvements, information technology, inventory purchases, repayment of existing borrowings under our debt facilities, share repurchases, cash dividends, and selective acquisitions as opportunities arise.

Our primary ongoing sources of liquidity are existing cash balances, cash provided from operations, remaining funds available under our debt facilities, operating and finance leases, and normal trade credit. Our inventory and accounts payable levels typically build in the first and third fiscal quarters to support the higher sales volume of the spring and cold-weather selling seasons, respectively.

We believe that our existing cash balances, expected cash flow from future operations, funds available under our debt facilities, operating and finance leases, normal trade credit, and access to the long-term debt capital markets will be sufficient to fund our operations and our capital expenditure needs, including new store openings, existing store remodeling and improvements, store relocations, distribution facility capacity and improvements, and information technology improvements, through the next several fiscal years.

Working Capital

At September 24, 2022, the Company had working capital of \$1.01 billion, which decreased \$171.0 million from December 25, 2021, and decreased \$407.3 million from September 25, 2021. The shifts in working capital were attributable to changes in the following components of current assets and current liabilities (in millions):

	September 24, 2022	December 25, 2021	Variance	September 25, 2021	Variance
Current assets:					
Cash and cash equivalents	\$ 211.2	\$ 878.0	\$ (666.8)	\$ 1,111.7	\$ (900.5)
Inventories	2,678.2	2,191.2	487.0	2,199.8	478.4
Prepaid expenses and other current assets	211.9	164.1	47.8	149.6	62.3
Income taxes receivable	8.4	17.1	(8.7)	6.8	1.6
Total current assets	\$ 3,109.8	\$ 3,250.4	\$ (140.7)	\$ 3,467.9	\$ (358.2)
Current liabilities:					
Accounts payable	\$ 1,219.6	\$ 1,155.6	\$ 64.0	\$ 1,197.8	\$ 21.8
Accrued employee compensation	80.4	109.6	(29.2)	122.0	(41.6)
Other accrued expenses	453.7	474.4	(20.7)	408.9	44.8
Current portion of long-term debt	—	—	—	—	—
Current portion of finance lease liabilities	3.1	3.9	(0.8)	4.2	(1.1)
Current portion of operating lease liabilities	333.4	321.3	12.1	312.3	21.1
Income taxes payable	4.9	—	4.9	0.8	4.1
Total current liabilities	\$ 2,095.1	\$ 2,064.8	\$ 30.3	\$ 2,046.0	\$ 49.1
Working capital	\$ 1,014.7	\$ 1,185.6	\$ (171.0)	\$ 1,421.9	\$ (407.3)

Note: Amounts may not sum to totals due to rounding.

In comparison to December 25, 2021, working capital as of September 24, 2022 was impacted most significantly by changes in cash and cash equivalents, inventories, and accounts payable.

- The decrease in cash and cash equivalents was primarily driven by uses of cash for share repurchases, capital expenditures to support strategic growth, and dividends paid to stockholders, partially offset by positive cash flow generated from operations.
- The increase in inventories and accounts payable resulted primarily from the seasonal purchase of additional inventory to support anticipated higher sales volume of the cold weather selling season, the impact of inflation and the purchase of additional inventory to support new store growth. The growth in inventories was higher than the growth in accounts payable primarily due to a normalization in inventory levels and turns.

In comparison to September 25, 2021, working capital as of September 24, 2022 was impacted most significantly by changes in cash and cash equivalents, inventories, other accrued expenses, accrued employee compensation, and accounts payable.

- The decrease in cash and cash equivalents was primarily driven by uses of cash for share repurchases, capital expenditures to support strategic growth, and dividends paid to stockholders, partially offset by positive cash flow generated from operations.
- The increase in inventories and accounts payable resulted from an increase in average inventory per store driven by our commitment to support our strong sales trends, the impact of inflation and the purchase of additional inventory to support new store growth. The growth in inventories was higher than the growth in accounts payable primarily due to a normalization in inventory levels and turns.
- The increase in other accrued expenses was primarily attributable to the Company's strategic growth initiatives, including store remodels and Garden Center transformations, as well as the timing of payments and accruals.
- The decrease in accrued employee compensation was primarily due to the normalization of incentive compensation.

Debt

The following table summarizes the Company's outstanding debt as of the dates indicated (in millions):

	September 24, 2022	December 25, 2021	September 25, 2021
1.75% Senior Notes due 2030	\$ 650.0	\$ 650.0	\$ 650.0
3.70% Senior Notes due 2029 ^(a)	150.0	150.0	150.0
Senior Credit Facility:			
November 2020 Term Loan	200.0	200.0	200.0
Revolver	90.0	—	—
Total outstanding borrowings	1,090.0	1,000.0	1,000.0
Less: unamortized debt discounts and issuance costs	(12.1)	(13.6)	(14.1)
Total debt	1,077.9	986.4	985.9
Less: current portion of long-term debt	—	—	—
Long-term debt	\$ 1,077.9	\$ 986.4	\$ 985.9
Outstanding letters of credit	\$ 55.8	\$ 52.9	\$ 46.5

(a) Also referred to herein as the "Note Purchase Agreement," referring to the Note Purchase and Private Shelf Agreement dated as of August 14, 2017 by and among the Company, PGIM, Inc. ("Prudential") and the noteholders party thereto, as amended through September 24, 2022, under which the notes were purchased. The Note Purchase Agreement was further amended on September 30, 2022 and November 2, 2022. Refer to [Note 11](#), "Subsequent Events" for information regarding the amendments.

For additional information about the Company's debt and credit facilities, refer to [Note 5](#) to the Condensed Consolidated Financial Statements.

On September 30, 2022, the Company entered into a new credit agreement, providing for a new credit facility (the "2022 Senior Credit Facility"). On September 30, 2022, the Company also entered into a Third Amendment to Note Purchase and Private Shelf Agreement (the "Third Amendment") by and among the Company, Prudential and the other holders of the notes which amends that certain Note Purchase and Private Shelf Agreement dated as of August 14, 2017 by and among the Company, Prudential and the noteholders party thereto, as amended (collectively as amended by the Amendment, the "Note Purchase Facility") to conform certain representations, warranties and covenants with the 2022 Senior Credit Facility. On November 2, 2022, the Company entered into a Fourth Amendment to Note Purchase and Private Shelf Agreement (the "Fourth

Amendment") by and among the Company, Prudential and other holders of the notes. The Fourth Amendment extends the issuance period for the \$150 million Shelf Notes through November 1, 2025, unless either party terminates such issuance right. Refer to [Note 11](#) to the Condensed Consolidated Financial Statements for more information regarding the 2022 Senior Credit Facility and Amendments to Note Purchase and Private Shelf Agreement.

Operating Activities

Operating activities provided net cash of \$626.3 million and \$871.8 million in the first nine months of fiscal 2022 and 2021, respectively. The \$245.5 million decrease in net cash provided by operating activities in the first nine months of fiscal 2022 compared to the first nine months of fiscal 2021 is due to changes in the following operating activities (in millions):

	Fiscal Nine Months Ended		
	September 24, 2022	September 25, 2021	Variance
Net income	\$ 818.0	\$ 775.8	\$ 42.2
Depreciation and amortization	248.2	194.7	53.5
Share-based compensation expense	38.5	35.7	2.8
Deferred income taxes	42.0	15.0	27.0
Inventories and accounts payable	(423.0)	(194.8)	(228.2)
Prepaid expenses and other current assets	(47.8)	(15.9)	(31.9)
Accrued expenses	(69.5)	77.0	(146.5)
Income taxes	13.6	(26.0)	39.6
Other, net	6.3	10.3	(4.0)
Net cash provided by operating activities	\$ 626.3	\$ 871.8	\$ (245.5)

The \$245.5 million decrease in net cash provided by operating activities in the first nine months of fiscal 2022 compared to the first nine months of fiscal 2021 primarily resulted from the increase in inventory purchases as well as the timing of payments and accrued expenses.

Investing Activities

Investing activities used net cash of \$451.0 million and \$381.3 million in the first nine months of fiscal 2022 and 2021, respectively. The \$69.7 million increase in net cash used in investing activities primarily reflects an increase in capital expenditures, primarily related to the construction of new distribution centers and store remodels, in the first nine months of fiscal 2022 compared to fiscal 2021.

Investing activities, including capital expenditures, for the first nine months of fiscal 2022 and 2021 were as follows (in millions):

	Fiscal Nine Months Ended		
	September 24, 2022	September 25, 2021	Variance
Existing stores	\$ (226.9)	\$ (213.2)	\$ (13.7)
Distribution center capacity and improvements	(85.4)	(36.9)	(48.5)
Information technology	(76.9)	(77.0)	0.1
New and relocated stores and stores not yet opened	(58.9)	(46.5)	(12.4)
Corporate and other	(3.1)	(8.8)	5.7
Total capital expenditures	(451.2)	(382.4)	(68.8)
Proceeds from sale of property and equipment	0.2	1.1	(0.9)
Net cash used in investing activities	\$ (451.0)	\$ (381.3)	\$ (69.7)

The increase in spending for existing stores in the first nine months of fiscal 2022 as compared to the first nine months of fiscal 2021 primarily reflects our strategic initiatives related to store remodels, including internal space productivity and the outside Garden Center transformations. Spending in the first nine months of both fiscal 2022 and fiscal 2021 also includes routine refresh activity, as well as security enhancements.

The increase in spending for distribution center capacity and improvements in the first nine months of fiscal 2022 as compared to the first nine months of fiscal 2021 is primarily related to the construction of new distribution centers in Navarre, Ohio and Maumelle, Arkansas.

Expenditures for information technology represent continued support for improvements in mobility in our stores, our omni-channel initiatives, increased security and compliance, and other strategic initiatives.

In the first nine months of fiscal 2022, the Company opened 24 new Tractor Supply stores compared to 44 new Tractor Supply stores during the first nine months of fiscal 2021. The Company also opened three new Petsense by Tractor Supply stores during each of the first nine months of fiscal 2022 and fiscal 2021. The new store expenditures in the first nine months of fiscal 2022 included the remaining costs for stores that opened in the fourth quarter of 2021 and the costs for new stores scheduled to open later in the year. We expect to open approximately 60 to 70 new Tractor Supply stores and 10 new Petsense by Tractor Supply stores during fiscal 2022.

Our projected capital expenditures for fiscal 2022 are currently estimated to be in a range of \$650 million to \$700 million, including the opening of 60 to 70 new Tractor Supply stores and 10 new Petsense by Tractor Supply stores, construction of new distribution centers in Navarre, Ohio and Maumelle, Arkansas, and our strategic initiatives related to store remodels. In addition, we plan to support our continued improvements in technology and infrastructure at our existing stores and ongoing investments to enhance our digital and omni-channel capabilities to allow our team members to better serve our customers and to provide an even greater overall shopping experience.

Financing Activities

Financing activities used net cash of \$842.1 million in the first nine months of fiscal 2022 compared to using net cash of \$720.6 million in the first nine months of fiscal 2021. The \$121.5 million change in net cash used in financing activities in the first nine months of fiscal 2022 compared to the first nine months of fiscal 2021 is due to changes in the following (in millions):

	Fiscal Nine Months Ended		
	September 24, 2022	September 25, 2021	Variance
Net borrowings and repayments under the Revolver	\$ 90.0	\$ —	\$ 90.0
Repurchase of common stock	(608.0)	(598.0)	(10.0)
Net proceeds from issuance of common stock	15.5	75.2	(59.7)
Cash dividends paid to stockholders	(308.0)	(179.8)	(128.2)
Other, net	(31.6)	(18.0)	(13.6)
Net cash used in financing activities	<u>\$ (842.1)</u>	<u>\$ (720.6)</u>	<u>\$ (121.5)</u>

The \$121.5 million change in net cash used in financing activities in the first nine months of fiscal 2022 compared to the first nine months of fiscal 2021 is primarily due to an increase in cash dividends paid to stockholders, a decrease in net proceeds from the issuance of common stock, and an increase in the repurchase of common stock, partially offset by net borrowings under the Revolver.

Dividends

During the first nine months of fiscal 2022 and fiscal 2021, the Company's Board of Directors declared the following cash dividends:

Date Declared	Dividend Amount Per Share of Common Stock	Record Date	Date Paid
August 4, 2022	\$ 0.92	August 22, 2022	September 7, 2022
May 10, 2022	\$ 0.92	May 25, 2022	June 8, 2022
January 26, 2022	\$ 0.92	February 21, 2022	March 8, 2022
August 4, 2021	\$ 0.52	August 23, 2021	September 8, 2021
May 5, 2021	\$ 0.52	May 24, 2021	June 8, 2021
January 27, 2021	\$ 0.52	February 22, 2021	March 9, 2021

It is the present intention of the Company's Board of Directors to continue to pay a quarterly cash dividend; however, the declaration and payment of future dividends will be determined by the Company's Board of Directors in its sole discretion and will depend upon the earnings, financial condition, and capital needs of the Company, along with any other factors that the Company's Board of Directors deem relevant.

On November 2, 2022, the Company's Board of Directors declared a quarterly cash dividend of \$0.92 per share of the Company's outstanding common stock. The dividend will be paid on December 6, 2022, to stockholders of record as of the close of business on November 21, 2022.

Share Repurchase Program

The Company's Board of Directors has authorized common stock repurchases under a share repurchase program which was announced in February 2007. The total authorized amount was increased by the Company's Board of Directors on January 26, 2022 by \$2.00 billion for a total authorization of \$6.50 billion, exclusive of any fees, commissions, or other expenses related to such repurchases. The share repurchase program does not have an expiration date. The repurchases may be made from time to time on the open market or in privately negotiated transactions. The timing and amount of any shares repurchased under the program will depend on a variety of factors, including price, corporate and regulatory requirements, capital availability, and other market conditions. Repurchased shares are accounted for at cost and will be held in treasury for future issuance. The program may be limited, temporarily paused, or terminated at any time without prior notice. As of September 24, 2022, the Company had remaining authorization under the share repurchase program of \$1.74 billion, exclusive of any fees, commissions, or other expenses.

The following table provides the number of shares repurchased, average price paid per share, and total amount paid for share repurchases during the fiscal three months ended September 24, 2022 and September 25, 2021 (in thousands, except per share amounts):

	Fiscal Three Months Ended		Fiscal Nine Months Ended	
	September 24, 2022	September 25, 2021	September 24, 2022	September 25, 2021
Total number of shares repurchased	638	744	\$ 2,938	\$ 3,462
Average price paid per share	\$ 193.70	\$ 190.03	\$ 206.95	\$ 172.73
Total cash paid for share repurchases	\$ 123,626	\$ 141,259	\$ 608,016	\$ 597,973

Acquisition of Orscheln Farm and Home, LLC

On October 12, 2022, the Company completed the acquisition of Orscheln. The Company acquired 166 Orscheln stores for approximately \$320 million before working capital adjustments. Consistent with the remedy negotiated with the FTC, the Company divested 85 locations to two buyers, Bomgaars Supply, Inc. (73 stores) and Buchheit Enterprises, Inc. (12 stores), shortly after closing the acquisition. Proceeds from the store divestitures were approximately \$72 million. In addition, the Company has agreed to sell the Orscheln corporate headquarters and distribution center to Bomgaars for approximately \$10 million within 15 months after the closing of the acquisition. The acquisition was financed with cash-on-hand and borrowings under the 2022 Senior Credit Facility. Refer to [Note 11](#), "Subsequent Events" for more information.

Significant Contractual Obligations and Commercial Commitments

For a description of the Company's significant contractual obligations and commercial commitments, refer to Note 11 to the Consolidated Financial Statements included under Part II, Item 8 in our [2021 Form 10-K](#) for the fiscal year ended December 25, 2021. The Company is building new distribution centers in Maumelle, Arkansas and Navarre, Ohio, for which, as of September 24, 2022, the Company had contractual commitments of approximately \$94.3 million and \$20.5 million, respectively. As of September 24, 2022, there has been no other material change in the information disclosed in the [2021 Form 10-K](#) for the fiscal year ended December 25, 2021.

Significant Accounting Policies and Estimates

Management's discussion and analysis of the Company's financial position and results of operations are based upon its Condensed Consolidated Financial Statements, which have been prepared in accordance with U.S. GAAP. The preparation of these financial statements requires management to make informed estimates and judgments that affect the reported amounts of assets, liabilities, revenues and expenses, and related disclosure of contingent assets and liabilities. The Company's significant accounting policies, including areas of critical management judgments and estimates, have primary impact on the following financial statement areas:

- Inventory valuation
- Self-insurance reserves
- Impairment of long-lived assets
- Impairment of goodwill and other indefinite-lived intangible assets

See [Note 1](#) to the Consolidated Financial Statements in our 2021 [Form 10-K](#), for a discussion of the Company's critical accounting policies. The Company's financial position and/or results of operations may be materially different when reported under different conditions or when using different assumptions in the application of such policies. In the event estimates or assumptions prove to be different from actual amounts, adjustments are made in subsequent periods to reflect more current information. There have been no changes to our significant accounting policies and estimates as previously disclosed in our 2021 Annual Report on Form 10-K.

New Accounting Pronouncements

For recently adopted accounting pronouncements and recently issued accounting pronouncements not yet adopted as of September 24, 2022, refer to [Note 1](#) to the Condensed Consolidated Financial Statements included under Part I, Item 1 of this Quarterly Report on Form 10-Q.

Item 3. Quantitative and Qualitative Disclosures About Market Risk

For a description of the Company's quantitative and qualitative disclosures about market risks, see Part II, Item 7A. "Quantitative and Qualitative Disclosures About Market Risk" included in our [2021 Form 10-K](#) for the fiscal year ended December 25, 2021. As of September 24, 2022, there has been no material change in this information.

Item 4. Controls and Procedures

Disclosure Controls and Procedures

Our management carried out an evaluation required by the Securities Exchange Act of 1934, as amended (the "1934 Act"), under the supervision and with the participation of our principal executive officer and principal financial officer, of the effectiveness of our disclosure controls and procedures (as defined in Rule 13a-15(e) and Rule 15d-15(e) under the 1934 Act) as of September 24, 2022. Based on this evaluation, our principal executive officer and principal financial officer concluded that, as of September 24, 2022, our disclosure controls and procedures were effective.

Internal Control over Financial Reporting

There were no changes in our internal control over financial reporting that occurred during our last fiscal quarter that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

PART II. OTHER INFORMATION**Item 1. Legal Proceedings**

For a description of the Company's legal proceedings, refer to [Note 9](#) to the Condensed Consolidated Financial Statements included under Part I, Item 1 of this Quarterly Report on Form 10-Q.

Item 1A. Risk Factors

The risk factors described in Part I, Item 1A "Risk Factors" in our 2021 [Form 10-K](#) should be carefully considered, together with the other information contained or incorporated by reference in this Quarterly Report on Form 10-Q and in our other filings with the SEC, in connection with evaluating the Company, our business, and the forward-looking statements contained in this Quarterly Report on Form 10-Q. There have been no material changes to our risk factors as previously disclosed in our 2021 [Form 10-K](#). Other risks that we do not presently know about or that we presently believe are not material could also adversely affect us.

Item 2. Unregistered Sales of Equity Securities and Use of Proceeds**Issuer Purchases of Equity Securities**

Share repurchases were made pursuant to the share repurchase program, which is described under Part I, Item 2. "Management's Discussion and Analysis of Financial Condition and Results of Operations" of this Quarterly Report on Form 10-Q. Additionally, the Company withholds shares from vested restricted stock units and performance-based restricted share units to satisfy employees' minimum statutory tax withholding requirements. Stock repurchase activity during the third quarter of fiscal 2022 was as follows:

Period		Total Number of Shares Purchased	Average Price Paid Per Share	Total Number of Shares Purchased as Part of Publicly Announced Plans or Programs	Maximum Dollar Value of Shares That May Yet Be Purchased Under the Plans or Programs ^(b)
June 26, 2022 - July 23, 2022	(a)	209,008	\$ 198.04	208,827	\$ 1,819,310,256
July 24, 2022 - August 20, 2022	(a)	244,569	191.39	241,395	1,773,108,629
August 21, 2022 - September 24, 2022	(a)	188,350	191.83	188,000	1,737,048,869
Total		641,927	\$ 193.68	638,222	\$ 1,737,048,869

(a) The number of shares purchased and average price paid per share includes 181, 3,174, and 350 shares withheld from vested stock awards to satisfy employees' minimum statutory tax withholding requirements for the period of June 26, 2022 - July 23, 2022, July 24, 2022 - August 20, 2022, and August 21, 2022 - September 24, 2022, respectively.

(b) On January 26, 2022 the Board of Directors authorized a \$2.00 billion increase to its existing share repurchase program, bringing the total amount authorized to date under the program to \$6.50 billion. The share repurchase program does not have an expiration date. The repurchases may be made from time to time on the open market or in privately negotiated transactions.

We expect to implement the balance of the share repurchase program through purchases made from time to time either in the open market or through private transactions, in accordance with regulations of the SEC and other applicable legal requirements. The timing and amount of any common stock repurchased under the program will depend on a variety of factors including price, corporate and regulatory requirements, capital availability, and other market conditions. Any additional share repurchase programs will be subject to the discretion of our Board of Directors and will depend upon earnings, financial condition, and capital needs of the Company, along with any other factors which the Board of Directors deem relevant. The program may be limited, temporarily paused, or terminated at any time, without prior notice.

Item 3. Defaults Upon Senior Securities

None.

Item 4. Mine Safety Disclosures

Not applicable.

Item 5. Other Information

Replacement of Exhibit 10.1 from Current Report on Form 8-K filed on October 5, 2022

The following disclosure is intended to update disclosure pursuant to Item 9.01 (d) of our Current Report on Form 8-K filed on October 5, 2022 with the Securities and Exchange Commission. The Exhibit filed as Exhibit 10.1 to this report corrects and replaces Exhibit 10.1 to the Current Report on Form 8-K filed on October 5, 2022.

Sixth Amended and Restated Bylaws

On November 3, 2022, the board of directors of Tractor Supply Company approved Sixth Amended and Restated Bylaws for the Company (the "Sixth Amended and Restated Bylaws"), effective immediately to:

- Require that, to propose a nominee for election as a director at a meeting of the stockholders, a proposing stockholder must fully comply with Rule 14a-19 under the Securities Exchange Act of 1934, as amended ("Rule 14a-19), including with respect to the solicitation of proxies;
- Clarify requirements in connection with Rule 14a-19 relating to a director nominee's written consent to being named in a proxy statement;
- Require that no stockholder may nominate at a meeting of the stockholders a number of director nominees in excess of the number of directors to be elected at such a meeting;
- Establish that the Company may disregard proxies or votes solicited by a stockholder for nominees proposed by such stockholder if the stockholder does not comply with Rule 14a-19, including by providing proper notice, timely filing of a definitive proxy statement and soliciting the required number of holders of the Company's common stock;
- Require that a stockholder directly or indirectly soliciting proxies from other stockholders use a proxy card color other than white; and
- Implement certain amendments to the Delaware General Corporation Law (the "DGCL") including:
 - Giving the Company the ability to provide the details for an adjourned meeting in any manner permitted by the DGCL; and
 - Eliminate the requirement that the Company make a stockholder list available during a meeting of stockholders.

The foregoing description of the Sixth Amended and Restated Bylaws and the amendments contained therein does not purport to be complete and is qualified in its entirety by reference to the Sixth Amended and Restated Bylaws, which are filed herewith as Exhibit 3.1, and as Exhibit 3.2 in redline form showing the changes described above, and incorporated herein by reference.

Item 6. Exhibits

Exhibit

- 3.1* [Sixth Amended and Restated By-laws of Tractor Supply Company](#)
- 3.2* [Sixth Amended and Restated By-laws of Tractor Supply Company, marked to show amendments effective as of November 3, 2022](#)
- 10.1* [Credit Agreement, dated as of September 30, 2022, by and among Tractor Supply Company, as Borrower, certain lenders and Wells Fargo Bank, National Association, as Administrative Agent, a corrected copy is filed herewith, replacing the copy filed as Exhibit 10.1 to the Company's Current Report on Form 8-K filed on October 5, 2022.](#)
- 10.2 [Third Amendment to Note Purchase and Private Shelf Agreement, dated September 30, 2022, by and among Tractor Supply Company, PGIM, Inc. and the other noteholders \(filed as Exhibit 10.2 to Registrant's Current Report on Form 8-K, filed with the Commission on October 5, 2022, and incorporated herein by reference\).](#)
- 10.3* [Fourth Amendment to Note Purchase and Private Shelf Agreement, dated November 2, 2022, by and among Tractor Supply Company, PGIM, Inc. and the other noteholders](#)
- 10.4* [Omnibus Amendment to Non-Qualified Stock Option Grant Agreements](#)
- 31.1* [Certification of Chief Executive Officer under Section 302 of the Sarbanes-Oxley Act of 2002.](#)
- 31.2* [Certification of Chief Financial Officer under Section 302 of the Sarbanes-Oxley Act of 2002.](#)
- 32.1** [Certification of Chief Executive Officer and Chief Financial Officer under Section 906 of the Sarbanes-Oxley Act of 2002.](#)
- 101* The following financial information from the Company's Quarterly Report on Form 10-Q for the quarter ended September 24, 2022, formatted in Inline XBRL (Extensible Business Reporting Language) includes: (i) the Condensed Consolidated Balance Sheets, (ii) the Condensed Consolidated Statements of Income, (iii) the Condensed Consolidated Statements of Comprehensive Income, (iv) the Condensed Consolidated Statements of Stockholders' Equity, (v) the Condensed Consolidated Statements of Cash Flows, and (vi) the Notes to Consolidated Financial Statements. The instance document does not appear in the interactive data file because its XBRL tags are embedded within the Inline XBRL document.
- 104* The cover page from the Company's Quarterly Report on Form 10-Q for the quarter ended September 24, 2022, formatted in Inline XBRL (included in Exhibit 101).

* Filed herewith

** Furnished herewith

SIGNATURE

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

TRACTOR SUPPLY COMPANY

Date: November 3, 2022

By: /s/ Kurt D. Barton

Kurt D. Barton

Executive Vice President - Chief Financial Officer and Treasurer

(Duly Authorized Officer and Principal Financial Officer)

TRACTOR SUPPLY COMPANY

A Delaware Corporation

SIXTH AMENDED AND RESTATED BY-LAWS

(as amended on November 3, 2022)

ARTICLE I

MEETINGS OF STOCKHOLDERS

Section 1.1 Annual Meeting.

(a) Time and Place. The annual meeting of the stockholders of the Corporation for the election of directors and the transaction of such other business as may properly come before such meeting shall be held each year on such date and at such time and place, within or without the State of Delaware, as may be designated by the Board of Directors.

(b) Business to be Conducted. At an annual meeting of the stockholders, only such business (other than nominations of persons for election to the Board of Directors, which must be made in compliance with and is governed exclusively by Sections 1.1(c) and 1.2 of these Sixth Amended and Restated By-laws (the "By-laws")) shall be conducted as shall have been properly brought before the meeting and shall be a proper subject for stockholder action under applicable law. To be properly brought before an annual meeting, business must be: (i) specified in the notice of meeting (or any supplement thereto) given by or at the direction of the Board of Directors, (ii) otherwise properly brought before the meeting by or at the direction of the Board of Directors, or (iii) otherwise properly brought before the meeting by a stockholder. For business to be properly brought before an annual meeting by a stockholder, the stockholder must have been a stockholder of record of the Corporation (and, with respect to any beneficial owner, if different, on whose behalf such business is proposed, such beneficial owner must have been the beneficial owner of shares of the Corporation) at the time of giving the notice provided for in this paragraph (b) and at the time of the meeting, must be entitled to vote at such annual meeting and must have given timely notice thereof in writing to the Secretary of the Corporation in compliance with this paragraph (b). For the avoidance of doubt, the foregoing clause of this paragraph (b) shall be the exclusive means for a stockholder to propose such business (other than business included in the Corporation's proxy materials pursuant to Rule 14a-8 under the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder (the "1934 Act"), and included in the Corporation's notice of meeting) before an annual meeting of stockholders. To be timely, a stockholder's notice must be delivered to or mailed and received at the principal executive offices of the Corporation not less than ninety (90) nor more than one hundred twenty (120) calendar days in advance of the anniversary date of the previous year's annual meeting of stockholders; *provided, however*, that in the event that no annual meeting was held in the previous year or the date of the current year's annual meeting shall have been changed by more than thirty (30) days from the anniversary date of the previous year's annual meeting of stockholders, to be timely notice by the stockholder must be so received by the Corporation not later than the later of (i) the ninetieth (90th) day prior to such current year's annual meeting or (ii) the tenth (10th) day following (1) the day on which the notice containing the date of the current year's annual meeting is provided by the Corporation or (2) public disclosure of the current year's annual meeting date was made, whichever first occurs; *provided further*, however, that any such notice which is received later than the fifth (5th) business day prior to the meeting may be disregarded.

In no event shall any adjournment, deferral or postponement of an annual meeting or the announcement thereof commence a new time period (or extend any time period) for the giving of a stockholder's notice as described above. To be in proper written form, a stockholder's notice to the Secretary shall set forth as to each matter the stockholder proposes to bring before the annual meeting: (A) a brief description of the business desired to be brought before the annual meeting (including the text of any resolutions proposed for consideration and, if such business includes a proposal to amend the Certificate of Incorporation or these By-laws, the specific language of the proposed amendment) and the reasons for conducting such business at the annual meeting, (B) the name and address, as they appear on the Corporation's books, of the stockholder proposing such business and the name and address of any Stockholder Associated Person (as defined below) covered by clauses (C), (D) or (E) below and a description in reasonable detail of any interest of the stockholder proposing such business or any Stockholder Associated Person thereof in such business, (C) the class and number of shares of the capital stock of the Corporation which are directly or indirectly held of record or are beneficially owned by such stockholder or by any Stockholder Associated Person and the date(s) on which such stock was acquired, (D) a description of (i) any economic interest in or any other right with respect to (including from a third party) any securities of the Corporation (or any rights, options or other securities convertible into or exercisable or exchangeable for, or any obligations measured by the price or value of, in whole or in part, any securities of the Corporation, including, without limitation, any swaps or other derivative arrangements), any short interest in any securities of the Corporation, or any other economic interest in or any other rights with respect to debt of the Corporation held by such stockholder and any Stockholder Associated Person, and (ii) any other agreement, arrangement or understanding, the effect or intent of which is to increase or decrease the voting power of such stockholder or any Stockholder Associated Person with respect to the capital stock of the Corporation, (E) a description of all arrangements, agreements, proxies or understandings between such stockholder or any Stockholder Associated Person and any other person or entity (including their names) in connection with the proposal of such business by such stockholder and any material interest of such stockholder or any Stockholder Associated Person in such business, (F) any other information related to such stockholder or any Stockholder Associated Person that would be required to be disclosed in a proxy statement or other filing required to be made in connection with the solicitation of proxies or consents (even if a solicitation is not involved) by such stockholder or Stockholder Associated Person in support of the business proposed to be brought before the meeting pursuant to Section 14 of the 1934 Act and (G) a representation as to (i) whether such stockholder intends to appear in person or by proxy at the meeting to propose the business described in its notice and (ii) whether such stockholder or any Stockholder Associated Person intends to solicit, directly or indirectly, a proxy from holders of at least the percentage of the Corporation's outstanding shares required to approve the proposal or otherwise to solicit proxies from stockholders in support of the proposal. Any stockholder who submits a notice pursuant to this paragraph (b) shall also provide to the Corporation such additional information that the Corporation may reasonably request from time to time regarding such stockholder and any Stockholder Associated Person and/or the business that such stockholder proposes to bring before the meeting. In addition, any stockholder who submits a notice pursuant to this paragraph (b) is required to update and supplement the information disclosed in such notice, if necessary in accordance with Section 1.1(e). Notwithstanding the foregoing, in order to include information with respect to a stockholder proposal in the proxy statement and form of proxy for a stockholders' meeting, stockholders must provide notice as required by the regulations promulgated under the 1934 Act.

Except for proposals properly made in accordance with Rule 14a-8 under the 1934 Act and included in the notice of meeting given by or at the direction of the Board of Directors and for nominations of persons for election to the Board of Directors, which must be made in compliance with and are governed exclusively by Sections 1.1(c) and 1.2 of these By-laws, no business shall be conducted at any annual meeting except in accordance with the procedures set forth in this paragraph (b). If any information submitted pursuant to this paragraph

(b) is inaccurate in any material respect, such information shall be deemed not to have been provided in accordance with this paragraph (b). The presiding person at the annual meeting shall, if the facts warrant, determine and declare at the meeting that business was not properly brought before the meeting in accordance with the provisions of this paragraph (b), and, if he should so determine, he shall so declare at the meeting that any such business not properly brought before the meeting shall not be transacted.

(c) Nomination of Directors. Except as set forth in Section 1.2, nominations of persons for election to the Board of Directors of the Corporation may be made at an annual meeting of stockholders (i) by or at the direction of the Board of Directors or (ii) by any stockholder that is a stockholder of record of the Corporation (and, with respect to any beneficial owner, if different, on whose behalf such nomination is proposed to be made, only if such beneficial owner was the beneficial owner of shares of the Corporation) both at the time of giving the notice provided for in this paragraph (c) and at the time of the annual meeting, that is entitled to vote at such annual meeting and that has given timely notice thereof in writing to the Secretary of the Corporation in compliance with this paragraph (c) (a "Proposing Stockholder"). Such nominations, other than those made by or at the direction of the Board of Directors or those made pursuant to Section 1.2, shall be made pursuant to timely notice in writing to the Secretary of the Corporation in compliance with this paragraph (c).

In addition to complying with the provisions of Rule 14a-19 promulgated under the 1934 Act, to be timely, a Proposing Stockholder's notice must be delivered to or mailed and received at the principal executive offices of the Corporation not less than ninety (90) nor more than one hundred twenty (120) calendar days in advance of the anniversary date of the previous year's annual meeting of stockholders; *provided, however*, that in the event that no annual meeting was held in the previous year or the date of the current year's annual meeting shall have been changed by more than thirty (30) days from the anniversary date of the previous year's annual meeting, to be timely notice by the Proposing Stockholder must be so received by the Corporation not later than the later of (i) the ninetieth (90th) day prior to such current year's annual meeting or (ii) the tenth (10th) day following (1) the day on which the notice containing the date of the current year's annual meeting is provided by the Corporation or (2) public disclosure of the current year's annual meeting date was made, whichever first occurs; *provided further*, however, that any such notice which is received later than the fifth (5th) business day prior to the meeting may be disregarded. In no event shall any adjournment, deferral or postponement of an annual meeting or the announcement thereof commence a new time period (or extend any time period) for the giving of a Proposing Stockholder's notice as provided above.

To be in proper written form, a Proposing Stockholder's notice shall set forth (i) as to each person, if any, whom the Proposing Stockholder proposes to nominate for election or re-election as a director: (A) the name, age, business address and residence address of such proposed nominee, (B) the principal occupation or employment of such proposed nominee, (C) the class and number of shares of the Corporation which are directly or indirectly held of record or are beneficially owned by such proposed nominee, and the date(s) on which such stock was acquired, (D) a description of all arrangements, agreements, proxies or understandings, direct or indirect, between the Proposing Stockholder and each such proposed nominee and any other person or persons (naming such person or persons) pursuant to which such nominations are to be made by the Proposing Stockholder, (E) a description of all direct and indirect compensation and other material monetary agreements, arrangements and understandings during the past three years, and any other material relationships, between or among such Proposing Stockholder or any Stockholder Associated Person of such Proposing Stockholder, on the one hand, and each proposed nominee, or his or her associates, on the other hand, (F) any other information relating to such proposed nominee that is required to be disclosed in solicitations of proxies for elections of directors, or is otherwise required, in each case pursuant to Regulation 14A under the 1934 Act (including, without limitation, such proposed nominee's written consent to being named in a

proxy statement, if any, relating to the applicable meeting of stockholders as a nominee and to serving as a director if elected), and (G) a written representation by the proposed nominee that such nominee currently intends to serve the full term for which such nominee would be standing for election, if elected; and (ii) as to the Proposing Stockholder, (A) the name and address, as they appear on the Corporation's books, of such Proposing Stockholder and the name and address of any Stockholder Associated Person (as defined below) covered by clauses (B), (C) or (D) below, (B) the class and number of shares of the capital stock of the Corporation which are directly or indirectly held of record or are beneficially owned by such Proposing Stockholder or by any Stockholder Associated Person and the date(s) on which such stock was acquired, (C) a description of (i) any economic interest in or any other right with respect to (including from a third party) any securities of the Corporation (or any rights, options or other securities convertible into or exercisable or exchangeable for, or any obligations measured by the price or value of, in whole or in part, any securities of the Corporation, including, without limitation, any swaps or other derivative arrangements), any short interest in any securities of the Corporation, or any other economic interests or any other rights with respect to debt of the Corporation, held by such Proposing Stockholder and any Stockholder Associated Person, and (ii) any other agreement, arrangement or understanding, the effect or intent of which is to increase or decrease the voting power of such Proposing Stockholder or any Stockholder Associated Person with respect to the capital stock of the Corporation, (D) a description of all arrangements, agreements, proxies or understandings between such Proposing Stockholder or any Stockholder Associated Person and any other person or entity (including their names) in connection with the nomination of any person as a director of the Corporation and any material relationships, within the last three (3) years, between the nominee and his or her affiliates and such Proposing Stockholder or any Stockholder Associated Person, (E) any other information related to such Proposing Stockholder or any Stockholder Associated Person that would be required to be disclosed in a proxy statement or other filing required to be made in connection with the solicitation of proxies or consents (even if a solicitation is not involved) by such Proposing Stockholder or Stockholder Associated Person in support of the business proposed to be brought before the meeting pursuant to Section 14 of the 1934 Act) and (F) a representation as to (i) whether such Proposing Stockholder intends to appear in person or by proxy at the meeting to nominate the proposed nominees named in its notice, (ii) whether such Proposing Stockholder intends to solicit proxies or votes in support of director nominees other than the Corporation's director nominees in accordance with Rule 14a-19 promulgated under the 1934 Act and (iii) whether such Proposing Stockholder intends to deliver a proxy statement and/or form of proxy to holders of at least the percentage of the Corporation's outstanding shares required to elect the proposed nominee(s) included in its notice.

In addition, to be eligible to be a nominee pursuant to this Section 1.1(c) or Section 1.2, a person must deliver (in the case of a nominee pursuant to this Section 1.1(c), in accordance with the time periods prescribed for delivery of notice under Section 1.1 of Article I, or, in the case of a nominee pursuant to Section 1.2, in accordance with the time periods prescribed for delivery of a Nomination Notice under Section 1.2 of Article I), the following to the Secretary at the principal executive offices of the Corporation (collectively, the "Nominee Information"):

(i) a fully completed and signed written questionnaire with respect to the background and qualifications of such nominee (which questionnaire shall be provided by the Secretary of the Corporation upon written request); and

(ii) a written representation and agreement (in the form provided by the Secretary of the Corporation upon written request) that such nominee (1) acknowledges the Corporation's policy on director resignations following such person's failure to receive the required vote for re-election at any future meeting at which such person would face reelection, as set forth in these By-Laws and the Corporation's Corporate Governance Guidelines, (2) is not

and will not become a party to (w) any agreement, arrangement or understanding with any person or entity other than the Corporation with respect to any direct or indirect compensation, reimbursement or indemnification in connection with such person's nomination or candidacy for director that has not been disclosed to the Corporation, (x) any agreement, arrangement or understanding with, and has not given any commitment or assurance to, any person or entity as to how such person, if elected as a director of the Corporation, will act or vote on any issue or question as a director (a "Voting Commitment") that has not been disclosed to the Corporation, (y) any Voting Commitment that could limit or interfere with such person's ability to comply, if elected as a director of the Corporation, with such person's fiduciary duties under applicable Legal Requirements, or (z) any agreement, arrangement or understanding with any person or entity other than the Corporation with respect to any direct or indirect compensation, reimbursement or indemnification in connection with service or action as a director that has not been disclosed to the Corporation, and (3) in such person's individual capacity and on behalf of any person or entity on whose behalf the nomination is being made, would be in compliance, if elected or re-elected as a director of the Corporation, and intends to comply, with the Corporation's By-Laws, Corporate Governance Guidelines, Code of Conduct, and any other publicly available Corporation policies and guidelines applicable to directors of the Corporation.

In addition to the information set forth above, any Proposing Stockholder making a nomination pursuant to this Section 1.1(c) shall provide to the Corporation such additional information that the Corporation may reasonably request from time to time regarding such Proposing Stockholder, any Stockholder Associated Person thereof or the proposed nominee, including such information to determine the eligibility or qualifications of the proposed nominee to serve as a director or an independent director or that could be material to a reasonable stockholder's understanding of the qualifications and/or independence, or lack thereof, of the nominee to serve as a director of the Corporation. In addition, any Proposing Stockholder who submits a notice pursuant to this paragraph (c) is required to update and supplement the information disclosed in such notice, if necessary, in accordance with Section 1.1(e). At the request of the Board of Directors, any person nominated by a Proposing Stockholder for election as a director shall furnish to the Secretary of the Corporation all such information that is required to be set forth in the Proposing Stockholder's notice of nomination which pertains to such proposed nominee. Except as set forth in Section 1.2, no person shall be eligible for election as a director of the Corporation unless nominated in accordance with the procedures set forth in this paragraph (c). Except as otherwise provided in Section 1.2, the number of nominees a Proposing Stockholder may nominate for election at an annual meeting (or in the case of a Proposing Stockholder giving notice on behalf of a beneficial owner, the number of nominees a Proposing Stockholder may nominate for election at an annual meeting on behalf of such beneficial owner) shall not exceed the number of directors to be elected at such meeting. If any information submitted pursuant to this paragraph (c) by any Proposing Stockholder proposing one or more nominees for election as a director at a meeting of stockholders is inaccurate in any material respect, such information shall be deemed not to have been provided in accordance with this paragraph (c). The presiding person at the meeting shall, if the facts warrant, determine and declare at the meeting that a nomination was not made in accordance with the procedures prescribed by these By-laws, and if he should so determine, he shall so declare at the meeting, and the defective nomination shall be disregarded.

Notwithstanding anything to the contrary set forth in this Section 1.1, unless otherwise required by law, (i) no Proposing Stockholder shall solicit proxies in support of director nominees other than the Corporation's director nominees unless such Proposing Stockholder has complied with Rule 14a-19 promulgated under the 1934 Act in connection with the solicitation of such proxies, including providing any notice to the Corporation required thereunder in a timely manner and (ii) if any Proposing Stockholder (1) provides notice pursuant to Rule 14a-19(b) promulgated under the 1934 Act and (2) subsequently fails to comply with the requirements of Rule 14a-19(a)(2) and Rule 14a-19(a)(3) promulgated under the 1934 Act, then

the Corporation shall disregard any proxies or votes solicited for any nominees proposed for election by such Proposing Stockholder. Upon request by the Corporation, any Proposing Stockholder that has provided notice pursuant to Rule 14a-19(b) promulgated under the 1934 Act shall deliver to the Corporation, no later than five (5) business days prior to the applicable meeting, reasonable evidence that it has met the requirements of Rule 14a-19(a)(3) promulgated under the 1934 Act. The chairman of the meeting shall refuse to acknowledge the nomination of any person not made in compliance with the procedures set forth in this Section 1.1(c).

(d) Definitions. As used in these By-laws, the term (x) “Stockholder Associated Person” means, with respect to any stockholder, (i) any person acting in concert with such stockholder, (ii) any beneficial owner of shares of stock of the Corporation owned of record or beneficially by such stockholder (other than a stockholder that is a depository) and (iii) any person controlling, controlled by or under common control with any stockholder, or any Stockholder Associated Person identified in clauses (i) or (ii) above, and (y) the term “Legal Requirements” means any state, federal or other laws or other legal requirements, including the rules, regulations and listing standards of any securities exchange(s) on which the Corporation’s securities are listed (each, a “Stock Exchange”).

(e) Update and Supplement of Stockholder’s Notice. Any Proposing Stockholder who submits a notice of proposal for business or nomination for election pursuant this Section 1.1 or Section 1.3, or a nomination for election pursuant to Section 1.2 of the By-laws, is required to update and supplement the information disclosed in such notice, if necessary, so that the information provided or required to be provided in such notice shall be true and correct as of the record date for determining the stockholders entitled to notice of the meeting of stockholders and as of the date that is ten (10) business days prior to such meeting of the stockholders or any adjournment or postponement thereof, and such update and supplement shall be delivered to the Secretary at the principal executive offices of the Corporation not later than five (5) business days after the record date for the meeting of stockholders (in the case of the update and supplement required to be made as of the record date), and not later than eight (8) business days prior to the date for the meeting of stockholders or any adjournment or postponement thereof (in the case of the update and supplement required to be made as of ten (10) business days prior to the meeting of stockholders or any adjournment or postponement thereof).

Section 1.2 Stockholder Nominations Included in the Corporation’s Proxy Materials

(a) Inclusion of Nominees in Proxy Statement

(i) Subject to the provisions of this Section 1.2, if expressly requested in the relevant Nomination Notice (as defined below), the Corporation shall include in its proxy statement and form of proxy card (the “Proxy Materials”) for any annual meeting of stockholders the name of, and the Required Information (as defined below) relating to, any person nominated for election to the Board of Directors (a “Proxy Access Nominee”) by an Eligible Proxy Access Stockholder (as defined below) that has satisfied the requirements of this Section 1.2 as determined by the Board of Directors.

(ii) For purposes of this Section 1.2, the “Required Information” that the Corporation will include in its Proxy Materials is:

A. any information about the Proxy Access Nominee and the Eligible Proxy Access Stockholder that is required to be disclosed in the Proxy Materials

by the rules of the Securities and Exchange Commission (the “SEC”) or other applicable Legal Requirements; and

B. any statement included by the Eligible Proxy Access Stockholder in the Nomination Notice for inclusion in the proxy statement in support of the Proxy Access Nominee’s election to the Board of Directors (subject to, without limitation, Section 1.2(e)(ii) of Article I), if such statement does not exceed 500 words (the “Supporting Statement”).

(iii) The Corporation may also include in the Proxy Materials any other information that the Corporation or the Board of Directors determines, in their discretion, to include in the Proxy Materials relating to the nomination of any Proxy Access Nominee, including, without limitation, any statement in opposition to the nomination, any of the information provided pursuant to this Section 1.2 and any solicitation materials or related information with respect to a Proxy Access Nominee.

(iv) For purposes of this Section 1.2, any determination to be made by the Board of Directors may be made by the Board of Directors, a committee of the Board of Directors or any officer of the Corporation designated by the Board of Directors or a committee of the Board of Directors, and any such determination shall be final and binding on the Corporation, any Eligible Proxy Access Stockholder, any Proxy Access Nominee and any other person so long as made in good faith (without any further requirements).

Except for a nomination made in accordance with Section 1.1(c) and Rule 14a-19 promulgated under the 1934 Act, this Section 1.2 provides the exclusive method for stockholders to include nominees for director in the Corporation’s Proxy Materials with respect to any meeting of stockholders.

(b) Number of Nominees.

(i) The Corporation shall not be required to include in the Proxy Materials for an annual meeting of stockholders more Proxy Access Nominees than that number constituting the greater of (x) 20% of the total number of directors of the Corporation on the last day on which a Nomination Notice may be submitted pursuant to this Section 1.2 (rounded down to the nearest whole number) and (y) two nominees (the “Maximum Number”). The Maximum Number for a particular annual meeting shall be reduced by (1) any Proxy Access Nominees who the Board of Directors itself decides to nominate for election at such annual meeting, (2) subject to the following sentence, any Proxy Access Nominees who cease to satisfy the eligibility requirements in this Section 1.2, as determined by the Board of Directors, (3) any Proxy Access Nominee whose nomination is withdrawn by the Eligible Proxy Access Stockholder or who becomes unwilling to serve on the Board of Directors, and (4) the number of incumbent directors who had been Proxy Access Nominees with respect to any of the preceding two annual meetings of stockholders and whose reelection at the upcoming annual meeting is being recommended by the Board of Directors. In the event that the Board of Directors determines prior to the publicly disclosed record date for an annual meeting that a Proxy Access Nominee to be included in its Proxy Materials has ceased to satisfy the eligibility requirements of this Section 1.2, the Board of Directors shall include in its Proxy Materials a substitute Proxy Access Nominee, if any, but only if such Proxy Access Nominee was nominated in accordance with this Section 1.2 (including Section 1.2(d)) and otherwise meets all the other requirements of this Section 1.2. In no event shall the ineligibility of a proposed Proxy Access Nominee commence a new time period or extend any time period set forth herein. In the event that one or more vacancies for any reason occurs on the Board of Directors after the deadline for submitting a Nomination Notice as set forth in Section 1.2(d) of Article I below but before the date of the annual meeting, and the Board of Directors resolves to reduce the size of the Board of Directors in connection therewith,

the Maximum Number shall be calculated based on the number of directors in office as so reduced.

(ii) If the number of Proxy Access Nominees pursuant to this Section 1.2 for any annual meeting of stockholders exceeds the Maximum Number then, promptly upon notice from the Corporation, each Eligible Proxy Access Stockholder will select one Proxy Access Nominee for inclusion in the Proxy Materials until the Maximum Number is reached, going in order of the amount (largest to smallest) of the ownership position held by each Eligible Proxy Access Stockholder as disclosed in such Eligible Proxy Access Stockholder's Nomination Notice, with the process repeated if the Maximum Number is not reached after each Eligible Proxy Access Stockholder has selected one Proxy Access Nominee. If, after the deadline for submitting a Nomination Notice as set forth in Section 1.2(d) of this Article I, an Eligible Proxy Access Stockholder or a Proxy Access Nominee ceases to satisfy the eligibility requirements in this Section 1.2, as determined by the Board of Directors, an Eligible Proxy Access Stockholder withdraws its nomination or a Proxy Access Nominee becomes unwilling to serve on the Board of Directors, whether before or after the mailing or other distribution of the Proxy Materials, then the nomination shall be disregarded, and the Corporation (1) shall not be required to include in its Proxy Materials the disregarded Proxy Access Nominee (or any successor or replacement nominee) and (2) may otherwise communicate to its stockholders, including, without limitation, by amending or supplementing its Proxy Materials, that the disregarded Proxy Access Nominee will not be included as a nominee in the Proxy Materials and will not be voted on at the annual meeting.

(c) Eligible Proxy Access Stockholder.

(i) For purposes of this Section 1.2, an "Eligible Proxy Access Stockholder" is one or more stockholders who own and have owned continuously for at least three (3) years as of the date the Nomination Notice is received by the Corporation three percent (3%) or more of the outstanding shares of common stock of the Corporation (the "Required Shares") and who continue to own the Required Shares through the date of the annual meeting. For purposes of determining the number of outstanding shares of common stock of the Corporation for purposes of this calculation, such amount will be determined as set forth in the most recent filing of the Corporation with the SEC setting forth such amount.

(ii) For purposes of satisfying the ownership requirement under Section 1.2 (c)(i):

A. the outstanding shares of common stock of the Corporation owned by one or more stockholders may be aggregated, provided that the number of stockholders whose ownership of shares of the Corporation is aggregated for such purpose shall not exceed 20, and

B. two or more funds that are (x) under common management and investment control, (y) under common management and funded primarily by a single employer or (z) a "group of investment companies," as such term is defined in Section 12(d)(1)(G)(ii) of the Investment Company Act of 1940, as amended, shall, in each case, be treated as one stockholder if such Eligible Proxy Access Stockholder shall provide as part of the Nomination Notice documentation reasonably satisfactory to the Corporation that demonstrates that the funds meet the criteria set forth in (x), (y) or (z) hereof.

(iii) Except as otherwise provided in this Section 1.2, whenever an Eligible Proxy Access Stockholder consists of a group of stockholders, any and all requirements and obligations for an Eligible Proxy Access Stockholder set forth in this Section 1.2 must be satisfied by and as to each stockholder. No shares may be attributed to more than one Eligible

Proxy Access Stockholder, and no stockholder may be a member of more than one group constituting an Eligible Proxy Access Stockholder under this Section 1.2.

(iv) For purposes of this Section 1.2, a stockholder shall be deemed to “own” only those outstanding shares of the Corporation as to which such stockholder possesses both:

- A. the full voting and investment rights pertaining to the shares; and
- B. the full economic interest in (including the opportunity for profit and risk of loss on) such shares;

provided that the number of shares calculated in accordance with clauses A and B above shall not include any shares (1) purchased or sold by such stockholder or any of its affiliates in any transaction that has not been settled or closed, (2) sold short by such stockholder, (3) borrowed by such stockholder or any of its affiliates for any purpose or purchased by such stockholder or any of its affiliates pursuant to an agreement to resell or subject to any other obligation to resell to another person, or (4) subject to any option, warrant, forward contract, swap, contract of sale, other derivative or similar agreement entered into by such stockholder or any of its affiliates, whether any such instrument or agreement is to be settled with shares or with cash based on the notional amount or value of outstanding shares of the Corporation, in any such case which instrument or agreement has, or is intended to have, the purpose or effect of (x) reducing in any manner, to any extent or at any time in the future, such stockholder’s or any of its affiliates’ full right to vote or direct the voting of any such shares and/or (y) hedging, offsetting, or altering to any degree, gain or loss arising from the full economic ownership of such shares by such stockholder or any of its affiliates.

A stockholder “owns” shares held in the name of a nominee or other intermediary so long as the stockholder retains the right to instruct how the shares are voted with respect to the election of directors and possesses the full economic interest in the shares. A stockholder’s ownership of shares shall be deemed to continue during any period in which the stockholder has delegated any voting power by means of a proxy, power of attorney, or other similar instrument or arrangement that is revocable at any time by the stockholder. A stockholder’s ownership of shares shall be deemed to continue during any period in which the stockholder has loaned such shares provided that the stockholder has the power to recall such loaned shares on five (5) business days’ notice. The terms “owned,” “owning” and other variations of the word “own” shall have correlative meanings. Whether outstanding shares of the Corporation are “owned” for purposes of this Section 1.2 shall be determined by the Board of Directors.

(v) Within the time period specified in Section 1.2(d) for giving a Nomination Notice, the Eligible Proxy Access Stockholder shall deliver to the Secretary of the Corporation one or more written statements from the record holder of the shares or one or more intermediaries through which the shares are or have been held verifying that, as of the date the Nomination Notice is received by the Corporation, the Eligible Proxy Access Stockholder owns, and has owned continuously for the preceding three (3) years, the Required Shares.

(d) Nomination Notice. To nominate a Proxy Access Nominee, the Eligible Proxy Access Stockholder must, no earlier than one hundred fifty (150) days and no later than one hundred twenty (120) days before the anniversary of the date that the Corporation provided or made available to stockholders its definitive proxy statement for the preceding year’s annual meeting of stockholders, submit to the Secretary of the Corporation at the principal executive office of the Corporation all of the following information and documents (collectively, the “Nomination Notice”); *provided, however*, that if (and only if) the current year’s annual meeting

is not scheduled to be held within a period that commences thirty (30) days before such anniversary date and ends thirty (30) days after such anniversary date, the Nomination Notice shall be given in the manner provided herein by the later of the date that is one hundred eighty (180) days prior to the current year's annual meeting or the tenth (10th) day following the date the current year's annual meeting is first publicly announced or disclosed:

(i) a copy of the Schedule 14N (or any successor form) relating to each Proxy Access Nominee that has been filed with the SEC under Rule 14a-18 of the 1934 Act (or any successor rule);

(ii) the written consent of each Proxy Access Nominee to be named in the Corporation's Proxy Materials as a nominee and to serve as a director of the Corporation, if elected;

(iii) a written notice and agreement, in a form deemed satisfactory by the Board of Directors, that includes the following additional information, agreements and representations of the Eligible Proxy Access Stockholder (or, in the case of a group, each stockholder whose shares are aggregated for purposes of constituting an Eligible Proxy Access Stockholder):

A. all information that would be required to be included in a stockholder notice nominating director candidates pursuant to Section 1.1(c) of Article I (excluding a representation regarding whether the Eligible Proxy Access Stockholder intends to solicit, directly or indirectly, proxies from the Corporation's stockholders in support of the proposed nominee);

B. the details of any relationship that existed within the past three years and that would have been described pursuant to Item 6(e) of Schedule 14N (or any successor item) if it existed on the date of submission of the Schedule 14N;

C. a representation that the Eligible Proxy Access Stockholder acquired the securities of the Corporation in the ordinary course of business and did not acquire, and is not holding, securities of the Corporation for the purpose or with the effect of influencing or changing control of the Corporation;

D. a representation that each Proxy Access Nominee's candidacy and, if elected, Board membership, would not violate applicable Legal Requirements;

E. a representation that each Proxy Access Nominee:

(1) qualifies as independent under the listing standards of any Stock Exchange, any applicable rules of the SEC and any publicly disclosed standards used by the Board of Directors in determining and disclosing independence of the Corporation's directors;

(2) is a "non-employee director" for the purposes of Rule 16b-3 under the 1934 Act (or any successor rule);

(3) is an "outside director" for the purposes of Section 162(m) of the Internal Revenue Code (or any successor provision); and

(4) is not and has not been subject to any event specified in Rule 506(d)(1) of Regulation D (or any successor rule) under the

Securities Act of 1933 or Item 401(f) of Regulation S-K (or any successor item) under the 1934 Act, without reference to whether the event is material to an evaluation of the ability or integrity of such Proxy Access Nominee;

F. a representation that the Eligible Proxy Access Stockholder satisfies the eligibility requirements set forth in Section 1.2(c) of Article I, along with all information necessary to verify evidence of ownership as provided under Section 1.2(c) of Article I;

G. a representation that the Eligible Proxy Access Stockholder intends to continue to satisfy the eligibility requirements described in Section 1.2(c) of Article I through the date of the annual meeting and indicating whether or not the Eligible Proxy Access Stockholder intends to continue to own the Required Shares for at least one year following the annual meeting;

H. details of any position of a Proxy Access Nominee as an officer or director of any competitor (that is, any entity that provides services that compete with or are alternatives to the goods or services provided by the Corporation or its affiliates) of the Corporation, within the three years preceding the submission of the Nomination Notice;

I. a representation that the Eligible Proxy Access Stockholder will not engage in a “solicitation” within the meaning of Rule 14a-1(l) (without reference to the exception in Section 14a-1(l)(2)(iv)) (or any successor rule) with respect to the annual meeting, other than with respect to a Proxy Access Nominee or any nominee of the Board;

J. a representation that the Eligible Proxy Access Stockholder will not use any proxy card other than the Corporation’s proxy card in soliciting stockholders in connection with the election of a Proxy Access Nominee at the annual meeting;

K. if desired, a Supporting Statement;

L. in the case of a nomination by a group, the designation by all group members of one group member that is authorized to act on behalf of all group members with respect to matters relating to the nomination, including withdrawal of the nomination;

M. an undertaking pursuant to which the Eligible Proxy Access Stockholder agrees:

(1) to comply with all applicable Legal Requirements in connection with the nomination, solicitation and election;

(2) to file any written solicitation or other communication with the Corporation’s stockholders relating to one or more of the Corporation’s directors or director nominees or any Proxy Access Nominee with the SEC, regardless of whether any such filing is required under rule or regulation or whether any exemption from filing is available for such materials under any rule or regulation;

(3) to assume all liability stemming from an action, suit or proceeding concerning any actual or alleged legal or regulatory violation

arising out of any communication by the Eligible Proxy Access Stockholder or any of its Proxy Access Nominees with the Corporation, its stockholders or any other person in connection with the nomination or election of directors, including, without limitation, the Nomination Notice; and

(4) to indemnify and hold harmless the Corporation and each of its directors, officers and employees individually against any liability, loss, damages, expenses or other costs (including attorneys' fees) incurred in connection with any threatened or pending action, suit or proceeding, whether legal, administrative or investigative, against the Corporation or any of its directors, officers or employees arising out of any nomination submitted by the Eligible Proxy Access Stockholder pursuant to this Section 1.2 or any solicitation or other activity in connection with its efforts to elect the Proxy Access Nominee(s).

The information and documents required by this Section 1.2(d) to be provided by the Eligible Proxy Access Stockholder shall be (i) provided with respect to and executed by each group member, in the case of information applicable to group members, and (ii) provided with respect to the persons specified in Instruction 1 to Items 6(c) and (d) of Schedule 14N (or any successor item) in the case of a Eligible Proxy Access Stockholder or group member that is an entity. The Nomination Notice shall be deemed submitted on the date on which all the information and documents referred to in this Section 1.2(d) (other than such information and documents contemplated to be provided after the date the Nomination Notice is provided) have been delivered to the Secretary of the Corporation. Each Eligible Proxy Access Stockholder shall also promptly provide to the Corporation such other information related to such Eligible Proxy Access Stockholder and/or the Proxy Access Nominee as may be reasonably requested by the Corporation at any time prior to the annual meeting, including such information to determine the eligibility or qualifications of the Proxy Access Nominee to serve as a director or an independent director or that could be material to a reasonable stockholder's understanding of the qualifications and/or independence, or lack thereof, of the Proxy Access Nominee to serve as a director of the Corporation.

An Eligible Proxy Access Stockholder (or the designated lead group member) providing notice of a nomination pursuant to this Section 1.2 shall further update and supplement the Nomination Notice and any other information required to be provided under this Section 1.2, as set forth in Section 1.1(e) of Article I. For the avoidance of doubt, the requirement to update and supplement such Nomination Notice and information shall not permit any Eligible Proxy Access Stockholder or any other person to change or add any proposed Proxy Access Nominee or be deemed to cure any defects or limit the remedies (including, without limitation, under these By-laws) available to the Corporation related to any defect.

(e) Exceptions.

(i) Notwithstanding anything to the contrary contained in this Section 1.2, the Corporation shall not be required to include a Proxy Access Nominee in the Corporation's Proxy Materials for any annual meeting of stockholders, and such nomination shall be disregarded and no vote on such Proxy Access Nominee shall occur, if:

A. the Corporation receives a notice (whether or not subsequently withdrawn) that a stockholder intends to nominate one or more persons for election to the Board of Directors at such annual meeting pursuant to the advance notice requirements for stockholder nominees for director set forth in Section 1.1(c) of Article I;

B. the Eligible Proxy Access Stockholder (or the designated lead group member, as applicable) or any Qualified Representative thereof does not appear at the meeting of stockholders to present the nomination with respect to the Proxy Access Nominee submitted pursuant to this Section 1.2;

C. the Proxy Access Nominee becomes unwilling or unable to serve on the Board of Directors or the Eligible Proxy Access Stockholder withdraws its nomination with respect to the Proxy Access Nominee;

D. the Board of Directors determines that the Proxy Access Nominee's nomination or election to the Board of Directors would result in the Corporation violating or failing to be in compliance with these By-laws or the Certificate of Incorporation or any applicable Legal Requirement, or that the Proxy Access Nominee fails to satisfy any of the criteria set forth in Section 1.2(d)(iii)(E) above;

E. the Proxy Access Nominee has been, within the past three years, an officer or director of a competitor, as defined for purposes of Section 8 of the Clayton Antitrust Act of 1914, as amended; or

F. the Board of Directors or the chairman of any annual meeting determines that (1) the Eligible Proxy Access Stockholder or the Proxy Access Nominee has failed to continue to satisfy the eligibility requirements described in this Section 1.2 (including any eligibility requirements included in Section 1.1(c) and incorporated by reference into this Section 1.2), (2) any of the information included in the Nomination Notice or otherwise provided to the Corporation by the Eligible Proxy Access Stockholder was untrue in any material respect or omitted to state a material fact necessary in order to make any statements made, in light of the circumstances under which they were made, not misleading, (3) any of the information required to be provided in the Nomination Notice was not provided, or (4) the Eligible Proxy Access Stockholder or Proxy Access Nominee otherwise breaches any applicable obligations set forth in these By-laws, including this Section 1.2.

In addition, any Proxy Access Nominee who is included in the Corporation's proxy materials for a particular annual meeting of stockholders but does not receive at least 25% of the votes cast in favor of such Proxy Access Nominee's election, will be ineligible to be a Proxy Access Nominee pursuant to this Section 1.2 of Article I for the next two annual meetings of stockholders.

(ii) Notwithstanding anything to the contrary contained in this Section 1.2, the Corporation may omit from the Proxy Materials, or may supplement or correct, any information, including all or any portion of the Supporting Statement or any other statement in support of a Proxy Access Nominee included in the Nomination Notice, if the Board of Directors determines that:

A. such information is not true in all material respects or omits a material statement necessary to make the statements made not misleading;

B. such information directly or indirectly impugns the character, integrity or personal reputation of, or directly or indirectly makes charges concerning improper, illegal or immoral conduct or associations, without factual foundation, with respect to, any person; or

C. the inclusion of such information in the Proxy Materials would otherwise violate the SEC proxy rules or any other applicable Legal Requirements.

Section 1.3 Special Meetings.

(a) Special meetings of the stockholders may be called by the Chairman of the Board, the Chief Executive Officer, the President, or at the request of one or more stockholders who Net Long Beneficially Own, in the aggregate, not less than twenty percent (20%) of the outstanding shares of common stock of the Corporation (the “Minimum Holding”).

(b) Within thirty (30) days of receipt by the Secretary of a written request from stockholders who own the Minimum Holding (a “Special Meeting Request”), it shall be the duty of the Board to cause a special meeting of stockholders to be held not later than ninety (90) days after receipt of such Special Meeting Request.

(c) A special meeting requested by stockholders shall be held unless the Special Meeting Request is delivered during the period beginning ninety (90) days prior to the anniversary of the preceding year’s annual meeting of stockholders and ending on the date of the next annual meeting.

(d) In determining whether the Minimum Holding has been achieved, multiple Special Meeting Requests delivered to the Secretary will be considered together if each Special Meeting Request identifies substantially the same purpose or purposes of the special meeting and substantially the same matters proposed to be acted on at the requested special meeting (in each case as determined in good faith by the Board).

(e) The business transacted at any special meeting of shareholders is limited to the purpose or purposes stated in the notice of the meeting given pursuant to this Section 1.3. Notwithstanding anything in these By-laws to the contrary, the Board may submit its own proposal or proposals for consideration at a special meeting. Except in accordance with this Section 1.3, stockholders shall not be permitted to propose business to be brought before a special meeting of the stockholders.

(f) A Special Meeting Request must be delivered by hand or by mail or courier service, postage prepaid, to the attention of the Secretary of the Corporation at the principal executive offices of the Corporation.

(g) A Special Meeting Request shall be valid only if it is signed and dated by each stockholder of record submitting the Special Meeting Request and each beneficial owner, if any, on whose behalf the Special Meeting Request is being made, or such stockholder’s or beneficial owner’s duly authorized agent (each, a “Requesting Stockholder”), and includes (A) a statement of the specific purpose(s) of the special meeting and the reasons for conducting such business at the meeting; (B) in the case of any director nominations proposed to be presented at the special meeting, the information required by Section 1.1(c); and (C) in the case of any matter (other than a director nomination) proposed to be conducted at the special meeting, the information required by Section 1.1(b).

(h) The Special Meeting Request must also include (A) an agreement by the Requesting Stockholders to notify the Corporation promptly in the event of any disposition prior to the time of the special meeting of any shares included within any Requesting Stockholder’s Net Long Beneficial Ownership as of the date on which the Special Meeting Request was delivered to the Secretary; (B) an acknowledgement that prior to the special meeting any disposition of shares of the Corporation’s common stock included within any Requesting Stockholder’s Net Long Beneficial Ownership as of the date on which the Special Meeting Request was delivered to the Secretary shall be deemed to be a revocation of such Special Meeting Request with respect to such disposed shares and that any decrease in the Requesting Stockholders’ aggregate Net Long Beneficial Ownership to less than the Minimum Holding shall

be deemed to be a revocation of such Special Meeting Request; and (C) documentary evidence that the Requesting Stockholders (or the beneficial owners on whose behalf the Special Meeting Request is made) had Net Long Beneficial Ownership of the Minimum Holding as of the date of delivery of the Special Meeting Request to the Secretary.

(i) The Requesting Stockholders on whose behalf the Special Meeting Request is being made shall further update and supplement the information provided in the Special Meeting Request, if necessary, as set forth in Section 1.1(e).

(j) If none of the Requesting Stockholders appears or sends a duly authorized agent to present the business specified in the Special Meeting Request to be presented for consideration, the Corporation need not present such business for a vote at the special meeting, notwithstanding that proxies in respect of such business may have been received by the Corporation.

(k) With respect to this Section 1.3, a stockholder must comply with all applicable provisions of these By-Laws and all requirements of Delaware law and the 1934 Act.

(l) In the event the Board of Directors calls a special meeting of stockholders for the purpose of electing one or more directors to the Board, nominations of persons for election to the Board of Directors may be made by any stockholder that is a stockholder of record of the Corporation (and, with respect to any beneficial owner, if different, on whose behalf such nomination is proposed to be made, only if such beneficial owner was the beneficial owner of shares of the Corporation) at the time of giving the notice provided for in this Section 1.3(l), that is entitled to vote at such meeting and that has given timely notice thereof in writing to the Secretary of the Corporation in compliance with this Section 1.3(l). Such nominations, other than those made by or at the direction of the Board of Directors, shall be made pursuant to timely notice in writing to the Secretary of the Corporation in compliance with this Section 1.3(l). To be timely, a stockholder's notice must be delivered to or mailed and received at the principal executive offices of the Corporation not earlier than the one hundred twentieth (120th) day prior to such special meeting and not later than the later of (i) the ninetieth (90th) day prior to such special meeting or (ii) the tenth (10th) day following (1) the day on which the notice containing the date of the special meeting is provided by the Corporation or (2) public disclosure of the special meeting date was made, whichever first occurs; provided, however, that any such notice which is received later than the fifth (5th) business day prior to the meeting may be disregarded. In no event shall any adjournment, deferral or postponement of a special meeting or the announcement thereof commence a new time period (or extend any time period) for the giving of a stockholder's notice as provided above. To be in proper written form, such stockholder's notice shall set forth all of the information described in, and otherwise be in compliance with, Section 1.1(c) of these By-laws. In addition, any stockholder who submits a notice pursuant to this Section 1.3(l) is required to update and supplement the information disclosed in such notice, if necessary, in accordance with Section 1.1(e). If any information submitted pursuant to this Section 1.3(l) by any stockholder proposing one or more nominees for election as a director at a special meeting of stockholders is inaccurate in any material respect, such information shall be deemed not to have been provided in accordance with this Section 1.3(l). The presiding person at the meeting shall, if the facts warrant, determine and declare at the meeting that a nomination was not made in accordance with the procedures prescribed by these By-laws, and if he should so determine, he shall so declare at the meeting, and the defective nomination shall be disregarded.

(m) For the purposes of this Section 1.3, the following definitions shall apply:

(i) An "Affiliate" of a person shall mean another person that, directly or indirectly through one of more intermediaries, controls, is controlled by or is under common control with such person.

(ii) An “Associate” of a person shall mean (i) any corporation or organization (other than a majority-owned subsidiary of such person) of which such person is an officer or partner or is, directly or indirectly, the beneficial owner of ten percent or more of any class of equity securities; (ii) any trust or other estate in which such person has a substantial beneficial interest or as to which such person serves as trustee or in a similar fiduciary capacity; and (iii) any relative or spouse of such person, or any relative of such spouse, who has the same home as such person or who is a director or officer of the Corporation or any of its parents or subsidiaries.

(iii) “Net Long Beneficial Ownership” shall mean the shares of stock of the Corporation that such person or, if such person is a nominee, custodian or other agent that is holding the shares on behalf of another person (the “beneficial owner”), that such beneficial owner would then be deemed to own pursuant to Rule 200(b) under the 1934 Act, excluding, at any time, any shares as to which such stockholder or beneficial owner does not then have the right to vote or direct the vote and excluding, at any time, any shares as to which such person or beneficial owner (or any Affiliate or Associate of such person or beneficial owner) had directly or indirectly entered into (or caused to be entered into) and not yet terminated a derivative or other agreement, arrangement or understanding that hedges or transfers, in whole or in part, directly or indirectly, any of the economic consequences of ownership of such shares, and further subtracting from any person’s ownership of shares at any time such person’s (and such person’s Affiliates’ and Associates’) “short position” (as defined pursuant to Rule 14e-4(a) under the 1934 Act), all as the Board of Directors shall determine in good faith.

Section 1.4 Notice of Meetings; Waiver of Notice.

(a) Notice of Meetings. Whenever stockholders are required or permitted to take any action at a meeting, notice of the meeting shall be given by or at the direction of the Chairman of the Board (if any), the Chief Executive Officer (if any), the President, the Secretary or the other persons calling the meeting, and shall state the place, date and hour, the means of remote communications, if any, by which stockholders and proxy holders may be deemed to be present in person and vote at such meeting, the record date for determining the stockholders entitled to vote at the meeting, if such date is different from the record date for determining stockholders entitled to notice of the meeting, and, in the case of a special meeting, the purpose or purposes for which the meeting is called. Unless otherwise provided by law, the written notice of any meeting shall be given not less than ten (10) nor more than sixty (60) days before the date of the meeting to each stockholder entitled to vote at such meeting. If mailed, such notice shall be directed to each stockholder at his address as it appears on the records of the Corporation. Without limiting the manner by which notice otherwise may be given to stockholders, any notice shall be effective if given by a form of electronic transmission consented to (in a manner consistent with the General Corporation Law of the State of Delaware) by the stockholder to whom the notice is given. If notice is given by mail, such notice shall be deemed given when deposited in the United States mail, postage prepaid, directed to the stockholder at such stockholder’s address as it appears on the records of the Corporation. If notice is given by electronic transmission, such notice shall be deemed given at the time specified in Section 232 of the General Corporation Law of the State of Delaware.

(b) Waiver of Notice. Whenever notice is required to be given to the stockholders under any provision of law, the Certificate of Incorporation of the Corporation or these By-laws, a written waiver signed by a stockholder entitled to notice, or a waiver by electronic transmission by a stockholder entitled to notice, whether before, at or after the time stated therein, shall be deemed equivalent to notice. Attendance of a stockholder at a meeting shall constitute a waiver of notice of such meeting, except when the stockholder attends such meeting for the express purpose of objecting, at the beginning of the meeting, to the transaction

of business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the stockholders need be specified in any written waiver of notice unless so required by the Certificate of Incorporation of the Corporation.

Section 1.5 Quorum. The presence at any meeting, in person, by means of remote communication in a manner, if any, authorized by the Board of Directors in its sole discretion, or represented by proxy, of the holders of record of a majority of the shares of the capital stock of the Corporation then issued and outstanding and entitled to vote shall be necessary and sufficient to constitute a quorum for the transaction of business, except as otherwise provided by law or the Certificate of Incorporation of the Corporation. Where a separate vote by a class or classes is required with respect to a particular matter, the presence at the meeting, in person or by proxy, of the holders of record of a majority of the shares of such class or classes then issued and outstanding and entitled to vote thereon shall be necessary and sufficient to constitute a quorum with respect to a vote on such matter. A quorum, once established at a meeting, shall not be broken by the withdrawal of enough votes to leave less than a quorum.

Section 1.6 Adjournments. In the absence of a quorum, a majority in interest of the stockholders entitled to vote, present in person or by proxy at a meeting, or, if no stockholder entitled to vote is present in person or by proxy, any officer entitled to act as chairman or secretary of such meeting, may adjourn the meeting to another time or place. When a meeting is adjourned to another time or place, notice need not be given of the adjourned meeting if the time and place thereof and the means of remote communications, if any, by which stockholders and proxy holders may be deemed to be present in person and vote at such adjourned meeting are provided in a manner permitted by the General Corporation Law of the State of Delaware; provided, however, that, if the adjournment is for more than thirty (30) days, or, if after the adjournment, a new record date is fixed for the adjourned meeting, a notice of the adjourned meeting shall be given to each stockholder of record entitled to vote at the meeting. At the adjourned meeting the Corporation may transact any business which might have been transacted at the original meeting. In no event will the adjournment or postponement of an annual meeting of stockholders commence a new time period (or extend any time period) for the giving of a stockholder's notice as described in paragraphs (b) or (c) of Section 1.1 of these By- Laws.

Section 1.7 Organization. The Chairman of the Board, or if there is no Chairman of the Board or in his absence or disability, the Chief Executive Officer, or if there is no Chief Executive Officer or in his absence or disability, the President, or in the absence or disability of all of them, a presiding person appointed by the Board of Directors, shall act as the presiding person of all meetings of stockholders. The Secretary or, in his absence or disability, any Assistant Secretary, or, in the absence of all of them, a secretary appointed by the presiding person of the meeting, shall act as secretary at all meetings of stockholders. The Board of Directors may adopt by resolution such rules, regulations and procedures for the conduct of any meeting of stockholders of the Corporation as it shall deem appropriate including, without limitation, such guidelines and procedures as it may deem appropriate regarding the participation by means of remote communication of stockholders and proxyholders not physically present at a meeting. Except to the extent inconsistent with such rules, regulations and procedures as adopted by the Board of Directors, the presiding person at any meeting of stockholders shall have the right and authority to prescribe such rules, regulations and procedures and to do all such acts as, in the judgment of such presiding person, are appropriate for the proper conduct of the meeting. Without limiting the foregoing, the following rules shall apply:

(a) The presiding person may ask or require that anyone not a bona fide stockholder or duly authorized proxy leave the meeting.

(b) The presiding person may propose any motion for vote. The order of business at all meetings of stockholders shall be determined by the presiding person.

(c) The presiding person may impose any reasonable limits with respect to participation in the meeting by stockholders, including, without limitation, limits on the amount of time that may be taken up at the meeting by the remarks or questions of any stockholder, limits on the number of questions a stockholder may ask and limits as to the subject matter and timing of questions and remarks by stockholders.

Section 1.8 Voting. Unless otherwise provided in the Certificate of Incorporation or required by law, each stockholder shall be entitled to one vote for each share of capital stock held by such stockholder which is registered in his name on the record date for the meeting. Except as otherwise provided by law, the Certificate of Incorporation or these By-laws, for all matters the affirmative vote (which need not be by ballot) of a majority of the shares present in person or represented by proxy at the meeting and entitled to vote on the subject matter of such vote shall be the act of the stockholders. Where a separate vote by a class or classes is required, the affirmative vote of a majority of the shares of such class or classes present in person or represented by proxy at the meeting and entitled to vote on the subject matter of such vote shall be the act of such class or classes. Notwithstanding the foregoing, the vote required for the election of directors shall be as provided in Section 3.2 of Article III.

Section 1.9 Proxies. Each stockholder entitled to vote at a meeting of stockholders or to express consent or dissent to corporate actions in writing may authorize another person or persons to act for him by proxy, but no such proxy shall be voted or acted upon after three years from its date, unless the proxy provides for a longer period. A duly executed proxy shall be irrevocable if it states that it is irrevocable and if, and only as long as, it is coupled with an interest sufficient in law to support an irrevocable power. Any stockholder directly or indirectly soliciting proxies from other stockholders must use a proxy card color other than white, which shall be reserved for the exclusive use by the Board of Directors.

Section 1.10 Stockholder List. The officer who has charge of the stock ledger of the Corporation shall prepare and make, at least ten (10) days before every meeting of stockholders, a complete list of the stockholders entitled to vote at the meeting, arranged in alphabetical order, and showing the address and number of shares registered in the name of each stockholder. Such list shall be open to the examination of any stockholder, for any purpose germane to the meeting, during ordinary business hours for a period of at least ten (10) days prior to the meeting, at the principal place of business of the Corporation.

Section 1.11 Inspectors of Election. In advance of any stockholders' meeting, the Board of Directors may appoint one or more inspectors to act at the meeting and make a written report thereof. The Board of Directors may designate one or more persons as alternate inspectors to replace any inspector who fails to act. If no inspector or alternate is able to act at a meeting of stockholders, the person presiding at the meeting shall appoint one or more inspectors to act at the meeting. Each inspector, before entering upon the discharge of his duties, shall take and sign an oath to faithfully execute the duties of inspector with strict impartiality and according to the best of his ability.

Section 1.12 Fixing the Record Date. So that the Corporation may determine the stockholders entitled to notice of any meeting of stockholders or any adjournment thereof, the Board of Directors may fix in advance a record date, which shall not precede the date upon which the resolution fixing the record date is adopted by the Board, and shall not be more than 60 nor less than ten (10) days before the date of such meeting. If the Board of Directors so fixes a date, such date shall also be the record date for determining the stockholders entitled to vote at such meeting unless the Board of Directors determines, at the time it fixes such record date, that

a later date on or before the date of the meeting shall be the date for making such determination. Only those stockholders of record on the date so fixed shall be entitled to vote at the meeting, notwithstanding the transfer of any stock on the books of the Corporation after any such record date fixed by the Board of Directors.

So that the Corporation may determine the stockholders entitled to express consent to corporate action in writing without a meeting, or to receive payment of any dividend or other distribution or allotment of any rights, or to exercise any rights in respect of any change, conversion or exchange of stock or for the purpose of any other lawful action, the Board of Directors may fix in advance a record date, which shall not precede the date upon which the resolution fixing the record date is adopted by the Board, and (a) in the case of a written consent, shall not exceed by more than ten (10) days the date upon which the resolution fixing the record date is adopted by the Board, or (b) in the case of any other action, shall not be more than sixty (60) days prior to such action. Only those stockholders of record on the date so fixed shall be entitled to any of the foregoing rights, notwithstanding the transfer of any stock on the books of the Corporation after any such record date fixed by the Board of Directors.

ARTICLE II

CONSENT OF STOCKHOLDERS IN LIEU OF MEETING

Unless otherwise provided in the Certificate of Incorporation, any action required by law or these By-laws to be taken at any annual or special meeting of stockholders of the Corporation may be taken without a meeting, without prior notice and without a vote if a consent or consents in writing, setting forth the action so taken, shall be signed by the holders of outstanding stock having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all shares entitled to vote thereon were present and voted and shall be delivered to the Corporation as required by law. Prompt notice of the taking of the corporate action without a meeting by less than unanimous written consent shall be given to those stockholders who have not so consented in writing.

ARTICLE III

BOARD OF DIRECTORS

Section 3.1 Number. The Board of Directors shall consist of one or more directors, as fixed from time to time by resolution of the Board of Directors in accordance with applicable law.

Section 3.2 Election and Term of Office.

(a) Directors will be elected at each annual meeting of stockholders of the Corporation and will hold office for a term expiring at the next annual meeting of stockholders or until their successors are elected and qualified or until their earlier resignation or removal.

(b) In an uncontested election of directors, each director of the Corporation shall be elected by a majority of the votes cast by the shares present in person or represented by proxy at the meeting and entitled to vote on the election of directors; *provided, however*, in a contested election, the directors shall be elected by a plurality of the votes of the shares present in person or represented by proxy at the meeting and entitled to vote on the election of directors. For purposes of this Section 3.2: (i) an “uncontested election” is an election in which the number of nominees for director is not greater than the number to be elected and (ii) a “contested

election” is an election in which the number of nominees for director is greater than the number to be elected.

(c) Following any uncontested election, any incumbent director who was a nominee and who did not receive a majority of the votes cast by the shares present in person or represented by proxy at the meeting and entitled to vote on the election of directors (a “majority vote”), shall promptly tender his or her offer of resignation to the Board for consideration by the Board if such director has not previously submitted a conditional offer of resignation. A recommendation on whether or not to accept such resignation offer shall be made by a committee of independent directors that has been delegated the responsibility of recommending nominees for director for appointment or election to the Board, or (1) if each member of such committee did not receive the required majority vote or (2) if no such committee has been appointed, a majority of the Board shall appoint a special committee of independent directors for such purpose of making a recommendation to the Board (the “Nominating Committee”). If no independent directors received the required majority vote, the Board shall act on the resignation offers.

Within sixty (60) days following certification of the stockholder vote, the Nominating Committee shall recommend to the Board the action to be taken with respect to such offer of resignation. In determining whether or not to recommend that the Board accept any resignation offer, the Nominating Committee shall be entitled to consider all factors believed relevant by such Committee’s members, including without limitation: (1) any stated reasons for the director not receiving the required majority vote and whether the underlying cause or causes are curable; (2) the factors, if any, set forth in the guidelines or other policies that are to be considered by the Nominating Committee in evaluating potential candidates for the Board as such factors relate to each director who has so offered his or her resignation; (3) the length of service of such director; (4) the effect of such resignation on the Corporation’s compliance with any law, rule, regulation, stock exchange listing standards, or contractual obligations; (5) such director’s contributions to the Corporation; and (6) any other factors that the Nominating Committee believes are in the best interests of the Corporation.

The Board shall act on the Nominating Committee’s recommendation and publicly disclose the decision and reasons therefor, by a press release, a filing with the Securities and Exchange Commission or other broadly disseminated means of communication, within ninety (90) days following certification of the stockholder vote. In determining whether or not to accept any resignation offer, the Board shall take into account the factors considered by the Nominating Committee and any additional information and factors that the Board believes to be relevant.

(d) If any director’s resignation offer is not accepted by the Board, such director shall continue to serve until the next annual meeting and his or her successor is duly elected and qualified, or until the director’s earlier death, resignation, or removal. If a director’s resignation offer is accepted by the Board pursuant to this Section 3.2, or if a nominee for director is not elected and the nominee is not an incumbent director, then the Board, in its sole discretion, may fill any resulting vacancy pursuant to the provisions of Section 3.3 of this Article III or may decrease the size of the Board pursuant to Section 3.1 of this Article III.

Section 3.3 Vacancies and Additional Directorship. Unless otherwise provided in the Certificate of Incorporation of the Corporation, vacancies and newly created directorships resulting from any increase in the authorized number of directors may be filled by a majority of the directors then in office, although less than a quorum, or by the sole remaining director. Unless otherwise provided in the Certificate of Incorporation of the Corporation, when one or more directors shall resign from the Board, effective at a future date, a majority of the directors then in office, including those who have so resigned, shall have the power to fill such vacancy or

vacancies, the vote thereon to be effective upon the effectiveness of such resignation or resignations.

Section 3.4 Meetings.

(a) Regular Meeting. The Board of Directors may by resolution provide for the holding of regular meetings for the election of officers and for the transaction of such other business as may properly come before the meeting, and may fix the times and places at which such meetings shall be held. Notice of regular meetings shall not be required to be given, provided that whenever the time or place of regular meetings shall be fixed or changed, notice of such action shall be given promptly by mail, facsimile, telegram, radio, cable, telephone, electronic mail or personal delivery to each director who shall not have been present at the meeting at which such action was taken, addressed, sent, delivered or communicated to him at his residence or usual place of business.

(b) Special Meetings. Special meetings of the Board of Directors may be called by or at the direction of the Chairman of the Board (if any), the Chief Executive Officer (if any), the President or one-third of the directors then in office, except that when the Board of Directors consists of one director, such director may call a special meeting. Except as otherwise required by law, notice of each special meeting shall be mailed to each director, addressed to him at his residence or usual place of business, at least five (5) days before the day on which such meeting is to be held, or shall be sent to him at such place by facsimile, telegram, radio or cable, electronic mail or telephoned or delivered to him personally, not later than twenty-four (24) hours before the day on which such meeting is to be held. Such notice shall state the time and place of such meeting, but need not state the purpose thereof, unless otherwise required by law, the Certificate of Incorporation of the Corporation or these By-laws.

(c) Waiver of Notice. Whenever notice is required to be given to the directors under any provision of law, the Certificate of Incorporation of the Corporation or these By-laws, a written waiver, signed by the director entitled to notice, whether before or after the time stated therein, shall be deemed equivalent to notice. Attendance of a director at a meeting shall constitute a waiver of notice of such meeting, except when a director attends a meeting for the express purpose of objecting at the beginning of the meeting to the transaction of business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of directors need be specified in any written waiver of notice unless so required by the Certificate of Incorporation of the Corporation.

(d) Participation by Conference Call. Members of the Board of Directors may participate in any meeting of the Board by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other, and such participation shall constitute presence in person at the meeting.

Section 3.5 Quorum; Voting. Unless the Certificate of Incorporation of the Corporation provides otherwise, at each meeting of the Board of Directors a majority of the total number of members of the Board of Directors shall constitute a quorum for the transaction of business, except that when the Board consists of only one director, one director shall constitute a quorum. Unless otherwise required by the Certificate of Incorporation of the Corporation or these By-laws, a vote of the majority of the directors present at any meeting at which a quorum is present shall be the act of the Board.

Section 3.6 Adjournment. A majority of the directors present, whether or not a quorum is present, may adjourn any meeting to another time and place. Notice of any adjournment of a meeting of the Board of Directors to another time or place shall be given to the

directors who were not present at the time of the adjournment and, unless such time and place are announced at such meeting, to the directors who were present.

Section 3.7 Organization. The Chairman of the Board, or if there is no Chairman of the Board or in his absence or disability, the Chief Executive Officer, or if there is no Chief Executive Officer or in his absence or disability, the President, or in the absence or disability of all of them, a chairman appointed by the directors present at such meeting, shall act as the presiding person at meetings of directors. The Secretary, or in his absence or disability, any Assistant Secretary, or in the absence of all of them, a secretary appointed by the presiding person of the meeting, shall act as secretary at all meetings of the Board of Directors.

Section 3.8 Action of Board Without Meeting. Any action required or permitted to be taken at any meeting of the Board of Directors may be taken without a meeting if all members of the Board consent thereto in writing or by electronic transmission, and such writing or writings or electronic transmission or transmissions are filed with the minutes of proceedings of the Board.

Section 3.9 Manner of Acting. A member of the Board of Directors shall, in the performance of his duties, be fully protected in relying in good faith upon the records of the Corporation and upon such information, opinions, reports or statements presented to the Corporation by any of the Corporation's officers or employees, or committees of the Board, or by any other person as to matters the director reasonably believes are within such other person's professional or expert competence and who has been selected with reasonable care by or on behalf of the Corporation.

Section 3.10 Resignation of Directors. Any director may resign at any time by giving notice in writing or by electronic transmission of such resignation to the Board of Directors, the Chairman of the Board (if any), the Chief Executive Officer (if any), the President, any Vice President or the Secretary. Unless otherwise specified in such notice, such resignation shall take effect upon receipt thereof by the Board of Directors or any such officer, and acceptance of such resignation shall not be necessary to make it effective.

Section 3.11 Removal of Directors. Any director, or the entire Board of Directors, may be removed at any time by the affirmative vote of the holders of the majority of all outstanding shares of capital stock of the Company entitled to vote generally in the election of directors, voting together as a single class at a duly held meeting.

Section 3.12 Compensation of Directors. Directors may receive such reasonable compensation for their services as directors, whether in the form of salary, a fixed fee for attendance at meetings, with expenses, if any, or other compensation, as the Board of Directors may from time to time determine. Nothing contained herein shall be construed to preclude any director from serving the Corporation in any other capacity and receiving compensation therefor.

Section 3.13 Interested Directors. No contract or transaction between the Corporation and one or more of its directors or officers, or between the Corporation and any other corporation, partnership, association or other organization in which one or more of its directors or officers are directors or officers, or have a financial interest, shall be void or voidable solely for this reason, or solely because the director or officer is present at or participates in the meeting of the Board of Directors or committee thereof that authorizes the contract or transaction, or solely because his, her or their votes are counted for such purpose, if (a) the material facts as to his, her or their relationship or interest as to the contract or transaction are disclosed or are known to the Board of Directors or a committee thereof, and the Board of Directors or a committee thereof in good faith authorizes the contract or transaction by the affirmative vote of a majority of the disinterested directors, even though the disinterested directors be less than a

quorum, (b) the material facts as to his, her or their relationship or interest as to the contract or transaction are disclosed or are known to the stockholders entitled to vote thereon and the contract or transaction is specifically approved in good faith by vote of the stockholders or (c) the contract or transaction is fair as to the Corporation as of the time it is authorized, approved or ratified by the Board of Directors, a committee thereof or the stockholders. Common or interested directors may be counted in determining the presence of a quorum at a meeting of the Board of Directors or a committee that authorizes the contract or transaction.

ARTICLE IV

COMMITTEES OF THE BOARD

Section 4.1 Designation and Powers. The Board of Directors may, by a resolution passed by a majority of the entire Board of Directors, designate one or more committees, each committee to consist of one or more of the directors of the Corporation. Any such committee, to the extent provided in such resolution and permitted by law, shall have and may exercise all the powers and authority of the Board of Directors in the management of the business and affairs of the Corporation, and may authorize the seal of the Corporation to be affixed to all papers which may require it; *provided, however*, that no such committee shall have the power or authority to (a) amend the Certificate of Incorporation of the Corporation, except as permitted by law, (b) adopt an agreement of merger or consolidation, (c) recommend to the stockholders the sale, lease or exchange of all or substantially all of the Corporation's property or assets, (d) recommend to the stockholders a dissolution of the Corporation, or a revocation of a dissolution, or (e) amend the By-laws of the Corporation. Any such committee, to the extent provided in such resolution, shall have the power and authority to (i) declare a dividend, (ii) authorize the issuance of stock and/or (iii) adopt a certificate of ownership and merger as permitted by law.

Section 4.2 Term of Office. The term of office of the members of each committee shall be as fixed from time to time by the Board of Directors, subject to these By-laws; *provided, however*, that any committee member who ceases to be a member of the Board of Directors shall ipso facto cease to be a member of any committee thereof.

Section 4.3 Alternate Members and Vacancies. The Board of Directors may designate one or more directors as alternate members of any committee who, in the order specified by the Board of Directors, may replace any absent or disqualified member at any meeting of the committee. If at a meeting of any committee one or more of the members thereof should be absent or disqualified, and if either the Board of Directors has not so designated any alternate member or members or the number of absent or disqualified members exceeds the number of alternate members who are present at such meeting, then the member or members of such committee (including alternates) present at any meeting and not disqualified from voting, whether or not he or they constitute a quorum, may unanimously appoint another director to act at the meeting in the place of any such absent or disqualified member. If any vacancy shall occur in any committee by reason of death, resignation, disqualification, removal or otherwise, the remaining member or members of such committee, so long as a quorum is present, may continue to act until such vacancy is filled by the Board of Directors.

Section 4.4 Meetings. Each committee shall fix its own rules of procedure, and shall meet where and as and upon such notice as provided by such rules or by resolution of the Board of Directors. Each committee shall keep regular minutes of its proceedings. Members of any committee designated by the Board may participate in a meeting of the committee by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other, and such participation shall constitute presence in person at the meeting.

Section 4.5 Quorum; Voting. At each meeting of any committee the presence of a majority of the total number of its members shall constitute a quorum for the transaction of business; except that when a committee consists of one member, then one member shall constitute a quorum. A vote of the majority of committee members present at any meeting of a committee at which a quorum is present shall be the act of such committee.

Section 4.6 Adjournments. A majority of the members of a committee present, whether or not a quorum is present, may adjourn any meeting of such committee to another place and time.

Section 4.7 Action of Committee Without Meeting. Any action required or permitted to be taken at any meeting of any committee designated by the Board of Directors may be taken without a meeting if all members of such committee consent thereto in writing or by electronic transmission and such writing or writings or electronic transmission or transmissions are filed with the minutes of the proceedings of such committee.

Section 4.8 Manner of Acting. A member of any committee designated by the Board of Directors shall, in the performance of his duties, be fully protected in relying in good faith upon the records of the Corporation and upon such information, opinions, reports or statements presented to the Corporation by any of the Corporation's officers or employees, or other committees of the Board of Directors, or by any other person as to matters the member reasonably believes are within such other person's professional or expert competence and who has been selected with reasonable care by or on behalf of the Corporation.

Section 4.9 Resignation of Committee Members. Any member of a committee may resign at any time by giving notice in writing or by electronic transmission of such resignation to the Board of Directors, the Chairman of the Board (if any), the Chief Executive Officer (if any), the President, any Vice President or the Secretary. Unless otherwise specified in such notice, such resignation shall take effect upon receipt thereof by the Board of Directors or any such officer, and acceptance of such resignation shall not be necessary to make it effective.

Section 4.10 Removal of Committee Members. Any member of any committee may be removed with or without cause at any time by the Board of Directors.

Section 4.11 Compensation of Committee Members. Committee members may receive such reasonable compensation for their services as committee members, whether in the form of salary, a fixed fee for attendance at meetings, with expenses, if any, or other compensation, as the Board of Directors may from time to time determine. Nothing contained herein shall be construed to preclude any committee member from serving the Corporation in any other capacity and receiving compensation therefor.

ARTICLE V

OFFICERS

Section 5.1 Officers. The officers of the Corporation shall be a Chief Executive Officer (if elected by the Board of Directors), a President, one or more Vice Presidents (if elected by the Board of Directors), a Secretary, a Treasurer, a Controller (if elected by the Board of Directors) and such other officers as may be appointed in accordance with the provisions of Section 5.3 of these By-laws.

Section 5.2 Election, Term of Office and Qualifications. Each officer (except such officers as may be appointed in accordance with the provisions of Section 5.2 of these By-laws)

shall be elected or appointed by a majority of the Board of Directors present at any meeting at which such election is held. Unless otherwise provided in the resolution of election, each officer (whether elected at the first meeting of the Board of Directors after the annual meeting of stockholders or to fill a vacancy or otherwise) shall hold his office until the first meeting of the Board of Directors after the next annual meeting of stockholders and until his successor shall have been elected and qualified, or until his earlier death, resignation or removal.

Section 5.3 Subordinate Officers and Agents. The Board of Directors may from time to time appoint other officers or agents (including, without limitation, one or more Assistant Vice Presidents, one or more Assistant Secretaries, one or more Assistant Treasurers and one or more Assistant Controllers), to hold office for such periods, have such authority and perform such duties as are provided in these By-laws or as may be provided in the resolutions appointing them. The Board of Directors may delegate to any officer or agent the power to appoint any such subordinate officers or agents and to prescribe their respective terms of office, authority and duties.

Section 5.4 The Chief Executive Officer. The Chief Executive Officer, if elected by the Board of Directors, shall be the Chief Executive Officer of the Corporation and shall have general charge of the business, affairs and property of the Corporation and general supervision over its officers and agents. The Chief Executive Officer may sign (which signature may be a facsimile signature), with any other officer thereunto duly authorized, certificates representing stock of the Corporation, the issuance of which shall have been duly authorized, and may sign and execute (which signature may be a facsimile signature), in the name and on behalf of the Corporation, deeds, mortgages, bonds, contracts, agreements and other instruments and documents duly authorized by the Board of Directors, except where the signing and execution thereof shall be expressly delegated by the Board of Directors to another officer or agent. The Chief Executive Officer shall also have such other powers and perform such other duties as may from time to time be prescribed by the Board of Directors or these By-laws.

Section 5.5 The President. If there is no Chief Executive Officer, or at the request of the Chief Executive Officer (if any) or the Board, or in the absence or disability of the Chief Executive Officer, the President shall be the Chief Executive Officer of the Corporation. Upon the determination of the Board, one person may serve as both the Chief Executive Officer and the President. Subject to the authority and direction of the Chief Executive Officer (if any) and the Board of Directors, the President shall have all the powers of and be subject to all the restrictions on the Chief Executive Officer, and shall have charge of the day to day supervision of the business, affairs and property of the Corporation. The President may sign (which signature may be a facsimile signature), with any other officer thereunto duly authorized, certificates representing stock of the Corporation, the issuance of which shall have been duly authorized, and may sign and execute (which signature may be a facsimile signature), in the name and on behalf of the Corporation, deeds, mortgages, bonds, contracts, agreements and other instruments and documents duly authorized by the Board of Directors, except where the signing and execution thereof shall be expressly delegated by the Board of Directors to another officer or agent. The President shall also have such other powers and perform such other duties as may from time to time be prescribed by the Board of Directors, the Chief Executive Officer or these By-laws.

Section 5.6 Vice Presidents. At the request of the Chief Executive Officer (if any) or the President, or in the absence or disability of all of them, the Vice President designated by the Board of Directors or such officer or officers shall perform all the duties of the President and, when so acting, shall have all the powers of and be subject to all the restrictions on the President. Any Vice President may sign (which signature may be a facsimile signature), with any other officer thereunto duly authorized, certificates representing stock of the Corporation, the issuance of which shall have been duly authorized, and may sign and execute (which signature may be a facsimile signature), in the name and on behalf of the Corporation, deeds, mortgages, bonds,

contracts, agreements and other instruments and documents duly authorized by the Board of Directors, except where the signing and execution thereof shall be expressly delegated by the Board of Directors to another officer or agent. Each Vice President shall also have such other powers and perform such other duties as may from time to time be prescribed by the Board of Directors, the Chief Executive Officer (if any), the President or these By-laws.

Section 5.7 The Secretary. The Secretary shall:

- (a) record all the proceedings of meetings of the stockholders, the Board of Directors and any committees thereof in a book or books to be kept for that purpose;
- (b) cause all notices to be duly given in accordance with the provisions of these By-laws and as required by law;
- (c) whenever any committee shall be appointed pursuant to a resolution of the Board of Directors, furnish the chairman of such committee with a copy of such resolution;
- (d) be custodian of the records and the seal of the Corporation, if any, and cause such seal, if any, to be affixed to (or a facsimile to be reproduced on) all certificates representing stock of the Corporation prior to the issuance thereof and all instruments the execution of which in the name and on behalf of the Corporation shall have been duly authorized;
- (e) see that the lists, books, reports, statements, certificates and other documents and records required by law are properly kept and filed;
- (f) have charge of the stock and transfer books of the Corporation, and exhibit such books at all reasonable times to such persons as are entitled by law to have access thereto;
- (g) sign (which signature may be a facsimile signature), with any other officer thereunto duly authorized, certificates representing stock of the Corporation, the issuance of which shall have been duly authorized, and sign and execute (which signature may be a facsimile signature), in the name and on behalf of the Corporation, deeds, mortgages, bonds, contracts, agreements and other instruments and documents duly authorized by the Board of Directors, except where the signing and execution thereof shall be expressly delegated by the Board of Directors to another officer or agent; and
- (h) in general, perform all duties incident to the office of Secretary and have such other powers and perform such other duties as may from time to time be prescribed by the Board of Directors, the Chief Executive Officer (if any), the President or these By-laws.

Section 5.8 Assistant Secretaries. At the request of the Chief Executive Officer (if any), the President or the Secretary, or in the absence or disability of the Secretary, the Assistant Secretary designated by the Board of Directors or such officer or officers shall perform all the duties of the Secretary, and, when so acting, shall have all the powers of and be subject to all the restrictions on the Secretary. Each Assistant Secretary shall have such other powers and perform such other duties as may from time to time be prescribed by the Board of Directors, the Chief Executive Officer (if any), the President, the Secretary or these By-laws.

Section 5.9 The Treasurer. The Treasurer shall:

- (a) have charge of and supervision over and be responsible for the funds, securities, receipts and disbursements of the Corporation;

(b) cause the moneys and other valuable effects of the Corporation to be deposited in the name and to the credit of the Corporation in such banks or trust companies, or with such bankers or other depositaries, as shall be selected in accordance with Section 7.3 of these By-laws, or to be otherwise dealt with in such manner as the Board of Directors may direct from time to time;

(c) cause the funds of the Corporation to be disbursed by checks or drafts upon the authorized depositaries of the Corporation, and cause to be taken and preserved proper vouchers for all moneys disbursed;

(d) render to the Board of Directors, the Chairman of the Board (if any), the Chief Executive Officer (if any) and/or the President, whenever requested, a statement of the financial condition of the Corporation and of all of his transactions as Treasurer;

(e) cause to be kept at the Corporation's principal office correct books of account of all of the Corporation's business and transactions and such duplicate books of account as he shall determine and, upon application, cause such books or duplicates thereof to be exhibited to any director;

(f) be empowered, from time to time, to require from the officers or agents of the Corporation reports or statements giving such information as he may desire or deem appropriate with respect to any or all financial transactions of the Corporation;

(g) sign (which signature may be a facsimile signature), with any other officer thereunto duly authorized, certificates representing stock of the Corporation, the issuance of which shall have been duly authorized, and sign and execute (which signature may be a facsimile signature), in the name and on behalf of the Corporation, deeds, mortgages, bonds, contracts, agreements and other instruments and documents duly authorized by the Board of Directors, except where the signing and execution thereof shall be expressly delegated by the Board of Directors to another officer or agent; and

(h) in general, perform all duties incident to the office of Treasurer and have such other powers and perform such other duties as may from time to time be prescribed by the Board of Directors, the Chief Executive Officer (if any), the President or these By-laws.

Section 5.10 Assistant Treasurer. At the request of the Chief Executive Officer (if any), the President or the Treasurer, or in the absence or disability of the Treasurer, the Assistant Treasurer designated by the Board of Directors or such officer or officers shall have all the powers of and be subject to all the restrictions on the Treasurer. Each Assistant Treasurer shall have such other powers and perform such other duties as may from time to time be prescribed by the Board of Directors, the Chairman of the Board (if any), the Chief Executive Officer (if any), the President, the Treasurer or these By-laws.

Section 5.11 Controller. The Controller (if elected by the Board of Directors) shall have such powers and perform such duties as may from time to time be prescribed by the Board of Directors, the Chief Executive Officer (if any), the President, the Treasurer or these By-laws, and shall have authority commensurate with such duties, including, without limitation, the authority to sign and execute (which signature may be a facsimile signature), in the name and on behalf of the Corporation, deeds, mortgages, bonds, contracts, agreements and other instruments and documents duly authorized by the Board of Directors, except where the signing and execution thereof shall be expressly delegated by the Board of Directors to another officer or agent.

Section 5.12 Resignations. Any officer may resign at any time by giving written notice of such resignation to the Board of Directors, the Chairman of the Board (if any), the Chief Executive Officer (if any), the President, any Vice President or the Secretary. Unless otherwise specified in such written notice, such resignation shall take effect upon receipt thereof by the Board of Directors or any such officer, and the acceptance of such resignation shall not be necessary for it to be effective.

Section 5.13 Removal. Any officer may be removed with or without cause at any meeting of the Board of Directors by the affirmative vote of a majority of the directors then in office. Without limiting the foregoing, any officer or agent appointed pursuant to the provisions of Section 5.3 of these By-laws may be removed with or without cause at any meeting of the Board of Directors by the affirmative vote of a majority of the directors present at such meeting or at any time by any superior officer or any agent upon whom such power of removal shall have been conferred by the Board of Directors.

Section 5.14 Vacancies. Any vacancy in any office (whether by reason of death, resignation, removal, disqualification or otherwise) may be filled for the unexpired portion of the term in the manner prescribed by these By-laws for regular elections or appointments to such office.

Section 5.15 Compensation. The salaries of the officers of the Corporation shall be fixed from time to time by the Board of Directors, except that the Board of Directors may delegate to any person the power to fix the salaries or other compensation of any officers or agents appointed pursuant to the provisions of Section 5.3 of these By-laws. No officer shall be prevented from receiving such salary by reason of the fact that he is also a director of the Corporation.

Section 5.16 Bonding. The Corporation may secure the fidelity of any or all of its officers or agents by bond or otherwise.

ARTICLE VI

INDEMNIFICATION

The Corporation shall indemnify, in the manner and to the fullest extent permitted by applicable law, any person (or the estate of any person) who was or is a party to, or is threatened to be made a party to, any threatened, pending or completed action, suit or proceeding, whether or not by or in the right of the corporation, and whether civil, criminal, administrative, investigative or otherwise, by reason of the fact that such person is or was a director, officer, employee, fiduciary or agent of the Corporation, or is or was serving at the request of the Corporation as a director, officer, trustee, fiduciary, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by such person in connection with such action, suit or proceeding. To the extent and in the manner provided by applicable law, any such expenses may be paid by the Corporation in advance of the final disposition of such action, suit or proceeding. Unless otherwise permitted by applicable law, the indemnification provided for herein shall be made only as authorized in the specific case upon a determination, made in the manner provided by applicable law, that indemnification of such director, officer, employee or agent is proper in the circumstances. The Corporation may, to the fullest extent permitted by applicable law, purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the Corporation, or is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against any liability which may

be asserted against him and incurred by him in any such capacity, or arising out of his status as such, whether or not the Corporation would have the power to indemnify him against such liability under applicable law. The indemnification and advancement of expenses provided for herein shall not be deemed to limit the right of the Corporation to indemnify or make advances to any other person for any expenses (including attorneys' fees), judgments, fines or other amounts to the fullest extent permitted by applicable law, nor shall they be deemed exclusive of any other rights to which any person seeking indemnification or advancement of expenses may be entitled under any 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 such office. Any repeal or modification of this Article VI will only be prospective and will not affect the rights under this Article VI in effect at the time of the alleged occurrence of any acts, omissions, facts or circumstances occurring prior to such repeal or modification.

ARTICLE VII

EXECUTION OF INSTRUMENTS AND DEPOSIT OF CORPORATE FUNDS

Section 7.1 Execution of Instruments Generally. Subject to the approval or authorization of the Board of Directors, the Chief Executive Officer (if any), the President, any Vice President, the Secretary, the Treasurer and the Controller may enter into any contract and/or execute and deliver any instrument in the name and on behalf of the Corporation. The Board of Directors may authorize any one or more officers or agents to enter into any contract and/or execute and deliver any instrument in the name and on behalf of the Corporation, and such authorization may be general or confined to specific instances.

Section 7.2 Deposits. All funds of the Corporation not otherwise employed shall be deposited from time to time to its credit in such banks or trust companies or with such bankers or other depositories as the Board of Directors may select, or as may be selected by any officer or officers or agent or agents authorized to do so by the Board of Directors. Endorsements for deposit to the credit of the Corporation in any of its duly authorized depositories shall be made in such manner as the Board of Directors may from time to time determine.

Section 7.3 Checks, Drafts, Etc. All checks, drafts or other orders for the payment of money, and all notes or other evidences of indebtedness issued in the name of the Corporation, shall be signed by such officer or officers or agent or agents of the Corporation, and in such manner, as from time to time shall be determined by the Board of Directors.

Section 7.4 Proxies. Proxies to vote with respect to shares of stock of other corporations owned by or standing in the name of the Corporation may be executed and delivered from time to time on behalf of the Corporation by the Chief Executive Officer (if any), the President, any Vice President, the Secretary or any other person or persons thereunto authorized by the Board of Directors.

ARTICLE VIII

STOCK

Section 8.1 Form and Execution of Certificates. The shares of capital stock of the Corporation shall be represented by certificates in the form approved by the Board of Directors from time to time. The certificates shall be signed by, or in the name of the Corporation by, (a) the President or any Vice President, and (b) the Secretary, any Assistant Secretary, the Treasurer or any Assistant Treasurer. Any or all of the signatures on the certificates may be facsimile

signatures. In case any officer, transfer agent or registrar who has signed or whose facsimile signature has been placed upon such certificate shall have ceased to be such officer, transfer agent or registrar before such certificate is issued, it may be issued by the Corporation with the same effect as if he were such officer, transfer agent or registrar at the date of issue.

Section 8.2 Regulations. The Board of Directors may make such rules and regulations consistent with any governing statute as it may deem expedient concerning the issuance, transfer and registration of certificates of stock and concerning certificates of stock issued, transferred or registered in lieu or replacement of any lost, stolen, destroyed or mutilated certificates of stock.

Section 8.3 Transfer Agent and Registrar. The Board of Directors may appoint one or more transfer agents and one or more registrars of transfers for any or all classes of the capital stock of the Corporation, and may require stock certificates of any or all classes to bear the signature of either or both.

ARTICLE IX

CORPORATE SEAL

The Board of Directors may provide a corporate seal, circular in form, bearing the name of the Corporation and words and figures denoting its organization under the laws of the State of Delaware and the year thereof, and otherwise shall be in such form as shall be approved from time to time by the Board of Directors.

ARTICLE X

FISCAL YEAR

The fiscal year of the Corporation shall end on the Saturday closest to December 31 in each year or such other day as the Board of Directors may determine from time to time by resolution.

ARTICLE XI

AMENDMENTS

In furtherance and not in limitation of the powers conferred by law, the Board of Directors shall have the power to alter, amend or repeal these By-laws or adopt new By-laws by the affirmative vote of a majority of all directors at any regular or special meeting of the Board of Directors called for that purpose.

ARTICLE XII

SEVERABILITY

If any provision of these By-laws is held to be illegal, invalid or unenforceable under any present or future law, such provision shall be fully separable, and these By-laws shall be construed and enforced as if such illegal, invalid or unenforceable provision had never comprised a part hereof, the remaining provisions of these By-laws shall remain in full force and effect and shall not be affected by the illegal, invalid or unenforceable provision or by its severance herefrom. Notwithstanding the foregoing, if any provision or provisions of these By-laws shall

be held to be invalid, illegal or unenforceable, but only as applied to any person or entity or specific circumstance, then, to the fullest extent permitted by law, the validity, legality and enforceability of such provisions in any other circumstance and the application of such provision to other persons or entities shall not in any way be affected or impaired thereby.

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TRACTOR SUPPLY COMPANY

A Delaware Corporation

FIFTHSIXTH AMENDED AND RESTATED BY-LAWS

(as amended on ~~March 19~~November 3, 2020~~2~~)

ARTICLE I

MEETINGS OF STOCKHOLDERS

Section 1.1 Annual Meeting.

(a)Time and Place. The annual meeting of the stockholders of the Corporation for the election of directors and the transaction of such other business as may properly come before such meeting shall be held each year on such date and at such time and place, within or without the State of Delaware, as may be designated by the Board of Directors.

(b)Business to be Conducted. At an annual meeting of the stockholders, only such business (other than nominations of persons for election to the Board of Directors, which must be made in compliance with and is governed exclusively by Sections 1.1(c) and 1.2 of these ~~Fifth~~Sixth Amended and Restated By-laws (the “By-laws”)) shall be conducted as shall have been properly brought before the meeting and shall be a proper subject for stockholder action under applicable law. To be properly brought before an annual meeting, business must be: (i) specified in the notice of meeting (or any supplement thereto) given by or at the direction of the Board of Directors, (ii) otherwise properly brought before the meeting by or at the direction of the Board of Directors, or (iii) otherwise properly brought before the meeting by a stockholder.

For business to be properly brought before an annual meeting by a stockholder, the stockholder must have been a stockholder of record of the Corporation (and, with respect to any beneficial owner, if different, on whose behalf such business is proposed, such beneficial owner must have been the beneficial owner of shares of the Corporation) at the time of giving the notice provided for in this paragraph (b) and at the time of the meeting, must be entitled to vote at such annual meeting and must have given timely notice thereof in writing to the Secretary of the Corporation in compliance with this paragraph (b). For the avoidance of doubt, the foregoing clause of this paragraph (b) shall be the exclusive means for a stockholder to propose such business (other than business included in the Corporation’s proxy materials pursuant to Rule 14a-8 under the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder (the “1934 Act”), and included in the Corporation’s notice of meeting) before an annual meeting of stockholders. To be timely, a stockholder’s notice must be delivered to or mailed and received at the principal executive offices of the Corporation not less than ninety (90) nor more than one hundred twenty (120) calendar days in advance of the anniversary date of the previous year’s annual meeting of stockholders; *provided, however*, that in the event that no annual meeting was held in the previous year or the date of the current year’s annual meeting shall have been changed by more than thirty (30) days from the anniversary date of the previous year’s annual meeting of stockholders, to be timely notice by the stockholder must be so received by the Corporation not later than the later of (i) the ninetieth (90th) day prior to such current year’s annual meeting or (ii) the tenth (10th) day following (1) the day on which the notice containing the date of the current year’s annual meeting is provided by the Corporation or (2) public disclosure of the current year’s annual meeting date was made, whichever first occurs; *provided further*, however, that any such notice which is received later than the fifth (5th) business day prior to the meeting may be disregarded.

In no event shall any adjournment, deferral or postponement of an annual meeting or the announcement thereof commence a new time period (or extend any time period) for the giving of a stockholder's notice as described above. To be in proper written form, a stockholder's notice to the Secretary shall set forth as to each matter the stockholder proposes to bring before the annual meeting: (A) a brief description of the business desired to be brought before the annual meeting (including the text of any resolutions proposed for consideration and, if such business includes a proposal to amend the Certificate of Incorporation or these By-laws, the specific language of the proposed amendment) and the reasons for conducting such business at the annual meeting, (B) the name and address, as they appear on the Corporation's books, of the stockholder proposing such business and the name and address of any Stockholder Associated Person (as defined below) covered by clauses (C), (D) or (E) below and a description in reasonable detail of any interest of the stockholder proposing such business or any Stockholder Associated Person thereof in such business, (C) the class and number of shares of the capital stock of the Corporation which are directly or indirectly held of record or are beneficially owned by such stockholder or by any Stockholder Associated Person and the date(s) on which such stock was acquired, (D) a description of (i) any economic interest in or any other right with respect to (including from a third party) any securities of the Corporation (or any rights, options or other securities convertible into or exercisable or exchangeable for, or any obligations measured by the price or value of, in whole or in part, any securities of the Corporation, including, without limitation, any swaps or other derivative arrangements), any short interest in any securities of the Corporation, or any other economic interest in or any other rights with respect to debt of the Corporation held by such stockholder and any Stockholder Associated Person, and (ii) any other agreement, arrangement or understanding, the effect or intent of which is to increase or decrease the voting power of such stockholder or any Stockholder Associated Person with respect to the capital stock of the Corporation, (E) a description of all arrangements, agreements, proxies or understandings between such stockholder or any Stockholder Associated Person and any other person or entity (including their names) in connection with the proposal of such business by such stockholder and any material interest of such stockholder or any Stockholder Associated Person in such business, (F) any other information related to such stockholder or any Stockholder Associated Person that would be required to be disclosed in a proxy statement or other filing required to be made in connection with the solicitation of proxies or consents (even if a solicitation is not involved) by such stockholder or Stockholder Associated Person in support of the business proposed to be brought before the meeting pursuant to Section 14 of the 1934 Act and (G) a representation as to (i) whether such stockholder intends to appear in person or by proxy at the meeting to propose the business described in its notice and (ii) whether such stockholder or any Stockholder Associated Person intends to solicit, directly or indirectly, a proxy from holders of at least the percentage of the Corporation's outstanding shares required to approve the proposal or otherwise to solicit proxies from stockholders in support of the proposal. Any stockholder who submits a notice pursuant to this paragraph (b) shall also provide to the Corporation such additional information that the Corporation may reasonably request from time to time regarding such stockholder and any Stockholder Associated Person and/or the business that such stockholder proposes to bring before the meeting. In addition, any stockholder who submits a notice pursuant to this paragraph (b) is required to update and supplement the information disclosed in such notice, if necessary in accordance with Section 1.1(e). Notwithstanding the foregoing, in order to include information with respect to a stockholder proposal in the proxy statement and form of proxy for a stockholders' meeting, stockholders must provide notice as required by the regulations promulgated under the 1934 Act.

Except for proposals properly made in accordance with Rule 14a-8 under the 1934 Act and included in the notice of meeting given by or at the direction of the Board of Directors [and for nominations of persons for election to the Board of Directors, which must be made in compliance with and are governed exclusively by Sections 1.1\(c\) and 1.2 of these By-laws](#), no business shall be conducted at any annual meeting except in accordance with the procedures set forth in this paragraph (b). If any information submitted pursuant to this paragraph

(b) is inaccurate in any material respect, such information shall be deemed not to have been provided in accordance with this paragraph (b). The presiding person at the annual meeting shall, if the facts warrant, determine and declare at the meeting that business was not properly brought before the meeting in accordance with the provisions of this paragraph (b), and, if he should so determine, he shall so declare at the meeting that any such business not properly brought before the meeting shall not be transacted.

(c)Nomination of Directors. Except as set forth in Section 1.2, nominations of persons for election to the Board of Directors of the Corporation may be made at an annual meeting of stockholders (i) by or at the direction of the Board of Directors or (ii) by any stockholder that is a stockholder of record of the Corporation (and, with respect to any beneficial owner, if different, on whose behalf such nomination is proposed to be made, only if such beneficial owner was the beneficial owner of shares of the Corporation) both at the time of giving the notice provided for in this paragraph (c) and at the time of the annual meeting, that is entitled to vote at such annual meeting and that has given timely notice thereof in writing to the Secretary of the Corporation in compliance with this paragraph (c) (a "Proposing Stockholder"). Such nominations, other than those made by or at the direction of the Board of Directors or those made pursuant to Section 1.2, shall be made pursuant to timely notice in writing to the Secretary of the Corporation in compliance with this paragraph (c).

~~To~~In addition to complying with the provisions of Rule 14a-19 promulgated under the 1934 Act, to be timely, a Proposing sStockholder's notice must be delivered to or mailed and received at the principal executive offices of the Corporation not less than ninety (90) nor more than one hundred twenty (120) calendar days in advance of the anniversary date of the previous year's annual meeting of stockholders; *provided, however*, that in the event that no annual meeting was held in the previous year or the date of the current year's annual meeting shall have been changed by more than thirty (30) days from the anniversary date of the previous year's annual meeting, to be timely notice by the Proposing sStockholder must be so received by the Corporation not later than the later of (i) the ninetieth (90th) day prior to such current year's annual meeting or (ii) the tenth (10th) day following (1) the day on which the notice containing the date of the current year's annual meeting is provided by the Corporation or (2) public disclosure of the current year's annual meeting date was made, whichever first occurs; *provided further*, however, that any such notice which is received later than the fifth (5th) business day prior to the meeting may be disregarded.

In no event shall any adjournment, deferral or postponement of an annual meeting or the announcement thereof commence a new time period (or extend any time period) for the giving of a Proposing sStockholder's notice as provided above.

To be in proper written form, ~~such a~~ Proposing sStockholder's notice shall set forth (i) as to each person, if any, whom the Proposing sStockholder proposes to nominate for election or re-election as a director: (A) the name, age, business address and residence address of such ~~person~~proposed nominee, (B) the principal occupation or employment of such ~~person~~proposed nominee, (C) the class and number of shares of the Corporation which are directly or indirectly held of record or are beneficially owned by such ~~person~~proposed nominee, and the date(s) on which such stock was acquired, (D) a description of all arrangements, agreements, proxies or understandings, direct or indirect, between the Proposing sStockholder and each such proposed nominee and any other person or persons (naming such person or persons) pursuant to which such nominations are to be made by the Proposing sStockholder, (E) a description of all direct and indirect compensation and other material monetary agreements, arrangements and understandings during the past three years, and any other material relationships, between or among such Proposing sStockholder or any Stockholder Associated Person of such Proposing sStockholder, on the one hand, and each proposed nominee, or his or her associates, on the other hand, (F) any other information relating to such proposed nominee

that is required to be disclosed in solicitations of proxies for elections of directors, or is otherwise required, in each case pursuant to Regulation 14A under the 1934 Act (including, without limitation, such ~~person's proposed nominee's~~ written consent to being named in ~~the~~ proxy statement, if any, relating to the applicable meeting of stockholders as a nominee and to serving as a director if elected), and (G) a written representation by the proposed nominee that such nominee currently intends to serve the full term for which such nominee would be standing for election, if elected; and (ii) as to the Proposing sStockholder ~~giving such notice~~, (A) the name and address, as they appear on the Corporation's books, of such Proposing sStockholder and the name and address of any Stockholder Associated Person (as defined below) covered by clauses (B), (C) or (D) below, (B) the class and number of shares of the capital stock of the Corporation which are directly or indirectly held of record or are beneficially owned by such Proposing sStockholder or by any Stockholder Associated Person and the date(s) on which such stock was acquired, (C) a description of (i) any economic interest in or any other right with respect to (including from a third party) any securities of the Corporation (or any rights, options or other securities convertible into or exercisable or exchangeable for, or any obligations measured by the price or value of, in whole or in part, any securities of the Corporation, including, without limitation, any swaps or other derivative arrangements), any short interest in any securities of the Corporation, or any other economic interests or any other rights with respect to debt of the Corporation, held by such Proposing sStockholder and any Stockholder Associated Person, and (ii) any other agreement, arrangement or understanding, the effect or intent of which is to increase or decrease the voting power of such Proposing sStockholder or any Stockholder Associated Person with respect to the capital stock of the Corporation, (D) a description of all arrangements, agreements, proxies or understandings between such Proposing sStockholder or any Stockholder Associated Person and any other person or entity (including their names) in connection with the nomination of any person as a director of the Corporation and any material relationships, within the last three (3) years, between the nominee and his or her affiliates and such Proposing sStockholder or any Stockholder Associated Person, (E) any other information related to such Proposing sStockholder or any Stockholder Associated Person that would be required to be disclosed in a proxy statement or other filing required to be made in connection with the solicitation of proxies or consents (even if a solicitation is not involved) by such Proposing sStockholder or Stockholder Associated Person in support of the business proposed to be brought before the meeting pursuant to Section 14 of the 1934 Act) and (F) a representation as to (i) whether such Proposing sStockholder intends to appear in person or by proxy at the meeting to nominate the ~~persons proposed nominees~~ named in its notice ~~and~~, (ii) whether such ~~stockholder or any Proposing Stockholder Associated Person~~ intends to solicit, ~~directly or indirectly, a proxy from proxies or votes in support of director nominees other than the Corporation's director nominees in accordance with Rule 14a-19 promulgated under the 1934 Act and (iii) whether such Proposing Stockholder intends to deliver a proxy statement and/or form of proxy to~~ holders of at least the percentage of the Corporation's outstanding shares required to elect the proposed nominee(s) included in its notice ~~or otherwise to solicit proxies from stockholders in support of the proposed nominee(s).~~

In addition, to be eligible to be a nominee pursuant to this Section 1.1(c) or Section 1.2, a person must deliver (in the case of a nominee pursuant to this Section 1.1(c), in accordance with the time periods prescribed for delivery of notice under Section 1.1 of Article I, or, in the case of a nominee pursuant to Section 1.2, in accordance with the time periods prescribed for delivery of a Nomination Notice under Section 1.2 of Article I), the following to the Secretary at the principal executive offices of the Corporation (collectively, the "Nominee Information"):

(i) a fully completed and signed written questionnaire with respect to the background and qualifications of such nominee (which questionnaire shall be provided by the Secretary of the Corporation upon written request); and

(ii) a written representation and agreement (in the form provided by the Secretary of the Corporation upon written request) that such nominee (1) acknowledges the Corporation's policy on director resignations following such person's failure to receive the required vote for re-election at any future meeting at which such person would face reelection, as set forth in these By-Laws and the Corporation's Corporate Governance Guidelines, (2) is not and will not become a party to (w) any agreement, arrangement or understanding with any person or entity other than the Corporation with respect to any direct or indirect compensation, reimbursement or indemnification in connection with such person's nomination or candidacy for director that has not been disclosed to the Corporation, (x) any agreement, arrangement or understanding with, and has not given any commitment or assurance to, any person or entity as to how such person, if elected as a director of the Corporation, will act or vote on any issue or question as a director (a "Voting Commitment") that has not been disclosed to the Corporation, (y) any Voting Commitment that could limit or interfere with such person's ability to comply, if elected as a director of the Corporation, with such person's fiduciary duties under applicable Legal Requirements, or (z) any agreement, arrangement or understanding with any person or entity other than the Corporation with respect to any direct or indirect compensation, reimbursement or indemnification in connection with service or action as a director that has not been disclosed to the Corporation, and (3) in such person's individual capacity and on behalf of any person or entity on whose behalf the nomination is being made, would be in compliance, if elected or re-elected as a director of the Corporation, and intends to comply, with the Corporation's By-Laws, Corporate Governance Guidelines, Code of Conduct, and any other publicly available Corporation policies and guidelines applicable to directors of the Corporation.

In addition to the information set forth above, any Proposing sStockholder making a nomination pursuant to this Section 1.1(c) shall provide to the Corporation such additional information that the Corporation may reasonably request from time to time regarding such Proposing sStockholder, any Stockholder Associated Person thereof or the proposed nominee, including such information to determine the eligibility or qualifications of the proposed nominee to serve as a director or an independent director or that could be material to a reasonable stockholder's understanding of the qualifications and/or independence, or lack thereof, of the nominee to serve as a director of the Corporation. In addition, any Proposing sStockholder who submits a notice pursuant to this paragraph (c) is required to update and supplement the information disclosed in such notice, if necessary, in accordance with Section 1.1(e). At the request of the Board of Directors, any person nominated by a Proposing sStockholder for election as a director shall furnish to the Secretary of the Corporation all such information that is required to be set forth in the Proposing sStockholder's notice of nomination which pertains to such proposed nominee. Except as set forth in Section 1.2, no person shall be eligible for election as a director of the Corporation unless nominated in accordance with the procedures set forth in this paragraph (c). Except as otherwise provided in Section 1.2, the number of nominees a Proposing Stockholder may nominate for election at an annual meeting (or in the case of a Proposing Stockholder giving notice on behalf of a beneficial owner, the number of nominees a Proposing Stockholder may nominate for election at an annual meeting on behalf of such beneficial owner) shall not exceed the number of directors to be elected at such meeting. If any information submitted pursuant to this paragraph (c) by any Proposing sStockholder proposing one or more nominees for election as a director at a meeting of stockholders is inaccurate in any material respect, such information shall be deemed not to have been provided in accordance with this paragraph (c). The presiding person at the meeting shall, if the facts warrant, determine and declare at the meeting that a nomination was not made in accordance with the procedures prescribed by these By-laws, and if he should so determine, he shall so declare at the meeting, and the defective nomination shall be disregarded.

Notwithstanding anything to the contrary set forth in this Section 1.1, unless otherwise required by law, (i) no Proposing Stockholder shall solicit proxies in support of director nominees other than the Corporation's director nominees unless such Proposing

Stockholder has complied with Rule 14a-19 promulgated under the 1934 Act in connection with the solicitation of such proxies, including providing any notice to the Corporation required thereunder in a timely manner and (ii) if any Proposing Stockholder (1) provides notice pursuant to Rule 14a-19(b) promulgated under the 1934 Act and (2) subsequently fails to comply with the requirements of Rule 14a-19(a)(2) and Rule 14a-19(a)(3) promulgated under the 1934 Act, then the Corporation shall disregard any proxies or votes solicited for any nominees proposed for election by such Proposing Stockholder. Upon request by the Corporation, any Proposing Stockholder that has provided notice pursuant to Rule 14a-19(b) promulgated under the 1934 Act shall deliver to the Corporation, no later than five (5) business days prior to the applicable meeting, reasonable evidence that it has met the requirements of Rule 14a-19(a)(3) promulgated under the 1934 Act. The chairman of the meeting shall refuse to acknowledge the nomination of any person not made in compliance with the procedures set forth in this Section 1.1(c).

(d)Definitions. As used in these By-laws, the term (x) “Stockholder Associated Person” means, with respect to any stockholder, (i) any person acting in concert with such stockholder, (ii) any beneficial owner of shares of stock of the Corporation owned of record or beneficially by such stockholder (other than a stockholder that is a depository) and (iii) any person controlling, controlled by or under common control with any stockholder, or any Stockholder Associated Person identified in clauses (i) or (ii) above, and (y) the term “Legal Requirements” means any state, federal or other laws or other legal requirements, including the rules, regulations and listing standards of any securities exchange(s) on which the Corporation’s securities are listed (each, a “Stock Exchange”).

(e)Update and Supplement of Stockholder’s Notice. Any Proposing ~~s~~Stockholder who submits a notice of proposal for business or nomination for election pursuant this Section 1.1 or Section 1.3, or a nomination for election pursuant to Section 1.2 of the By-laws, is required to update and supplement the information disclosed in such notice, if necessary, so that the information provided or required to be provided in such notice shall be true and correct as of the record date for determining the stockholders entitled to notice of the meeting of stockholders and as of the date that is ten (10) business days prior to such meeting of the stockholders or any adjournment or postponement thereof, and such update and supplement shall be delivered to the Secretary at the principal executive offices of the Corporation not later than five (5) business days after the record date for the meeting of stockholders (in the case of the update and supplement required to be made as of the record date), and not later than eight (8) business days prior to the date for the meeting of stockholders or any adjournment or postponement thereof (in the case of the update and supplement required to be made as of ten (10) business days prior to the meeting of stockholders or any adjournment or postponement thereof).

Section 1.2 Stockholder Nominations Included in the Corporation’s Proxy Materials.

(a) Inclusion of Nominees in Proxy Statement.

(i) Subject to the provisions of this Section 1.2, if expressly requested in the relevant Nomination Notice (as defined below), the Corporation shall include in its proxy statement and form of proxy card (the “Proxy Materials”) for any annual meeting of stockholders ~~(following the 2016 annual meeting of stockholders)~~ the name of, and the Required Information (as defined below) relating to, any person nominated for election to the Board of Directors (a “Proxy Access Nominee”) by an Eligible Proxy Access Stockholder (as defined below) that has satisfied the requirements of this Section 1.2 as determined by the Board of Directors.

(ii) For purposes of this Section 1.2, the “Required Information” that the Corporation will include in its Proxy Materials is:

A.any information about the Proxy Access Nominee and the Eligible Proxy Access Stockholder that is required to be disclosed in the Proxy Materials by the rules of the Securities and Exchange Commission (the “SEC”) or other applicable Legal Requirements; and

B.any statement included by the Eligible Proxy Access Stockholder in the Nomination Notice for inclusion in the proxy statement in support of the Proxy Access Nominee’s election to the Board of Directors (subject to, without limitation, Section 1.2(e)(ii) of Article I), if such statement does not exceed 500 words (the “Supporting Statement”).

(iii)The Corporation may also include in the Proxy Materials any other information that the Corporation or the Board of Directors determines, in their discretion, to include in the Proxy Materials relating to the nomination of any Proxy Access Nominee, including, without limitation, any statement in opposition to the nomination, any of the information provided pursuant to this Section 1.2 and any solicitation materials or related information with respect to a Proxy Access Nominee.

(iv)For purposes of this Section 1.2, any determination to be made by the Board of Directors may be made by the Board of Directors, a committee of the Board of Directors or any officer of the Corporation designated by the Board of Directors or a committee of the Board of Directors, and any such determination shall be final and binding on the Corporation, any Eligible Proxy Access Stockholder, any Proxy Access Nominee and any other person so long as made in good faith (without any further requirements).

~~This~~Except for a nomination made in accordance with Section 1.1(c) and Rule 14a-19 promulgated under the 1934 Act, this Section 1.2 provides the exclusive method for stockholders to include nominees for director in the Corporation’s Proxy Materials with respect to any meeting of stockholders.

(b)Number of Nominees.

(i)The Corporation shall not be required to include in the Proxy Materials for an annual meeting of stockholders more Proxy Access Nominees than that number constituting the greater of (x) 20% of the total number of directors of the Corporation on the last day on which a Nomination Notice may be submitted pursuant to this Section 1.2 (rounded down to the nearest whole number) and (y) two nominees (the “Maximum Number”). The Maximum Number for a particular annual meeting shall be reduced by (1) any Proxy Access Nominees who the Board of Directors itself decides to nominate for election at such annual meeting, (2) subject to the following sentence, any Proxy Access Nominees who cease to satisfy the eligibility requirements in this Section 1.2, as determined by the Board of Directors, (3) any Proxy Access Nominee whose nomination is withdrawn by the Eligible Proxy Access Stockholder or who becomes unwilling to serve on the Board of Directors, and (4) the number of incumbent directors who had been Proxy Access Nominees with respect to any of the preceding two annual meetings of stockholders and whose reelection at the upcoming annual meeting is being recommended by the Board of Directors. In the event that the Board of Directors determines prior to the publicly disclosed record date for an annual meeting that a Proxy Access Nominee to be included in its Proxy Materials has ceased to satisfy the eligibility requirements of this Section 1.2, the Board of Directors shall include in its Proxy Materials a substitute Proxy Access Nominee, if any, but only if such Proxy Access Nominee was nominated in accordance with this Section 1.2 (including Section 1.2(d)) and otherwise meets all the other requirements of this Section 1.2. In no event shall the ineligibility of a proposed Proxy Access Nominee commence a new time period or extend any time period set forth herein. In the event that one or more vacancies for any reason occurs on the Board of Directors after the deadline for submitting a Nomination Notice as set

forth in Section 1.2(d) of Article I below but before the date of the annual meeting, and the Board of Directors resolves to reduce the size of the Board of Directors in connection therewith, the Maximum Number shall be calculated based on the number of directors in office as so reduced.

(ii) If the number of Proxy Access Nominees pursuant to this Section 1.2 for any annual meeting of stockholders exceeds the Maximum Number then, promptly upon notice from the Corporation, each Eligible Proxy Access Stockholder will select one Proxy Access Nominee for inclusion in the Proxy Materials until the Maximum Number is reached, going in order of the amount (largest to smallest) of the ownership position held by each Eligible Proxy Access Stockholder as disclosed in such Eligible Proxy Access Stockholder's Nomination Notice, with the process repeated if the Maximum Number is not reached after each Eligible Proxy Access Stockholder has selected one Proxy Access Nominee. If, after the deadline for submitting a Nomination Notice as set forth in Section 1.2(d) of this Article I, an Eligible Proxy Access Stockholder or a Proxy Access Nominee ceases to satisfy the eligibility requirements in this Section 1.2, as determined by the Board of Directors, an Eligible Proxy Access Stockholder withdraws its nomination or a Proxy Access Nominee becomes unwilling to serve on the Board of Directors, whether before or after the mailing or other distribution of the Proxy Materials, then the nomination shall be disregarded, and the Corporation (1) shall not be required to include in its Proxy Materials the disregarded Proxy Access Nominee (or any successor or replacement nominee) and (2) may otherwise communicate to its stockholders, including, without limitation, by amending or supplementing its Proxy Materials, that the disregarded Proxy Access Nominee will not be included as a nominee in the Proxy Materials and will not be voted on at the annual meeting.

(c) Eligible Proxy Access Stockholder.

(i) For purposes of this Section 1.2, an "Eligible Proxy Access Stockholder" is one or more stockholders who own and have owned continuously for at least three (3) years as of the date the Nomination Notice is received by the Corporation three percent (3%) or more of the outstanding shares of common stock of the Corporation (the "Required Shares") and who continue to own the Required Shares through the date of the annual meeting. For purposes of determining the number of outstanding shares of common stock of the Corporation for purposes of this calculation, such amount will be determined as set forth in the most recent filing of the Corporation with the SEC setting forth such amount.

(ii) For purposes of satisfying the ownership requirement under Section 1.2 (c)(i):

A. the outstanding shares of common stock of the Corporation owned by one or more stockholders may be aggregated, provided that the number of stockholders whose ownership of shares of the Corporation is aggregated for such purpose shall not exceed 20, and

B. two or more funds that are (x) under common management and investment control, (y) under common management and funded primarily by a single employer or (z) a "group of investment companies," as such term is defined in Section 12(d)(1)(G)(ii) of the Investment Company Act of 1940, as amended, shall, in each case, be treated as one stockholder if such Eligible Proxy Access Stockholder shall provide as part of the Nomination Notice documentation reasonably satisfactory to the Corporation that demonstrates that the funds meet the criteria set forth in (x), (y) or (z) hereof.

(iii) Except as otherwise provided in this Section 1.2, whenever an Eligible Proxy Access Stockholder consists of a group of stockholders, any and all requirements and

obligations for an Eligible Proxy Access Stockholder set forth in this Section 1.2 must be satisfied by and as to each stockholder. No shares may be attributed to more than one Eligible Proxy Access Stockholder, and no stockholder may be a member of more than one group constituting an Eligible Proxy Access Stockholder under this Section 1.2.

(iv) For purposes of this Section 1.2, a stockholder shall be deemed to “own” only those outstanding shares of the Corporation as to which such stockholder possesses both:

A. the full voting and investment rights pertaining to the shares; and

B. the full economic interest in (including the opportunity for profit and risk of loss on) such shares;

provided that the number of shares calculated in accordance with clauses A and B above shall not include any shares (1) purchased or sold by such stockholder or any of its affiliates in any transaction that has not been settled or closed, (2) sold short by such stockholder, (3) borrowed by such stockholder or any of its affiliates for any purpose or purchased by such stockholder or any of its affiliates pursuant to an agreement to resell or subject to any other obligation to resell to another person, or (4) subject to any option, warrant, forward contract, swap, contract of sale, other derivative or similar agreement entered into by such stockholder or any of its affiliates, whether any such instrument or agreement is to be settled with shares or with cash based on the notional amount or value of outstanding shares of the Corporation, in any such case which instrument or agreement has, or is intended to have, the purpose or effect of (x) reducing in any manner, to any extent or at any time in the future, such stockholder’s or any of its affiliates’ full right to vote or direct the voting of any such shares and/or (y) hedging, offsetting, or altering to any degree, gain or loss arising from the full economic ownership of such shares by such stockholder or any of its affiliates.

A stockholder “owns” shares held in the name of a nominee or other intermediary so long as the stockholder retains the right to instruct how the shares are voted with respect to the election of directors and possesses the full economic interest in the shares. A stockholder’s ownership of shares shall be deemed to continue during any period in which the stockholder has delegated any voting power by means of a proxy, power of attorney, or other similar instrument or arrangement that is revocable at any time by the stockholder. A stockholder’s ownership of shares shall be deemed to continue during any period in which the stockholder has loaned such shares provided that the stockholder has the power to recall such loaned shares on five (5) business days’ notice. The terms “owned,” “owning” and other variations of the word “own” shall have correlative meanings. Whether outstanding shares of the Corporation are “owned” for purposes of this Section 1.2 shall be determined by the Board of Directors.

(v) Within the time period specified in Section 1.2(d) for giving a Nomination Notice, the Eligible Proxy Access Stockholder shall deliver to the Secretary of the Corporation one or more written statements from the record holder of the shares or one or more intermediaries through which the shares are or have been held verifying that, as of the date the Nomination Notice is received by the Corporation, the Eligible Proxy Access Stockholder owns, and has owned continuously for the preceding three (3) years, the Required Shares.

(d) Nomination Notice. To nominate a Proxy Access Nominee, the Eligible Proxy Access Stockholder must, no earlier than one hundred fifty (150) days and no later than one hundred twenty (120) days before the anniversary of the date that the Corporation provided or made available to stockholders its definitive proxy statement for the preceding year’s annual meeting of stockholders, submit to the Secretary of the Corporation at the principal executive

office of the Corporation all of the following information and documents (collectively, the “Nomination Notice”); *provided, however*, that if (and only if) the current year’s annual meeting is not scheduled to be held within a period that commences thirty (30) days before such anniversary date and ends thirty (30) days after such anniversary date, the Nomination Notice shall be given in the manner provided herein by the later of the date that is one hundred eighty (180) days prior to the current year’s annual meeting or the tenth (10th) day following the date the current year’s annual meeting is first publicly announced or disclosed:

(i) a copy of the Schedule 14N (or any successor form) relating to each Proxy Access Nominee that has been filed with the SEC under Rule 14a-18 of the ~~Exchange~~ 1934 Act (or any successor rule);

(ii) the written consent of each Proxy Access Nominee to be named in the Corporation’s Proxy Materials as a nominee and to serve as a director of the Corporation, if elected;

(iii) a written notice and agreement, in a form deemed satisfactory by the Board of Directors, that includes the following additional information, agreements and representations of the Eligible Proxy Access Stockholder (or, in the case of a group, each stockholder whose shares are aggregated for purposes of constituting an Eligible Proxy Access Stockholder):

A. all information that would be required to be included in a stockholder notice nominating director candidates pursuant to Section 1.1(c) of Article I (excluding a representation regarding whether the Eligible Proxy Access Stockholder intends to solicit, directly or indirectly, proxies from the Corporation’s stockholders in support of the proposed nominee);

B. the details of any relationship that existed within the past three years and that would have been described pursuant to Item 6(e) of Schedule 14N (or any successor item) if it existed on the date of submission of the Schedule 14N;

C. a representation that the Eligible Proxy Access Stockholder acquired the securities of the Corporation in the ordinary course of business and did not acquire, and is not holding, securities of the Corporation for the purpose or with the effect of influencing or changing control of the Corporation;

D. a representation that each Proxy Access Nominee’s candidacy and, if elected, Board membership, would not violate applicable Legal Requirements;

E. a representation that each Proxy Access Nominee:

(1) qualifies as independent under the listing standards of any Stock Exchange, any applicable rules of the SEC and any publicly disclosed standards used by the Board of Directors in determining and disclosing independence of the Corporation’s directors;

(2) is a “non-employee director” for the purposes of Rule 16b-3 under the 1934 Act (or any successor rule);

(3) is an “outside director” for the purposes of Section 162(m) of the Internal Revenue Code (or any successor provision); and

(4) is not and has not been subject to any event specified in Rule 506(d)(1) of Regulation D (or any successor rule) under the Securities Act of 1933 or Item 401(f) of Regulation S-K (or any successor item) under the [Exchange 1934](#) Act, without reference to whether the event is material to an evaluation of the ability or integrity of such Proxy Access Nominee;

F. a representation that the Eligible Proxy Access Stockholder satisfies the eligibility requirements set forth in Section 1.2(c) of Article I, along with all information necessary to verify evidence of ownership as provided under Section 1.2(c) of Article I;

G. a representation that the Eligible Proxy Access Stockholder intends to continue to satisfy the eligibility requirements described in Section 1.2(c) of Article I through the date of the annual meeting and indicating whether or not the Eligible Proxy Access Stockholder intends to continue to own the Required Shares for at least one year following the annual meeting;

H. details of any position of a Proxy Access Nominee as an officer or director of any competitor (that is, any entity that provides services that compete with or are alternatives to the goods or services provided by the Corporation or its affiliates) of the Corporation, within the three years preceding the submission of the Nomination Notice;

I. a representation that the Eligible Proxy Access Stockholder will not engage in a “solicitation” within the meaning of Rule 14a-1(l) (without reference to the exception in Section 14a-1(l)(2)(iv)) (or any successor rule) with respect to the annual meeting, other than with respect to a Proxy Access Nominee or any nominee of the Board;

J. a representation that the Eligible Proxy Access Stockholder will not use any proxy card other than the Corporation’s proxy card in soliciting stockholders in connection with the election of a Proxy Access Nominee at the annual meeting;

K. if desired, a Supporting Statement;

L. in the case of a nomination by a group, the designation by all group members of one group member that is authorized to act on behalf of all group members with respect to matters relating to the nomination, including withdrawal of the nomination;

M. an undertaking pursuant to which the Eligible Proxy Access Stockholder agrees:

to comply with all applicable Legal Requirements in connection with the nomination, solicitation and election;

(2) to file any written solicitation or other communication with the Corporation’s stockholders relating to one or more of the Corporation’s directors or director nominees or any Proxy Access Nominee with the SEC, regardless of whether any such filing is required under rule or regulation or whether any exemption from filing is available for such materials under any rule or regulation;

(3)to assume all liability stemming from an action, suit or proceeding concerning any actual or alleged legal or regulatory violation arising out of any communication by the Eligible Proxy Access Stockholder or any of its Proxy Access Nominees with the Corporation, its stockholders or any other person in connection with the nomination or election of directors, including, without limitation, the Nomination Notice; and

(4)to indemnify and hold harmless the Corporation and each of its directors, officers and employees individually against any liability, loss, damages, expenses or other costs (including attorneys' fees) incurred in connection with any threatened or pending action, suit or proceeding, whether legal, administrative or investigative, against the Corporation or any of its directors, officers or employees arising out of any nomination submitted by the Eligible Proxy Access Stockholder pursuant to this Section 1.2 or any solicitation or other activity in connection with its efforts to elect the Proxy Access Nominee(s).

The information and documents required by this Section 1.2(d) to be provided by the Eligible Proxy Access Stockholder shall be (i) provided with respect to and executed by each group member, in the case of information applicable to group members, and (ii) provided with respect to the persons specified in Instruction 1 to Items 6(c) and (d) of Schedule 14N (or any successor item) in the case of a Eligible Proxy Access Stockholder or group member that is an entity. The Nomination Notice shall be deemed submitted on the date on which all the information and documents referred to in this Section 1.2(d) (other than such information and documents contemplated to be provided after the date the Nomination Notice is provided) have been delivered to the Secretary of the Corporation. Each Eligible Proxy Access Stockholder shall also promptly provide to the Corporation such other information related to such Eligible Proxy Access Stockholder and/or the Proxy Access Nominee as may be reasonably requested by the Corporation at any time prior to the annual meeting, including such information to determine the eligibility or qualifications of the Proxy Access Nominee to serve as a director or an independent director or that could be material to a reasonable stockholder's understanding of the qualifications and/or independence, or lack thereof, of the Proxy Access Nominee to serve as a director of the Corporation.

An Eligible Proxy Access Stockholder (or the designated lead group member) providing notice of a nomination pursuant to this Section 1.2 shall further update and supplement the Nomination Notice and any other information required to be provided under this Section 1.2, as set forth in Section 1.1(e) of Article I. For the avoidance of doubt, the requirement to update and supplement such Nomination Notice and information shall not permit any Eligible Proxy Access Stockholder or any other person to change or add any proposed Proxy Access Nominee or be deemed to cure any defects or limit the remedies (including, without limitation, under these By-laws) available to the Corporation related to any defect.

(e)Exceptions.

(i)Notwithstanding anything to the contrary contained in this Section 1.2, the Corporation shall not be required to include a Proxy Access Nominee in the Corporation's Proxy Materials for any annual meeting of stockholders, and such nomination shall be disregarded and no vote on such Proxy Access Nominee shall occur, if:

A.the Corporation receives a notice (whether or not subsequently withdrawn) that a stockholder intends to nominate one or more persons for election to the Board of Directors at such annual meeting pursuant to the advance notice requirements for stockholder nominees for director set forth in Section 1.1(c) of Article I;

B.the Eligible Proxy Access Stockholder (or the designated lead group member, as applicable) or any Qualified Representative thereof does not appear at the meeting of stockholders to present the nomination with respect to the Proxy Access Nominee submitted pursuant to this Section 1.2;

C.the Proxy Access Nominee becomes unwilling or unable to serve on the Board of Directors or the Eligible Proxy Access Stockholder withdraws its nomination with respect to the Proxy Access Nominee;

D.the Board of Directors determines that the Proxy Access Nominee's nomination or election to the Board of Directors would result in the Corporation violating or failing to be in compliance with these By-laws or the Certificate of Incorporation or any applicable Legal Requirement, or that the Proxy Access Nominee fails to satisfy any of the criteria set forth in Section 1.2(d)(iii)(E) above;

E.the Proxy Access Nominee has been, within the past three years, an officer or director of a competitor, as defined for purposes of Section 8 of the Clayton Antitrust Act of 1914, as amended; or

F.the Board of Directors or the chairman of any annual meeting determines that (1) the Eligible Proxy Access Stockholder or the Proxy Access Nominee has failed to continue to satisfy the eligibility requirements described in this Section 1.2 (including any eligibility requirements included in Section 1.1(c) and incorporated by reference into this Section 1.2), (2) any of the information included in the Nomination Notice or otherwise provided to the Corporation by the Eligible Proxy Access Stockholder was untrue in any material respect or omitted to state a material fact necessary in order to make any statements made, in light of the circumstances under which they were made, not misleading, (3) any of the information required to be provided in the Nomination Notice was not provided, or (4) the Eligible Proxy Access Stockholder or Proxy Access Nominee otherwise breaches any applicable obligations set forth in these By-laws, including this Section 1.2.

In addition, any Proxy Access Nominee who is included in the Corporation's proxy materials for a particular annual meeting of stockholders but does not receive at least 25% of the votes cast in favor of such Proxy Access Nominee's election, will be ineligible to be a Proxy Access Nominee pursuant to this Section 1.2 of Article I for the next two annual meetings of stockholders.

(ii)Notwithstanding anything to the contrary contained in this Section 1.2, the Corporation may omit from the Proxy Materials, or may supplement or correct, any information, including all or any portion of the Supporting Statement or any other statement in support of a Proxy Access Nominee included in the Nomination Notice, if the Board of Directors determines that:

A.such information is not true in all material respects or omits a material statement necessary to make the statements made not misleading;

B.such information directly or indirectly impugns the character, integrity or personal reputation of, or directly or indirectly makes charges concerning improper, illegal or immoral conduct or associations, without factual foundation, with respect to, any person; or

C.the inclusion of such information in the Proxy Materials would otherwise violate the SEC proxy rules or any other applicable Legal Requirements.

Section 1.3 **Special Meetings.**

(a) Special meetings of the stockholders may be called by the Chairman of the Board, the Chief Executive Officer, the President, or at the request of one or more stockholders who Net Long Beneficially Own, in the aggregate, not less than twenty percent (20%) of the outstanding shares of common stock of the Corporation (the “Minimum Holding”).

(b) Within thirty (30) days of receipt by the Secretary of a written request from stockholders who own the Minimum Holding (a “Special Meeting Request”), it shall be the duty of the Board to cause a special meeting of stockholders to be held not later than ninety (90) days after receipt of such Special Meeting Request.

(c) A special meeting requested by stockholders shall be held unless the Special Meeting Request is delivered during the period beginning ninety (90) days prior to the anniversary of the preceding year’s annual meeting of stockholders and ending on the date of the next annual meeting.

(d) In determining whether the Minimum Holding has been achieved, multiple Special Meeting Requests delivered to the Secretary will be considered together if each Special Meeting Request identifies substantially the same purpose or purposes of the special meeting and substantially the same matters proposed to be acted on at the requested special meeting (in each case as determined in good faith by the Board).

(e) The business transacted at any special meeting of shareholders is limited to the purpose or purposes stated in the notice of the meeting given pursuant to this Section 1.3. Notwithstanding anything in these By-laws to the contrary, the Board may submit its own proposal or proposals for consideration at a special meeting. Except in accordance with this Section 1.3, stockholders shall not be permitted to propose business to be brought before a special meeting of the stockholders.

(f) A Special Meeting Request must be delivered by hand or by mail or courier service, postage prepaid, to the attention of the Secretary of the Corporation at the principal executive offices of the Corporation.

(g) A Special Meeting Request shall be valid only if it is signed and dated by each stockholder of record submitting the Special Meeting Request and each beneficial owner, if any, on whose behalf the Special Meeting Request is being made, or such stockholder’s or beneficial owner’s duly authorized agent (each, a “Requesting Stockholder”), and includes (A) a statement of the specific purpose(s) of the special meeting and the reasons for conducting such business at the meeting; (B) in the case of any director nominations proposed to be presented at the special meeting, the information required by Section 1.1(c); and (C) in the case of any matter (other than a director nomination) proposed to be conducted at the special meeting, the information required by Section 1.1(b).

(h) The Special Meeting Request must also include (A) an agreement by the Requesting Stockholders to notify the Corporation promptly in the event of any disposition prior to the time of the special meeting of any shares included within any Requesting Stockholder’s Net Long Beneficial Ownership as of the date on which the Special Meeting Request was delivered to the Secretary; (B) an acknowledgement that prior to the special meeting any disposition of shares of the Corporation’s common stock included within any Requesting Stockholder’s Net Long Beneficial Ownership as of the date on which the Special Meeting Request was delivered to the Secretary shall be deemed to be a revocation of such Special Meeting Request with respect to such disposed shares and that any decrease in the Requesting Stockholders’ aggregate Net Long Beneficial Ownership to less than the Minimum Holding shall

be deemed to be a revocation of such Special Meeting Request; and (C) documentary evidence that the Requesting Stockholders (or the beneficial owners on whose behalf the Special Meeting Request is made) had Net Long Beneficial Ownership of the Minimum Holding as of the date of delivery of the Special Meeting Request to the Secretary.

(i) The Requesting Stockholders on whose behalf the Special Meeting Request is being made shall further update and supplement the information provided in the Special Meeting Request, if necessary, as set forth in Section 1.1(e).

(j) If none of the Requesting Stockholders appears or sends a duly authorized agent to present the business specified in the Special Meeting Request to be presented for consideration, the Corporation need not present such business for a vote at the special meeting, notwithstanding that proxies in respect of such business may have been received by the Corporation.

(k) With respect to this Section 1.3, a stockholder must comply with all applicable provisions of these By-Laws and all requirements of Delaware law and the [Exchange 1934 Act](#) ~~and the rules and regulations thereunder~~.

(l) In the event the Board of Directors calls a special meeting of stockholders for the purpose of electing one or more directors to the Board, nominations of persons for election to the Board of Directors may be made by any stockholder that is a stockholder of record of the Corporation (and, with respect to any beneficial owner, if different, on whose behalf such nomination is proposed to be made, only if such beneficial owner was the beneficial owner of shares of the Corporation) at the time of giving the notice provided for in this Section 1.3(l), that is entitled to vote at such meeting and that has given timely notice thereof in writing to the Secretary of the Corporation in compliance with this Section 1.3(l). Such nominations, other than those made by or at the direction of the Board of Directors, shall be made pursuant to timely notice in writing to the Secretary of the Corporation in compliance with this Section 1.3(l). To be timely, a stockholder's notice must be delivered to or mailed and received at the principal executive offices of the Corporation not earlier than the [one hundred twentieth \(120th\)](#) day prior to such special meeting and not later than the later of (i) the ninetieth ([90th](#)) day prior to such special meeting or (ii) the tenth ([10th](#)) day following (1) the day on which the notice containing the date of the special meeting is provided by the Corporation or (2) public disclosure of the special meeting date was made, whichever first occurs; provided, however, that any such notice which is received later than the fifth ([5th](#)) business day prior to the meeting may be disregarded. In no event shall any adjournment, deferral or postponement of a special meeting or the announcement thereof commence a new time period (or extend any time period) for the giving of a stockholder's notice as provided above. To be in proper written form, such stockholder's notice shall set forth all of the information described in, and otherwise be in compliance with, Section 1.1(c) of these By-laws. In addition, any stockholder who submits a notice pursuant to this Section 1.3(l) is required to update and supplement the information disclosed in such notice, if necessary, in accordance with Section 1.1(e). If any information submitted pursuant to this Section 1.3(l) by any stockholder proposing one or more nominees for election as a director at a special meeting of stockholders is inaccurate in any material respect, such information shall be deemed not to have been provided in accordance with this Section 1.3(l). The presiding person at the meeting shall, if the facts warrant, determine and declare at the meeting that a nomination was not made in accordance with the procedures prescribed by these By-laws, and if he should so determine, he shall so declare at the meeting, and the defective nomination shall be disregarded.

(m) For the purposes of this Section 1.3, the following definitions shall apply:

(i)An “Affiliate” of a person shall mean another person that, directly or indirectly through one of more intermediaries, controls, is controlled by or is under common control with such person.

(ii)An “Associate” of a person shall mean (i) any corporation or organization (other than a majority-owned subsidiary of such person) of which such person is an officer or partner or is, directly or indirectly, the beneficial owner of ten percent or more of any class of equity securities; (ii) any trust or other estate in which such person has a substantial beneficial interest or as to which such person serves as trustee or in a similar fiduciary capacity; and (iii) any relative or spouse of such person, or any relative of such spouse, who has the same home as such person or who is a director or officer of the Corporation or any of its parents or subsidiaries.

(iii)“Net Long Beneficial Ownership” shall mean the shares of stock of the Corporation that such person or, if such person is a nominee, custodian or other agent that is holding the shares on behalf of another person (the “beneficial owner”), that such beneficial owner would then be deemed to own pursuant to Rule 200(b) under the [Exchange 1934](#) Act, excluding, at any time, any shares as to which such stockholder or beneficial owner does not then have the right to vote or direct the vote and excluding, at any time, any shares as to which such person or beneficial owner (or any Affiliate or Associate of such person or beneficial owner) had directly or indirectly entered into (or caused to be entered into) and not yet terminated a derivative or other agreement, arrangement or understanding that hedges or transfers, in whole or in part, directly or indirectly, any of the economic consequences of ownership of such shares, and further subtracting from any person’s ownership of shares at any time such person’s (and such person’s Affiliates’ and Associates’) “short position” (as defined pursuant to Rule 14e-4(a) under the [Exchange 1934](#) Act), all as the Board of Directors shall determine in good faith.

Section 1.4 **Notice of Meetings; Waiver of Notice.**

(a)**Notice of Meetings.** Whenever stockholders are required or permitted to take any action at a meeting, notice of the meeting shall be given by or at the direction of the Chairman of the Board (if any), the Chief Executive Officer (if any), the President, the Secretary or the other persons calling the meeting, and shall state the place, date and hour, the means of remote communications, if any, by which stockholders and proxy holders may be deemed to be present in person and vote at such meeting, the record date for determining the stockholders entitled to vote at the meeting, if such date is different from the record date for determining stockholders entitled to notice of the meeting, and, in the case of a special meeting, the purpose or purposes for which the meeting is called. Unless otherwise provided by law, the written notice of any meeting shall be given not less than [ten](#) (10) nor more than [sixty](#) (60) days before the date of the meeting to each stockholder entitled to vote at such meeting. If mailed, such notice shall be directed to each stockholder at his address as it appears on the records of the Corporation. Without limiting the manner by which notice otherwise may be given to stockholders, any notice shall be effective if given by a form of electronic transmission consented to (in a manner consistent with the General Corporation Law of the State of Delaware) by the stockholder to whom the notice is given. If notice is given by mail, such notice shall be deemed given when deposited in the United States mail, postage prepaid, directed to the stockholder at such stockholder’s address as it appears on the records of the Corporation. If notice is given by electronic transmission, such notice shall be deemed given at the time specified in Section 232 of the General Corporation Law of the State of Delaware.

(b)**Waiver of Notice.** Whenever notice is required to be given to the stockholders under any provision of law, the Certificate of Incorporation of the Corporation or these By-laws, a written waiver signed by a stockholder entitled to notice, or a waiver by electronic transmission

by a stockholder entitled to notice, whether before, at or after the time stated therein, shall be deemed equivalent to notice. Attendance of a stockholder at a meeting shall constitute a waiver of notice of such meeting, except when the stockholder attends such meeting for the express purpose of objecting, at the beginning of the meeting, to the transaction of business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the stockholders need be specified in any written waiver of notice unless so required by the Certificate of Incorporation of the Corporation.

Section 1.5**Quorum**. The presence at any meeting, in person, by means of remote communication in a manner, if any, authorized by the Board of Directors in its sole discretion, or represented by proxy, of the holders of record of a majority of the shares of the capital stock of the Corporation then issued and outstanding and entitled to vote shall be necessary and sufficient to constitute a quorum for the transaction of business, except as otherwise provided by law or the Certificate of Incorporation of the Corporation. Where a separate vote by a class or classes is required with respect to a particular matter, the presence at the meeting, in person or by proxy, of the holders of record of a majority of the shares of such class or classes then issued and outstanding and entitled to vote thereon shall be necessary and sufficient to constitute a quorum with respect to a vote on such matter. A quorum, once established at a meeting, shall not be broken by the withdrawal of enough votes to leave less than a quorum.

Section 1.6**Adjournments**. In the absence of a quorum, a majority in interest of the stockholders entitled to vote, present in person or by proxy at a meeting, or, if no stockholder entitled to vote is present in person or by proxy, any officer entitled to act as chairman or secretary of such meeting, may adjourn the meeting to another time or place. When a meeting is adjourned to another time or place, notice need not be given of the adjourned meeting if the time and place thereof and the means of remote communications, if any, by which stockholders and proxy holders may be deemed to be present in person and vote at such adjourned meeting are ~~announced at the meeting at which the adjournment is taken. At the adjourned meeting the Corporation may transact any business which might have been transacted at the original meeting. If provided in a manner permitted by the General Corporation Law of the State of Delaware; provided, however, that, if~~ the adjournment is for more than thirty (30) days, or, if after the adjournment, a new record date is fixed for the adjourned meeting, a notice of the adjourned meeting shall be given to each stockholder of record entitled to vote at the meeting. At the adjourned meeting the Corporation may transact any business which might have been transacted at the original meeting. In no event will the adjournment or postponement of an annual meeting of stockholders commence a new time period (or extend any time period) for the giving of a stockholder's notice as described in paragraphs (b) or (c) of Section 1.1 of these By- Laws.

Section 1.7**Organization**. The Chairman of the Board, or if there is no Chairman of the Board or in his absence or disability, the Chief Executive Officer, or if there is no Chief Executive Officer or in his absence or disability, the President, or in the absence or disability of all of them, a presiding person appointed by the Board of Directors, shall act as the presiding person of all meetings of stockholders. The Secretary or, in his absence or disability, any Assistant Secretary, or, in the absence of all of them, a secretary appointed by the presiding person of the meeting, shall act as secretary at all meetings of stockholders. The Board of Directors may adopt by resolution such rules, regulations and procedures for the conduct of any meeting of stockholders of the Corporation as it shall deem appropriate including, without limitation, such guidelines and procedures as it may deem appropriate regarding the participation by means of remote communication of stockholders and proxyholders not physically present at a meeting. Except to the extent inconsistent with such rules, regulations and procedures as adopted by the Board of Directors, the presiding person at any meeting of stockholders shall have the right and authority to prescribe such rules, regulations and procedures and to do all such acts as, in the judgment of such presiding person, are appropriate for the proper conduct of the meeting. Without limiting the foregoing, the following rules shall apply:

(a)The presiding person may ask or require that anyone not a bona fide stockholder or duly authorized proxy leave the meeting.

(b)The presiding person may propose any motion for vote. The order of business at all meetings of stockholders shall be determined by the presiding person.

(c)The presiding person may impose any reasonable limits with respect to participation in the meeting by stockholders, including, without limitation, limits on the amount of time that may be taken up at the meeting by the remarks or questions of any stockholder, limits on the number of questions a stockholder may ask and limits as to the subject matter and timing of questions and remarks by stockholders.

Section 1.8Voting. Unless otherwise provided in the Certificate of Incorporation or required by law, each stockholder shall be entitled to one vote for each share of capital stock held by such stockholder which is registered in his name on the record date for the meeting. Except as otherwise provided by law, the Certificate of Incorporation or these By-laws, for all matters the affirmative vote (which need not be by ballot) of a majority of the shares present in person or represented by proxy at the meeting and entitled to vote on the subject matter of such vote shall be the act of the stockholders. Where a separate vote by a class or classes is required, the affirmative vote of a majority of the shares of such class or classes present in person or represented by proxy at the meeting and entitled to vote on the subject matter of such vote shall be the act of such class or classes. Notwithstanding the foregoing, the vote required for the election of directors shall be as provided in Section 3.2 of Article III.

Section 1.9Proxies. Each stockholder entitled to vote at a meeting of stockholders or to express consent or dissent to corporate actions in writing may authorize another person or persons to act for him by proxy, but no such proxy shall be voted or acted upon after three years from its date, unless the proxy provides for a longer period. A duly executed proxy shall be irrevocable if it states that it is irrevocable and if, and only as long as, it is coupled with an interest sufficient in law to support an irrevocable power. Any stockholder directly or indirectly soliciting proxies from other stockholders must use a proxy card color other than white, which shall be reserved for the exclusive use by the Board of Directors.

Section 1.10Stockholder List. The officer who has charge of the stock ledger of the Corporation shall prepare and make, at least ten (10) days before every meeting of stockholders, a complete list of the stockholders entitled to vote at the meeting, arranged in alphabetical order, and showing the address and number of shares registered in the name of each stockholder. Such list shall be open to the examination of any stockholder, for any purpose germane to the meeting, during ordinary business hours for a period of at least ten (10) days prior to the meeting, at the principal place of business of the Corporation. ~~The list shall also be produced and kept at the time and place of the meeting during the entire time thereof, and may be inspected by any stockholder who is present.~~

Section 1.11Inspectors of Election. In advance of any stockholders' meeting, the Board of Directors may appoint one or more inspectors to act at the meeting and make a written report thereof. The Board of Directors may designate one or more persons as alternate inspectors to replace any inspector who fails to act. If no inspector or alternate is able to act at a meeting of stockholders, the person presiding at the meeting shall appoint one or more inspectors to act at the meeting. Each inspector, before entering upon the discharge of his duties, shall take and sign an oath to faithfully execute the duties of inspector with strict impartiality and according to the best of his ability.

Section 1.12Fixing the Record Date. So that the Corporation may determine the stockholders entitled to notice of any meeting of stockholders or any adjournment thereof, the

Board of Directors may fix in advance a record date, which shall not precede the date upon which the resolution fixing the record date is adopted by the Board, and shall not be more than 60 nor less than ten (10) days before the date of such meeting. If the Board of Directors so fixes a date, such date shall also be the record date for determining the stockholders entitled to vote at such meeting unless the Board of Directors determines, at the time it fixes such record date, that a later date on or before the date of the meeting shall be the date for making such determination. Only those stockholders of record on the date so fixed shall be entitled to vote at the meeting, notwithstanding the transfer of any stock on the books of the Corporation after any such record date fixed by the Board of Directors.

So that the Corporation may determine the stockholders entitled to express consent to corporate action in writing without a meeting, or to receive payment of any dividend or other distribution or allotment of any rights, or to exercise any rights in respect of any change, conversion or exchange of stock or for the purpose of any other lawful action, the Board of Directors may fix in advance a record date, which shall not precede the date upon which the resolution fixing the record date is adopted by the Board, and (a) in the case of a written consent, shall not exceed by more than ten (10) days the date upon which the resolution fixing the record date is adopted by the Board, or (b) in the case of any other action, shall not be more than sixty (60) days prior to such action. Only those stockholders of record on the date so fixed shall be entitled to any of the foregoing rights, notwithstanding the transfer of any stock on the books of the Corporation after any such record date fixed by the Board of Directors.

ARTICLE II

CONSENT OF STOCKHOLDERS IN LIEU OF MEETING

Unless otherwise provided in the Certificate of Incorporation, any action required by law or these By-laws to be taken at any annual or special meeting of stockholders of the Corporation may be taken without a meeting, without prior notice and without a vote if a consent or consents in writing, setting forth the action so taken, shall be signed by the holders of outstanding stock having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all shares entitled to vote thereon were present and voted and shall be delivered to the Corporation as required by law. Prompt notice of the taking of the corporate action without a meeting by less than unanimous written consent shall be given to those stockholders who have not so consented in writing.

ARTICLE III

BOARD OF DIRECTORS

Section 3.1Number. The Board of Directors shall consist of one or more directors, as fixed from time to time by resolution of the Board of Directors in accordance with applicable law.

Section 3.2Election and Term of Office

(a)Directors will be elected at each annual meeting of stockholders of the Corporation and will hold office for a term expiring at the next annual meeting of stockholders or until their successors are elected and qualified or until their earlier resignation or removal.

(b)In an uncontested election of directors, each director of the Corporation shall be elected by a majority of the votes cast by the shares present in person or represented by proxy

at the meeting and entitled to vote on the election of directors; *provided, however*, in a contested election, the directors shall be elected by a plurality of the votes of the shares present in person or represented by proxy at the meeting and entitled to vote on the election of directors. For purposes of this Section 3.2: (i) an “uncontested election” is an election in which the number of nominees for director is not greater than the number to be elected and (ii) a “contested election” is an election in which the number of nominees for director is greater than the number to be elected.

(c)Following any uncontested election, any incumbent director who was a nominee and who did not receive a majority of the votes cast by the shares present in person or represented by proxy at the meeting and entitled to vote on the election of directors (a “majority vote”), shall promptly tender his or her offer of resignation to the Board for consideration by the Board if such director has not previously submitted a conditional offer of resignation. A recommendation on whether or not to accept such resignation offer shall be made by a committee of independent directors that has been delegated the responsibility of recommending nominees for director for appointment or election to the Board, or (1) if each member of such committee did not receive the required majority vote or (2) if no such committee has been appointed, a majority of the Board shall appoint a special committee of independent directors for such purpose of making a recommendation to the Board (the “Nominating Committee”). If no independent directors received the required majority vote, the Board shall act on the resignation offers.

Within sixty (60) days following certification of the stockholder vote, the Nominating Committee shall recommend to the Board the action to be taken with respect to such offer of resignation. In determining whether or not to recommend that the Board accept any resignation offer, the Nominating Committee shall be entitled to consider all factors believed relevant by such Committee’s members, including without limitation: (1) any stated reasons for the director not receiving the required majority vote and whether the underlying cause or causes are curable; (2) the factors, if any, set forth in the guidelines or other policies that are to be considered by the Nominating Committee in evaluating potential candidates for the Board as such factors relate to each director who has so offered his or her resignation; (3) the length of service of such director; (4) the effect of such resignation on the Corporation’s compliance with any law, rule, regulation, stock exchange listing standards, or contractual obligations; (5) such director’s contributions to the Corporation; and (6) any other factors that the Nominating Committee believes are in the best interests of the Corporation.

The Board shall act on the Nominating Committee’s recommendation and publicly disclose the decision and reasons therefor, by a press release, a filing with the Securities and Exchange Commission or other broadly disseminated means of communication, within ninety (90) days following certification of the stockholder vote. In determining whether or not to accept any resignation offer, the Board shall take into account the factors considered by the Nominating Committee and any additional information and factors that the Board believes to be relevant.

(d)If any director’s resignation offer is not accepted by the Board, such director shall continue to serve until the next annual meeting and his or her successor is duly elected and qualified, or until the director’s earlier death, resignation, or removal. If a director’s resignation offer is accepted by the Board pursuant to this Section 3.2, or if a nominee for director is not elected and the nominee is not an incumbent director, then the Board, in its sole discretion, may fill any resulting vacancy pursuant to the provisions of Section 3.3 of this Article III or may decrease the size of the Board pursuant to Section 3.1 of this Article III.

Section 3.3Vacancies and Additional Directorship. Unless otherwise provided in the Certificate of Incorporation of the Corporation, vacancies and newly created directorships resulting from any increase in the authorized number of directors may be filled by a majority of

the directors then in office, although less than a quorum, or by the sole remaining director. Unless otherwise provided in the Certificate of Incorporation of the Corporation, when one or more directors shall resign from the Board, effective at a future date, a majority of the directors then in office, including those who have so resigned, shall have the power to fill such vacancy or vacancies, the vote thereon to be effective upon the effectiveness of such resignation or resignations.

Section 3.4 **Meetings**.

(a)**Regular Meeting**. The Board of Directors may by resolution provide for the holding of regular meetings for the election of officers and for the transaction of such other business as may properly come before the meeting, and may fix the times and places at which such meetings shall be held. Notice of regular meetings shall not be required to be given, provided that whenever the time or place of regular meetings shall be fixed or changed, notice of such action shall be given promptly by mail, facsimile, telegram, radio, cable, telephone, electronic mail or personal delivery to each director who shall not have been present at the meeting at which such action was taken, addressed, sent, delivered or communicated to him at his residence or usual place of business.

(b)**Special Meetings**. Special meetings of the Board of Directors may be called by or at the direction of the Chairman of the Board (if any), the Chief Executive Officer (if any), the President or one-third of the directors then in office, except that when the Board of Directors consists of one director, such director may call a special meeting. Except as otherwise required by law, notice of each special meeting shall be mailed to each director, addressed to him at his residence or usual place of business, at least five (5) days before the day on which such meeting is to be held, or shall be sent to him at such place by facsimile, telegram, radio or cable, electronic mail or telephoned or delivered to him personally, not later than twenty-four (24) hours before the day on which such meeting is to be held. Such notice shall state the time and place of such meeting, but need not state the purpose thereof, unless otherwise required by law, the Certificate of Incorporation of the Corporation or these By-laws.

(c)**Waiver of Notice**. Whenever notice is required to be given to the directors under any provision of law, the Certificate of Incorporation of the Corporation or these By-laws, a written waiver, signed by the director entitled to notice, whether before or after the time stated therein, shall be deemed equivalent to notice. Attendance of a director at a meeting shall constitute a waiver of notice of such meeting, except when a director attends a meeting for the express purpose of objecting at the beginning of the meeting to the transaction of business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of directors need be specified in any written waiver of notice unless so required by the Certificate of Incorporation of the Corporation.

(d)**Participation by Conference Call**. Members of the Board of Directors may participate in any meeting of the Board by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other, and such participation shall constitute presence in person at the meeting.

Section 3.5**Quorum; Voting**. Unless the Certificate of Incorporation of the Corporation provides otherwise, at each meeting of the Board of Directors a majority of the total number of members of the Board of Directors shall constitute a quorum for the transaction of business, except that when the Board consists of only one director, one director shall constitute a quorum. Unless otherwise required by the Certificate of Incorporation of the Corporation or these By-laws, a vote of the majority of the directors present at any meeting at which a quorum is present shall be the act of the Board.

Section 3.6**Adjournment**. A majority of the directors present, whether or not a quorum is present, may adjourn any meeting to another time and place. Notice of any adjournment of a meeting of the Board of Directors to another time or place shall be given to the directors who were not present at the time of the adjournment and, unless such time and place are announced at such meeting, to the directors who were present.

Section 3.7**Organization**. The Chairman of the Board, or if there is no Chairman of the Board or in his absence or disability, the Chief Executive Officer, or if there is no Chief Executive Officer or in his absence or disability, the President, or in the absence or disability of all of them, a chairman appointed by the directors present at such meeting, shall act as the presiding person at meetings of directors. The Secretary, or in his absence or disability, any Assistant Secretary, or in the absence of all of them, a secretary appointed by the presiding person of the meeting, shall act as secretary at all meetings of the Board of Directors.

Section 3.8**Action of Board Without Meeting**. Any action required or permitted to be taken at any meeting of the Board of Directors may be taken without a meeting if all members of the Board consent thereto in writing or by electronic transmission, and such writing or writings or electronic transmission or transmissions are filed with the minutes of proceedings of the Board.

Section 3.9**Manner of Acting**. A member of the Board of Directors shall, in the performance of his duties, be fully protected in relying in good faith upon the records of the Corporation and upon such information, opinions, reports or statements presented to the Corporation by any of the Corporation's officers or employees, or committees of the Board, or by any other person as to matters the director reasonably believes are within such other person's professional or expert competence and who has been selected with reasonable care by or on behalf of the Corporation.

Section 3.10**Resignation of Directors**. Any director may resign at any time by giving notice in writing or by electronic transmission of such resignation to the Board of Directors, the Chairman of the Board (if any), the Chief Executive Officer (if any), the President, any Vice President or the Secretary. Unless otherwise specified in such notice, such resignation shall take effect upon receipt thereof by the Board of Directors or any such officer, and acceptance of such resignation shall not be necessary to make it effective.

Section 3.11**Removal of Directors**. Any director, or the entire Board of Directors, may be removed at any time by the affirmative vote of the holders of the majority of all outstanding shares of capital stock of the Company entitled to vote generally in the election of directors, voting together as a single class at a duly held meeting.

Section 3.12**Compensation of Directors**. Directors may receive such reasonable compensation for their services as directors, whether in the form of salary, a fixed fee for attendance at meetings, with expenses, if any, or other compensation, as the Board of Directors may from time to time determine. Nothing contained herein shall be construed to preclude any director from serving the Corporation in any other capacity and receiving compensation therefor.

Section 3.13**Interested Directors**. No contract or transaction between the Corporation and one or more of its directors or officers, or between the Corporation and any other corporation, partnership, association or other organization in which one or more of its directors or officers are directors or officers, or have a financial interest, shall be void or voidable solely for this reason, or solely because the director or officer is present at or participates in the meeting of the Board of Directors or committee thereof that authorizes the contract or transaction, or solely because his, her or their votes are counted for such purpose, if (a) the material facts as to his, her or their relationship or interest as to the contract or transaction are disclosed or are

known to the Board of Directors or a committee thereof, and the Board of Directors or a committee thereof in good faith authorizes the contract or transaction by the affirmative vote of a majority of the disinterested directors, even though the disinterested directors be less than a quorum, (b) the material facts as to his, her or their relationship or interest as to the contract or transaction are disclosed or are known to the stockholders entitled to vote thereon and the contract or transaction is specifically approved in good faith by vote of the stockholders or (c) the contract or transaction is fair as to the Corporation as of the time it is authorized, approved or ratified by the Board of Directors, a committee thereof or the stockholders. Common or interested directors may be counted in determining the presence of a quorum at a meeting of the Board of Directors or a committee that authorizes the contract or transaction.

ARTICLE IV

COMMITTEES OF THE BOARD

Section 4.1 **Designation and Powers**. The Board of Directors may, by a resolution passed by a majority of the entire Board of Directors, designate one or more committees, each committee to consist of one or more of the directors of the Corporation. Any such committee, to the extent provided in such resolution and permitted by law, shall have and may exercise all the powers and authority of the Board of Directors in the management of the business and affairs of the Corporation, and may authorize the seal of the Corporation to be affixed to all papers which may require it; *provided, however*, that no such committee shall have the power or authority to (a) amend the Certificate of Incorporation of the Corporation, except as permitted by law, (b) adopt an agreement of merger or consolidation, (c) recommend to the stockholders the sale, lease or exchange of all or substantially all of the Corporation's property or assets, (d) recommend to the stockholders a dissolution of the Corporation, or a revocation of a dissolution, or (e) amend the By-laws of the Corporation. Any such committee, to the extent provided in such resolution, shall have the power and authority to (i) declare a dividend, (ii) authorize the issuance of stock and/or (iii) adopt a certificate of ownership and merger as permitted by law.

Section 4.2 **Term of Office**. The term of office of the members of each committee shall be as fixed from time to time by the Board of Directors, subject to these By-laws; *provided, however*, that any committee member who ceases to be a member of the Board of Directors shall ipso facto cease to be a member of any committee thereof.

Section 4.3 **Alternate Members and Vacancies**. The Board of Directors may designate one or more directors as alternate members of any committee who, in the order specified by the Board of Directors, may replace any absent or disqualified member at any meeting of the committee. If at a meeting of any committee one or more of the members thereof should be absent or disqualified, and if either the Board of Directors has not so designated any alternate member or members or the number of absent or disqualified members exceeds the number of alternate members who are present at such meeting, then the member or members of such committee (including alternates) present at any meeting and not disqualified from voting, whether or not he or they constitute a quorum, may unanimously appoint another director to act at the meeting in the place of any such absent or disqualified member. If any vacancy shall occur in any committee by reason of death, resignation, disqualification, removal or otherwise, the remaining member or members of such committee, so long as a quorum is present, may continue to act until such vacancy is filled by the Board of Directors.

Section 4.4 **Meetings**. Each committee shall fix its own rules of procedure, and shall meet where and as and upon such notice as provided by such rules or by resolution of the Board of Directors. Each committee shall keep regular minutes of its proceedings. Members of any committee designated by the Board may participate in a meeting of the committee by means of

conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other, and such participation shall constitute presence in person at the meeting.

Section 4.5**Quorum; Voting**. At each meeting of any committee the presence of a majority of the total number of its members shall constitute a quorum for the transaction of business; except that when a committee consists of one member, then one member shall constitute a quorum. A vote of the majority of committee members present at any meeting of a committee at which a quorum is present shall be the act of such committee.

Section 4.6**Adjournments**. A majority of the members of a committee present, whether or not a quorum is present, may adjourn any meeting of such committee to another place and time.

Section 4.7**Action of Committee Without Meeting**. Any action required or permitted to be taken at any meeting of any committee designated by the Board of Directors may be taken without a meeting if all members of such committee consent thereto in writing or by electronic transmission and such writing or writings or electronic transmission or transmissions are filed with the minutes of the proceedings of such committee.

Section 4.8**Manner of Acting**. A member of any committee designated by the Board of Directors shall, in the performance of his duties, be fully protected in relying in good faith upon the records of the Corporation and upon such information, opinions, reports or statements presented to the Corporation by any of the Corporation's officers or employees, or other committees of the Board of Directors, or by any other person as to matters the member reasonably believes are within such other person's professional or expert competence and who has been selected with reasonable care by or on behalf of the Corporation.

Section 4.9**Resignation of Committee Members**. Any member of a committee may resign at any time by giving notice in writing or by electronic transmission of such resignation to the Board of Directors, the Chairman of the Board (if any), the Chief Executive Officer (if any), the President, any Vice President or the Secretary. Unless otherwise specified in such notice, such resignation shall take effect upon receipt thereof by the Board of Directors or any such officer, and acceptance of such resignation shall not be necessary to make it effective.

Section 4.10**Removal of Committee Members**. Any member of any committee may be removed with or without cause at any time by the Board of Directors.

Section 4.11**Compensation of Committee Members**. Committee members may receive such reasonable compensation for their services as committee members, whether in the form of salary, a fixed fee for attendance at meetings, with expenses, if any, or other compensation, as the Board of Directors may from time to time determine. Nothing contained herein shall be construed to preclude any committee member from serving the Corporation in any other capacity and receiving compensation therefor.

ARTICLE V

OFFICERS

Section 5.1**Officers**. The officers of the Corporation shall be a Chief Executive Officer (if elected by the Board of Directors), a President, one or more Vice Presidents (if elected by the Board of Directors), a Secretary, a Treasurer, a Controller (if elected by the Board of Directors)

and such other officers as may be appointed in accordance with the provisions of Section 5.3 of these By-laws.

Section 5.2**Election, Term of Office and Qualifications.** Each officer (except such officers as may be appointed in accordance with the provisions of Section 5.2 of these By-laws) shall be elected or appointed by a majority of the Board of Directors present at any meeting at which such election is held. Unless otherwise provided in the resolution of election, each officer (whether elected at the first meeting of the Board of Directors after the annual meeting of stockholders or to fill a vacancy or otherwise) shall hold his office until the first meeting of the Board of Directors after the next annual meeting of stockholders and until his successor shall have been elected and qualified, or until his earlier death, resignation or removal.

Section 5.3**Subordinate Officers and Agents.** The Board of Directors may from time to time appoint other officers or agents (including, without limitation, one or more Assistant Vice Presidents, one or more Assistant Secretaries, one or more Assistant Treasurers and one or more Assistant Controllers), to hold office for such periods, have such authority and perform such duties as are provided in these By-laws or as may be provided in the resolutions appointing them. The Board of Directors may delegate to any officer or agent the power to appoint any such subordinate officers or agents and to prescribe their respective terms of office, authority and duties.

Section 5.4**The Chief Executive Officer.** The Chief Executive Officer, if elected by the Board of Directors, shall be the Chief Executive Officer of the Corporation and shall have general charge of the business, affairs and property of the Corporation and general supervision over its officers and agents. The Chief Executive Officer may sign (which signature may be a facsimile signature), with any other officer thereunto duly authorized, certificates representing stock of the Corporation, the issuance of which shall have been duly authorized, and may sign and execute (which signature may be a facsimile signature), in the name and on behalf of the Corporation, deeds, mortgages, bonds, contracts, agreements and other instruments and documents duly authorized by the Board of Directors, except where the signing and execution thereof shall be expressly delegated by the Board of Directors to another officer or agent. The Chief Executive Officer shall also have such other powers and perform such other duties as may from time to time be prescribed by the Board of Directors or these By-laws.

Section 5.5**The President.** If there is no Chief Executive Officer, or at the request of the Chief Executive Officer (if any) or the Board, or in the absence or disability of the Chief Executive Officer, the President shall be the Chief Executive Officer of the Corporation. Upon the determination of the Board, one person may serve as both the Chief Executive Officer and the President. Subject to the authority and direction of the Chief Executive Officer (if any) and the Board of Directors, the President shall have all the powers of and be subject to all the restrictions on the Chief Executive Officer, and shall have charge of the day to day supervision of the business, affairs and property of the Corporation. The President may sign (which signature may be a facsimile signature), with any other officer thereunto duly authorized, certificates representing stock of the Corporation, the issuance of which shall have been duly authorized, and may sign and execute (which signature may be a facsimile signature), in the name and on behalf of the Corporation, deeds, mortgages, bonds, contracts, agreements and other instruments and documents duly authorized by the Board of Directors, except where the signing and execution thereof shall be expressly delegated by the Board of Directors to another officer or agent. The President shall also have such other powers and perform such other duties as may from time to time be prescribed by the Board of Directors, the Chief Executive Officer or these By-laws.

Section 5.6**Vice Presidents.** At the request of the Chief Executive Officer (if any) or the President, or in the absence or disability of all of them, the Vice President designated by the Board of Directors or such officer or officers shall perform all the duties of the President and,

when so acting, shall have all the powers of and be subject to all the restrictions on the President. Any Vice President may sign (which signature may be a facsimile signature), with any other officer thereunto duly authorized, certificates representing stock of the Corporation, the issuance of which shall have been duly authorized, and may sign and execute (which signature may be a facsimile signature), in the name and on behalf of the Corporation, deeds, mortgages, bonds, contracts, agreements and other instruments and documents duly authorized by the Board of Directors, except where the signing and execution thereof shall be expressly delegated by the Board of Directors to another officer or agent. Each Vice President shall also have such other powers and perform such other duties as may from time to time be prescribed by the Board of Directors, the Chief Executive Officer (if any), the President or these By-laws.

Section 5.7 **The Secretary**. The Secretary shall:

(a) record all the proceedings of meetings of the stockholders, the Board of Directors and any committees thereof in a book or books to be kept for that purpose;

(b) cause all notices to be duly given in accordance with the provisions of these By-laws and as required by law;

(c) whenever any committee shall be appointed pursuant to a resolution of the Board of Directors, furnish the chairman of such committee with a copy of such resolution;

(d) be custodian of the records and the seal of the Corporation, if any, and cause such seal, if any, to be affixed to (or a facsimile to be reproduced on) all certificates representing stock of the Corporation prior to the issuance thereof and all instruments the execution of which in the name and on behalf of the Corporation shall have been duly authorized;

(e) see that the lists, books, reports, statements, certificates and other documents and records required by law are properly kept and filed;

(f) have charge of the stock and transfer books of the Corporation, and exhibit such books at all reasonable times to such persons as are entitled by law to have access thereto;

(g) sign (which signature may be a facsimile signature), with any other officer thereunto duly authorized, certificates representing stock of the Corporation, the issuance of which shall have been duly authorized, and sign and execute (which signature may be a facsimile signature), in the name and on behalf of the Corporation, deeds, mortgages, bonds, contracts, agreements and other instruments and documents duly authorized by the Board of Directors, except where the signing and execution thereof shall be expressly delegated by the Board of Directors to another officer or agent; and

(h) in general, perform all duties incident to the office of Secretary and have such other powers and perform such other duties as may from time to time be prescribed by the Board of Directors, the Chief Executive Officer (if any), the President or these By-laws.

Section 5.8 **Assistant Secretaries**. At the request of the Chief Executive Officer (if any), the President or the Secretary, or in the absence or disability of the Secretary, the Assistant Secretary designated by the Board of Directors or such officer or officers shall perform all the duties of the Secretary, and, when so acting, shall have all the powers of and be subject to all the restrictions on the Secretary. Each Assistant Secretary shall have such other powers and perform such other duties as may from time to time be prescribed by the Board of Directors, the Chief Executive Officer (if any), the President, the Secretary or these By-laws.

Section 5.9 **The Treasurer**. The Treasurer shall:

(a) have charge of and supervision over and be responsible for the funds, securities, receipts and disbursements of the Corporation;

(b) cause the moneys and other valuable effects of the Corporation to be deposited in the name and to the credit of the Corporation in such banks or trust companies, or with such bankers or other depositaries, as shall be selected in accordance with Section 7.3 of these By-laws, or to be otherwise dealt with in such manner as the Board of Directors may direct from time to time;

(c) cause the funds of the Corporation to be disbursed by checks or drafts upon the authorized depositaries of the Corporation, and cause to be taken and preserved proper vouchers for all moneys disbursed;

(d) render to the Board of Directors, the Chairman of the Board (if any), the Chief Executive Officer (if any) and/or the President, whenever requested, a statement of the financial condition of the Corporation and of all of his transactions as Treasurer;

(e) cause to be kept at the Corporation's principal office correct books of account of all of the Corporation's business and transactions and such duplicate books of account as he shall determine and, upon application, cause such books or duplicates thereof to be exhibited to any director;

(f) be empowered, from time to time, to require from the officers or agents of the Corporation reports or statements giving such information as he may desire or deem appropriate with respect to any or all financial transactions of the Corporation;

(g) sign (which signature may be a facsimile signature), with any other officer thereunto duly authorized, certificates representing stock of the Corporation, the issuance of which shall have been duly authorized, and sign and execute (which signature may be a facsimile signature), in the name and on behalf of the Corporation, deeds, mortgages, bonds, contracts, agreements and other instruments and documents duly authorized by the Board of Directors, except where the signing and execution thereof shall be expressly delegated by the Board of Directors to another officer or agent; and

(h) in general, perform all duties incident to the office of Treasurer and have such other powers and perform such other duties as may from time to time be prescribed by the Board of Directors, the Chief Executive Officer (if any), the President or these By-laws.

Section 5.10 **Assistant Treasurer.** At the request of the Chief Executive Officer (if any), the President or the Treasurer, or in the absence or disability of the Treasurer, the Assistant Treasurer designated by the Board of Directors or such officer or officers shall have all the powers of and be subject to all the restrictions on the Treasurer. Each Assistant Treasurer shall have such other powers and perform such other duties as may from time to time be prescribed by the Board of Directors, the Chairman of the Board (if any), the Chief Executive Officer (if any), the President, the Treasurer or these By-laws.

Section 5.11 **Controller.** The Controller (if elected by the Board of Directors) shall have such powers and perform such duties as may from time to time be prescribed by the Board of Directors, the Chief Executive Officer (if any), the President, the Treasurer or these By-laws, and shall have authority commensurate with such duties, including, without limitation, the authority to sign and execute (which signature may be a facsimile signature), in the name and on behalf of the Corporation, deeds, mortgages, bonds, contracts, agreements and other instruments and documents duly authorized by the Board of Directors, except where the signing and execution thereof shall be expressly delegated by the Board of Directors to another officer or agent.

Section 5.12**Resignations.** Any officer may resign at any time by giving written notice of such resignation to the Board of Directors, the Chairman of the Board (if any), the Chief Executive Officer (if any), the President, any Vice President or the Secretary. Unless otherwise specified in such written notice, such resignation shall take effect upon receipt thereof by the Board of Directors or any such officer, and the acceptance of such resignation shall not be necessary for it to be effective.

Section 5.13**Removal.** Any officer may be removed with or without cause at any meeting of the Board of Directors by the affirmative vote of a majority of the directors then in office. Without limiting the foregoing, any officer or agent appointed pursuant to the provisions of Section 5.3 of these By-laws may be removed with or without cause at any meeting of the Board of Directors by the affirmative vote of a majority of the directors present at such meeting or at any time by any superior officer or any agent upon whom such power of removal shall have been conferred by the Board of Directors.

Section 5.14**Vacancies.** Any vacancy in any office (whether by reason of death, resignation, removal, disqualification or otherwise) may be filled for the unexpired portion of the term in the manner prescribed by these By-laws for regular elections or appointments to such office.

Section 5.15**Compensation.** The salaries of the officers of the Corporation shall be fixed from time to time by the Board of Directors, except that the Board of Directors may delegate to any person the power to fix the salaries or other compensation of any officers or agents appointed pursuant to the provisions of Section 5.3 of these By-laws. No officer shall be prevented from receiving such salary by reason of the fact that he is also a director of the Corporation.

Section 5.16**Bonding.** The Corporation may secure the fidelity of any or all of its officers or agents by bond or otherwise.

ARTICLE VI

INDEMNIFICATION

The Corporation shall indemnify, in the manner and to the fullest extent permitted by applicable law, any person (or the estate of any person) who was or is a party to, or is threatened to be made a party to, any threatened, pending or completed action, suit or proceeding, whether or not by or in the right of the corporation, and whether civil, criminal, administrative, investigative or otherwise, by reason of the fact that such person is or was a director, officer, employee, fiduciary or agent of the Corporation, or is or was serving at the request of the Corporation as a director, officer, trustee, fiduciary, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by such person in connection with such action, suit or proceeding. To the extent and in the manner provided by applicable law, any such expenses may be paid by the Corporation in advance of the final disposition of such action, suit or proceeding. Unless otherwise permitted by applicable law, the indemnification provided for herein shall be made only as authorized in the specific case upon a determination, made in the manner provided by applicable law, that indemnification of such director, officer, employee or agent is proper in the circumstances. The Corporation may, to the fullest extent permitted by applicable law, purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the Corporation, or is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against any liability which may

be asserted against him and incurred by him in any such capacity, or arising out of his status as such, whether or not the Corporation would have the power to indemnify him against such liability under applicable law. The indemnification and advancement of expenses provided for herein shall not be deemed to limit the right of the Corporation to indemnify or make advances to any other person for any expenses (including attorneys' fees), judgments, fines or other amounts to the fullest extent permitted by applicable law, nor shall they be deemed exclusive of any other rights to which any person seeking indemnification or advancement of expenses may be entitled under any 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 such office. Any repeal or modification of this Article VI will only be prospective and will not affect the rights under this Article VI in effect at the time of the alleged occurrence of any acts, omissions, facts or circumstances occurring prior to such repeal or modification.

ARTICLE VII

EXECUTION OF INSTRUMENTS AND DEPOSIT OF CORPORATE FUNDS

Section 7.1**Execution of Instruments Generally.** Subject to the approval or authorization of the Board of Directors, the Chief Executive Officer (if any), the President, any Vice President, the Secretary, the Treasurer and the Controller may enter into any contract and/or execute and deliver any instrument in the name and on behalf of the Corporation. The Board of Directors may authorize any one or more officers or agents to enter into any contract and/or execute and deliver any instrument in the name and on behalf of the Corporation, and such authorization may be general or confined to specific instances.

Section 7.2**Deposits.** All funds of the Corporation not otherwise employed shall be deposited from time to time to its credit in such banks or trust companies or with such bankers or other depositories as the Board of Directors may select, or as may be selected by any officer or officers or agent or agents authorized to do so by the Board of Directors. Endorsements for deposit to the credit of the Corporation in any of its duly authorized depositories shall be made in such manner as the Board of Directors may from time to time determine.

Section 7.3**Checks, Drafts, Etc.** All checks, drafts or other orders for the payment of money, and all notes or other evidences of indebtedness issued in the name of the Corporation, shall be signed by such officer or officers or agent or agents of the Corporation, and in such manner, as from time to time shall be determined by the Board of Directors.

Section 7.4**Proxies.** Proxies to vote with respect to shares of stock of other corporations owned by or standing in the name of the Corporation may be executed and delivered from time to time on behalf of the Corporation by the Chief Executive Officer (if any), the President, any Vice President, the Secretary or any other person or persons thereunto authorized by the Board of Directors.

ARTICLE VIII

STOCK

Section 8.1**Form and Execution of Certificates.** The shares of capital stock of the Corporation shall be represented by certificates in the form approved by the Board of Directors from time to time. The certificates shall be signed by, or in the name of the Corporation by, (a) the President or any Vice President, and (b) the Secretary, any Assistant Secretary, the Treasurer or any Assistant Treasurer. Any or all of the signatures on the certificates may be facsimile

signatures. In case any officer, transfer agent or registrar who has signed or whose facsimile signature has been placed upon such certificate shall have ceased to be such officer, transfer agent or registrar before such certificate is issued, it may be issued by the Corporation with the same effect as if he were such officer, transfer agent or registrar at the date of issue.

Section 8.2**Regulations**. The Board of Directors may make such rules and regulations consistent with any governing statute as it may deem expedient concerning the issuance, transfer and registration of certificates of stock and concerning certificates of stock issued, transferred or registered in lieu or replacement of any lost, stolen, destroyed or mutilated certificates of stock.

Section 8.3**Transfer Agent and Registrar**. The Board of Directors may appoint one or more transfer agents and one or more registrars of transfers for any or all classes of the capital stock of the Corporation, and may require stock certificates of any or all classes to bear the signature of either or both.

ARTICLE IX

CORPORATE SEAL

The Board of Directors may provide a corporate seal, circular in form, bearing the name of the Corporation and words and figures denoting its organization under the laws of the State of Delaware and the year thereof, and otherwise shall be in such form as shall be approved from time to time by the Board of Directors.

ARTICLE X

FISCAL YEAR

The fiscal year of the Corporation shall end on the Saturday closest to December 31 in each year or such other day as the Board of Directors may determine from time to time by resolution.

ARTICLE XI

AMENDMENTS

In furtherance and not in limitation of the powers conferred by law, the Board of Directors shall have the power to alter, amend or repeal these By-laws or adopt new By-laws by the affirmative vote of a majority of all directors at any regular or special meeting of the Board of Directors called for that purpose.

ARTICLE XII

SEVERABILITY

If any provision of these By-laws is held to be illegal, invalid or unenforceable under any present or future law, such provision shall be fully separable, and these By-laws shall be construed and enforced as if such illegal, invalid or unenforceable provision had never comprised a part hereof, the remaining provisions of these By-laws shall remain in full force and effect and shall not be affected by the illegal, invalid or unenforceable provision or by its severance herefrom. Notwithstanding the foregoing, if any provision or provisions of these By-laws shall

be held to be invalid, illegal or unenforceable, but only as applied to any person or entity or specific circumstance, then, to the fullest extent permitted by law, the validity, legality and enforceability of such provisions in any other circumstance and the application of such provision to other persons or entities shall not in any way be affected or impaired thereby.

Published CUSIP Number:
Revolving Credit CUSIP Number:

CREDIT AGREEMENT

Dated as of September 30, 2022

among

TRACTOR SUPPLY COMPANY,
as Borrower,

THE SEVERAL LENDERS
FROM TIME TO TIME PARTY HERETO,
as Lenders,

WELLS FARGO BANK, NATIONAL ASSOCIATION,
as Administrative Agent,

REGIONS BANK
and
FIFTH THIRD BANK, NATIONAL ASSOCIATION,
as Co-Syndication Agents,

TRUIST BANK
and
U.S. BANK NATIONAL ASSOCIATION,
as Co-Documentation Agents,

and

WELLS FARGO SECURITIES, LLC,
REGIONS CAPITAL MARKETS, A DIVISION OF REGIONS BANK,
and
FIFTH THIRD BANK, NATIONAL ASSOCIATION,
as Joint Lead Arrangers and Bookrunners

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CREDIT AGREEMENT

THIS CREDIT AGREEMENT, dated as of September 30, 2022 (as amended, modified, restated or supplemented from time to time, the “Credit Agreement”), is by and among TRACTOR SUPPLY COMPANY, a Delaware corporation (the “Borrower”), the Lenders (as defined herein) and WELLS FARGO BANK, NATIONAL ASSOCIATION, as Administrative Agent for the Lenders (in such capacity, the “Administrative Agent”).

RECITALS

WHEREAS, the Borrower has requested, and subject to the terms and conditions set forth in this Credit Agreement, the Administrative Agent and the Lenders have agreed to extend, certain credit facilities to the Borrower.

NOW, THEREFORE, in consideration of these premises and the mutual covenants and agreements contained herein, the receipt and sufficiency of which are hereby acknowledged, the parties hereto covenant and agree as follows:

ARTICLE I.

DEFINITIONS

1.1 Definitions.

As used in this Credit Agreement, the following terms shall have the meanings specified below unless the context otherwise requires:

“2017 Note Purchase Agreement” means that certain Note Purchase and Private Shelf Agreement, dated August 14, 2017, among the Borrower and the noteholders party thereto, as such agreement may be amended, restated, supplemented, extended, renewed, replaced or otherwise modified from time to time thereafter

“2020 Bond Indenture” means that certain Indenture, dated as of October 30, 2020, executed by the Borrower and the trustee named therein, as such Indenture may be amended, restated, supplemented, extended, renewed, replaced or otherwise modified from time to time thereafter.

“Acceptance Credit” means a commercial Letter of Credit in which an Issuing Lender engages with the beneficiary of such Letter of Credit to accept a time draft. Acceptance Credits shall be denominated in Dollars.

“Acceptance Documents” means such general acceptance agreements, applications, certificates and other documents as an Issuing Lender may require in connection with the creation of Bankers’ Acceptances.

“Accounting Changes” shall have the meaning assigned to such term in Section 1.3.

“Act” shall have the meaning assigned to such term in Section 10.16.

“Adjusted Base Rate” means the Base Rate plus the Applicable Rate.

“Adjusted Term SOFR” means, for purposes of any calculation, the rate per annum equal to (a) Term SOFR for such calculation plus (b) the Term SOFR Adjustment; provided that if Adjusted Term SOFR as so determined shall ever be less than the Floor, then Adjusted Term SOFR shall be deemed to be the Floor.

“Administrative Agent” shall have the meaning assigned to such term in the heading hereof, together with any successors or assigns.

“Administrative Questionnaire” means an Administrative Questionnaire in a form supplied by the Administrative Agent.

“Affected Financial Institution” means (a) any EEA Financial Institution or (b) any UK Financial Institution.

“Affiliate” means, with respect to any Person, any other Person directly or indirectly controlling or controlled by or under direct or indirect common control with such Person. For purposes of this definition, “control” when used with respect to any Person means the power to direct the management and policies of such Person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise; and the terms “controlling” and “controlled” have meanings correlative to the foregoing.

“Alternative Currency” means, with respect to Letters of Credit, each currency (other than Dollars) that is approved in accordance with Section 1.6.

“Alternative Currency Equivalent” means, at any time, with respect to any amount denominated in Dollars, the equivalent amount thereof in the applicable Alternative Currency as determined by the Administrative Agent or an Issuing Lender, as the case may be, at such time on the basis of the Spot Rate (determined in respect of the most recent Revaluation Date) for the purchase of such Alternative Currency with Dollars.

“Anti-Corruption Laws” means all laws, rules, and regulations of any jurisdiction applicable to the Borrower or its Subsidiaries from time to time concerning or relating to bribery or corruption, including, without limitation, the United States Foreign Corrupt Practices Act of 1977, as amended, and the rules and regulations thereunder, and the U.K. Bribery Act 2010, as amended, and the rules and regulations thereunder.

“Applicable Lending Office” means, for each Lender, the office of such Lender (or of an Affiliate of such Lender) as such Lender may from time to time specify to the Administrative Agent and the Borrower by written notice as the office by which its SOFR Loans are made and maintained.

“Applicable Percentage” means with respect to any Lender at any time, (a) with respect to such Lender’s Revolving Commitment at any time, the percentage (carried out to the ninth decimal place) of the Revolving Committed Amount represented by such Lender’s Revolving Commitment at such time; provided that if the commitment of each Lender to make Revolving Loans and the obligation of the Issuing Lenders to issue, amend or extend Letters of Credit have been terminated pursuant to Section 8.2 or if the Revolving Commitments have expired, then the Applicable Percentage of each Lender shall be determined based on the Applicable Percentage of such Lender most recently in effect, giving effect to any subsequent assignments and (b) with respect to such Lender’s portion of an outstanding Incremental Term Loan at any time, the percentage of the outstanding principal amount of such Incremental Term Loan held by such Lender at such time. The initial Applicable Percentage of each Lender is set forth opposite the name of such Lender on Schedule 2.1 or in the Assignment and Assumption or other documentation pursuant to which such Lender becomes a party hereto, as applicable. The Applicable Percentages shall be subject to adjustment as provided in Section 3.18.

“Applicable Rate” means (a) with respect to an Incremental Term Loan, the percentage(s) per annum set forth in the applicable Incremental Term Loan Agreement and (b), for purposes of calculating the applicable interest rate for any day for any Revolving Loan, the applicable rate for any day for any Swingline Loan, the applicable rate of the Unused Fee for any day for purposes of Section 3.5(a), the applicable rate of the Standby Letter of Credit Fee for any day for purposes of Section 3.5(b)(i) or the applicable rate for the Trade Letter of Credit Fee for any day for purposes of Section 3.5(b)(ii), the applicable percentage, set forth in the table below, corresponding to the long term senior unsecured, non-credit enhanced debt rating (the “Debt Rating”) of the Borrower by S&P and Moody’s in effect from time to time:

Pricing Level	Debt Rating	Interest Margin for SOFR Loans	Interest Margin for Base Rate Loans	Unused Fee	Standby Letter of Credit Fees	Trade Letter of Credit Fees
I	≥ A/A2	0.750%	0.000%	0.080%	0.750%	0.250%
II	A- / A3	0.875%	0.000%	0.090%	0.875%	0.250%
III	BBB+ / Baa1	1.000%	0.000%	0.100%	1.000%	0.250%
IV	BBB / Baa2	1.125%	0.125%	0.125%	1.125%	0.250%
V	≤ BBB- / Baa3	1.250%	0.250%	0.150%	1.250%	0.250%

The Applicable Rate shall be determined and adjusted on the date (each, a “Calculation Date”) one Business Day after the date on which the Borrower’s Debt Rating is upgraded or downgraded in a manner which requires a change in the then applicable Pricing Level set forth above. If at any time there is a split in the Borrower’s Debt Ratings between S&P and Moody’s, the Applicable Rate shall be determined by the higher of the two Debt Ratings (i.e., the lower pricing), provided that if the two Debt Ratings are more than one level apart, the Applicable Rate shall be based on the Debt Rating which is one level lower than the higher rating. If the Borrower does not have a Debt Rating from either S&P or Moody’s, then, Pricing Level V shall apply. Each Applicable Rate shall be effective from one Calculation Date until the next Calculation Date. Any adjustment in the Applicable Rate shall be applicable to all existing Loans as well as any new Loans made. The applicable Pricing Level for Applicable Rate, as of the Closing Date, is Pricing Level III.

“Approved Fund” means any Fund that is administered or managed by (i) a Lender, (ii) an Affiliate of a Lender or (iii) an entity or an Affiliate of an entity that administers or manages a Lender.

“Approving Lenders” shall have the meaning assigned to such term in Section 3.19(b).

“Arrangers” means Wells Fargo Securities, LLC, Regions Capital Markets, a division of Regions Bank, and Fifth Third Bank, National Association, in their capacities as joint lead arrangers and bookrunners.

“Assignee Group” means two or more Eligible Assignees that are Affiliates of one another or two or more Approved Funds managed by the same investment advisor.

“Assignment and Assumption” means an assignment and assumption entered into by a Lender and an assignee (with the consent of any party whose consent is required by Section 10.3(b)), and accepted by the Administrative Agent, in substantially the form of Exhibit 10.3 or any other form approved by the Administrative Agent.

“Available Tenor” means, as of any date of determination and with respect to the then-current Benchmark, as applicable, (a) if such Benchmark is a term rate, any tenor for such Benchmark (or component thereof) that is or may be used for determining the length of an interest period pursuant to this Credit Agreement or (b) otherwise, any payment period for interest calculated with reference to such Benchmark (or component thereof) that is or may be used for determining any frequency of making

payments of interest calculated with reference to such Benchmark, in each case, as of such date and not including, for the avoidance of doubt, any tenor for such Benchmark that is then-removed from the definition of “Interest Period” pursuant to Section 3.7(c)(iv).

“Bail-In Action” means the exercise of any Write-Down and Conversion Powers by the applicable Resolution Authority in respect of any liability of an Affected Financial Institution.

“Bail-In Legislation” means, (a) with respect to any EEA Member Country implementing Article 55 of Directive 2014/59/EU of the European Parliament and of the Council of the European Union, the implementing law, rule, regulation or requirement for such EEA Member Country from time to time which is described in the EU Bail-In Legislation Schedule, and (b) with respect to the United Kingdom, Part I of the United Kingdom Banking Act 2009 (as amended from time to time) and any other law, regulation or rule applicable in the United Kingdom relating to the resolution of unsound or failing banks, investment firms or other financial institutions or their affiliates (other than through liquidation, administration or other insolvency proceedings).

“Bankers’ Acceptance” means a time draft, drawn by the beneficiary under an Acceptance Credit and accepted by an Issuing Lender upon presentation of documents by the beneficiary of an Acceptance Credit pursuant to Section 2.2, in the standard form for bankers’ acceptances of such Issuing Lender. Bankers’ Acceptances shall be denominated in Dollars.

“Bankruptcy Code” means the Bankruptcy Code in Title 11 of the United States Code, as amended, modified, succeeded or replaced from time to time.

“Bankruptcy Event” means, with respect to any Person, the occurrence of any of the following with respect to such Person: (i) a court or governmental agency having jurisdiction in the premises shall enter a decree or order for relief in respect of such Person in an involuntary case under any applicable bankruptcy, insolvency or other similar law now or hereafter in effect, or appointing a receiver, liquidator, assignee, custodian, trustee, sequestrator (or similar official) of such Person or for any substantial part of its Property or ordering the winding up or liquidation of its affairs; or (ii) there shall be commenced against such Person an involuntary case under any applicable bankruptcy, insolvency or other similar law now or hereafter in effect, or any case, proceeding or other action for the appointment of a receiver, liquidator, assignee, custodian, trustee, sequestrator (or similar official) of such Person or for any substantial part of its Property or for the winding up or liquidation of its affairs, and such involuntary case or other case, proceeding or other action shall remain undismissed, undischarged or unbonded for a period of sixty (60) consecutive days; or (iii) such Person shall commence a voluntary case under any applicable bankruptcy, insolvency or other similar law now or hereafter in effect, or consent to the entry of an order for relief in an involuntary case under any such law, or consent to the appointment or taking possession by a receiver, liquidator, assignee, custodian, trustee, sequestrator (or similar official) of such Person or for any substantial part of its Property or make any general assignment for the benefit of creditors; or (iv) such Person shall admit in writing its inability to pay its debts generally as they become due.

“Base Rate” means, at any time, the highest of (a) the Prime Rate, (b) the Federal Funds Rate plus 0.50% and (c) Adjusted Term SOFR for a one-month tenor in effect on such day plus 1%; each change in the Base Rate shall take effect simultaneously with the corresponding change or changes in the Prime Rate, the Federal Funds Rate or Adjusted Term SOFR, as applicable (provided that clause (c) shall not be applicable during any period in which Adjusted Term SOFR is unavailable or unascertainable). Notwithstanding the foregoing, in no event shall the Base Rate be less than 0%.

“Base Rate Loan” means any Loan bearing interest at a rate determined by reference to the Base Rate.

“Benchmark” means, initially, the Term SOFR Reference Rate; provided that if a Benchmark Transition Event has occurred with respect to the Term SOFR Reference Rate or the then-current Benchmark, then “Benchmark” means the applicable Benchmark Replacement to the extent that such Benchmark Replacement has replaced such prior benchmark rate pursuant to Section 3.7(c)(i).

“Benchmark Replacement” means, with respect to any Benchmark Transition Event, the sum of: (a) the alternate benchmark rate that has been selected by the Administrative Agent and the Borrower giving due consideration to (i) any selection or recommendation of a replacement benchmark rate or the mechanism for determining such a rate by the Relevant Governmental Body or (ii) any evolving or then-prevailing market convention for determining a benchmark rate as a replacement to the then-current Benchmark for Dollar-denominated syndicated credit facilities and (b) the related Benchmark Replacement Adjustment; provided that, if such Benchmark Replacement as so determined would be less than the Floor, such Benchmark Replacement will be deemed to be the Floor for the purposes of this Credit Agreement and the other Credit Documents.

“Benchmark Replacement Adjustment” means, with respect to any replacement of the then-current Benchmark with an Unadjusted Benchmark Replacement for any applicable Available Tenor, the spread adjustment, or method for calculating or determining such spread adjustment, (which may be a positive or negative value or zero) that has been selected by the Administrative Agent and the Borrower giving due consideration to (a) any selection or recommendation of a spread adjustment, or method for calculating or determining such spread adjustment, for the replacement of such Benchmark with the applicable Unadjusted Benchmark Replacement by the Relevant Governmental Body or (b) any evolving or then-prevailing market convention for determining a spread adjustment, or method for calculating or determining such spread adjustment, for the replacement of such Benchmark with the applicable Unadjusted Benchmark Replacement for Dollar-denominated syndicated credit facilities.

“Benchmark Replacement Date” means the earliest to occur of the following events with respect to the then-current Benchmark:

(a) in the case of clause (a) or (b) of the definition of “Benchmark Transition Event,” the later of (i) the date of the public statement or publication of information referenced therein and (ii) the date on which the administrator of such Benchmark (or the published component used in the calculation thereof) permanently or indefinitely ceases to provide all Available Tenors of such Benchmark (or such component thereof); or

(b) in the case of clause (c) of the definition of “Benchmark Transition Event,” the first date on which all Available Tenors of such Benchmark (or the published component used in the calculation thereof) have been determined and announced by the regulatory supervisor for the administrator of such Benchmark (or such component thereof) to be non-representative; provided that such non-representativeness will be determined by reference to the most recent statement or publication referenced in such clause (c) and even if any Available Tenor of such Benchmark (or such component thereof) continues to be provided on such date.

For the avoidance of doubt, the “Benchmark Replacement Date” will be deemed to have occurred in the case of clause (a) or (b) with respect to any Benchmark upon the occurrence of the applicable event or events set forth therein with respect to all then-current Available Tenors of such Benchmark (or the published component used in the calculation thereof).

“Benchmark Transition Event” means the occurrence of one or more of the following events with respect to the then-current Benchmark:

(a) a public statement or publication of information by or on behalf of the administrator of such Benchmark (or the published component used in the calculation thereof) announcing that such administrator has ceased or will cease to provide all Available Tenors of such Benchmark (or such component thereof), permanently or indefinitely; provided that, at the time of such statement or publication, there is no successor administrator that will continue to provide any Available Tenor of such Benchmark (or such component thereof);

(b) a public statement or publication of information by the regulatory supervisor for the administrator of such Benchmark (or the published component used in the calculation thereof), the FRB, the Federal Reserve Bank of New York, an insolvency official with jurisdiction over the administrator for such Benchmark (or such component), a resolution authority with jurisdiction over the administrator for such Benchmark (or such component) or a

court or an entity with similar insolvency or resolution authority over the administrator for such Benchmark (or such component), which states that the administrator of such Benchmark (or such component) has ceased or will cease to provide all Available Tenors of such Benchmark (or such component thereof) permanently or indefinitely; provided that, at the time of such statement or publication, there is no successor administrator that will continue to provide any Available Tenor of such Benchmark (or such component thereof); or

(c) a public statement or publication of information by the regulatory supervisor for the administrator of such Benchmark (or the published component used in the calculation thereof) announcing that all Available Tenors of such Benchmark (or such component thereof) are not, or as of a specified future date will not be, representative.

For the avoidance of doubt, a “Benchmark Transition Event” will be deemed to have occurred with respect to any Benchmark if a public statement or publication of information set forth above has occurred with respect to each then-current Available Tenor of such Benchmark (or the published component used in the calculation thereof).

“Benchmark Transition Start Date” means, in the case of a Benchmark Transition Event, the earlier of (a) the applicable Benchmark Replacement Date and (b) if such Benchmark Transition Event is a public statement or publication of information of a prospective event, the 90th day prior to the expected date of such event as of such public statement or publication of information (or if the expected date of such prospective event is fewer than 90 days after such statement or publication, the date of such statement or publication).

“Benchmark Unavailability Period” means the period (if any) (x) beginning at the time that a Benchmark Replacement Date has occurred if, at such time, no Benchmark Replacement has replaced the then-current Benchmark for all purposes hereunder and under any Credit Document in accordance with Section 3.7(c)(i), and (y) ending at the time that a Benchmark Replacement has replaced the then-current Benchmark for all purposes hereunder and under any Credit Document in accordance with Section 3.7(c)(i).

“Beneficial Ownership Certification” means a certification regarding beneficial ownership as required by the Beneficial Ownership Regulation.

“Beneficial Ownership Regulation” means 31 CFR § 1010.230.

“Benefit Plan” means any of (a) an “employee benefit plan” (as defined in ERISA) that is subject to Title I of ERISA, (b) a “plan” as defined in and subject to Section 4975 of the Code or (c) any Person whose assets include (for purposes of ERISA Section 3(42) or otherwise for purposes of Title I of ERISA or Section 4975 of the Code) the assets of any such “employee benefit plan” or “plan”.

“Borrower” means the Person identified as such in the heading hereof, together with any permitted successors and assigns.

“Borrower Materials” shall have the meaning assigned to such term in Section 6.1.

“Business Day” means any day that (a) is not a Saturday, Sunday or other day on which the Federal Reserve Bank of New York is closed and (b) is not a day on which commercial banks in Charlotte, North Carolina or Nashville, Tennessee are closed.

“Calculation Date” has the meaning set forth in the definition of “Applicable Rate”.

“Capital Lease” means, as applied to any Person, any lease of any Property (whether real, personal or mixed) by that Person as lessee which, in accordance with GAAP, is or should be accounted for as a capital lease on the balance sheet of that Person.

“Capital Stock” means (i) in the case of a corporation, capital stock, (ii) in the case of an association or business entity, any and all shares, interests, participations, rights or other equivalents (however designated) of capital stock, (iii) in the case of a partnership, partnership interests (whether general or limited), (iv) in the case of a limited liability company, membership interests and (v) any other interest or participation that confers on a Person (other than a corporation) the right to receive a share of the profits and losses of, or distributions of assets of, the issuing Person.

“Captive Insurance Subsidiary” means a Subsidiary of the Borrower (or any Subsidiary of any holding company established in accordance with Section 7.4(c)) established for the sole purpose of insuring the business and properties owned by the Borrower and its Subsidiaries.

“Cash Collateralize” means to pledge and deposit with or deliver to the Administrative Agent, for the benefit of the Administrative Agent, the Issuing Lenders or the Swingline Lender (as applicable) and the Lenders, as collateral for LOC Obligations, Obligations in respect of Swingline Loans, or obligations of Lenders to fund participations in respect of either thereof (as the context may require), cash or deposit account balances or, if an Issuing Lender or the Swingline Lender benefitting from such collateral shall agree in its sole discretion, other credit support, in each case pursuant to documentation in form and substance reasonably satisfactory to (a) the Administrative Agent and (b) such Issuing Lender or the Swingline Lender (as applicable). “Cash Collateral” shall have a meaning correlative to the foregoing and shall include the proceeds of such cash collateral and other credit support.

“Change in Law” means the occurrence, after the Closing Date, of any of the following: (a) the adoption or taking effect of any law, rule, regulation or treaty, (b) any change in any law, rule, regulation or treaty or in the administration, interpretation, implementation or application thereof by any Governmental Authority or (c) the making or issuance of any request, rule, guideline or directive (whether or not having the force of law) by any Governmental Authority; provided that notwithstanding anything herein to the contrary, (x) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines or directives thereunder or issued in connection therewith and (y) all requests, rules, guidelines or directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States regulatory authorities, in each case pursuant to Basel III, shall in each case be deemed to be a “Change in Law”, regardless of the date enacted, adopted or issued.

“Change of Control” means the occurrence of any of the following events: (a) any Person or two or more Persons acting in concert shall have acquired “beneficial ownership,” directly or indirectly, of, or shall have acquired by contract or otherwise, or shall have entered into a contract or arrangement that, upon consummation, will result in its or their acquisition of, control over, Voting Stock of the Borrower (or other securities convertible into such Voting Stock) representing 50% or more of the combined voting power of all Voting Stock of the Borrower, (b) a majority of the members of the Board of Directors of the Borrower cease to be Continuing Directors or (c) a change of control under the 2017 Note Purchase Agreement or the 2020 Bond Indenture; provided, that if a new holding company is established in accordance with Section 7.4(c), (i) the references to “the Borrower” in the foregoing clauses (a) and (b) shall be deemed to refer to the new holding company and (ii) the failure of the new holding company to own and control, directly or indirectly, 100% of the Voting Stock of the Borrower shall constitute a “Change of Control” hereunder.

“Closing Date” means September 30, 2022.

“Code” means the Internal Revenue Code of 1986, as amended, and any successor statute thereto, as interpreted by the rules and regulations issued thereunder, in each case as in effect from time to time. References to sections of the Code shall be construed also to refer to any successor sections.

“Commitment” means the Revolving Commitment of such Lender and/or the Incremental Term Loan Commitment of such Lender.

“Commodity Exchange Act” means the Commodity Exchange Act (7 U.S.C. § 1 *et seq.*).

“Conforming Changes” means, with respect to either the use or administration of Term SOFR or the use, administration, adoption or implementation of any Benchmark Replacement, any technical, administrative or operational changes (including changes to the definition of “Base Rate,” the definition of “Business Day,” the definition of “U.S. Government Securities Business Day,” the definition of “Interest Period” or any similar or analogous definition (or the addition of a concept of “interest period”), timing and frequency of determining rates and making payments of interest, timing of borrowing requests or prepayment, conversion or continuation notices, the applicability and length of lookback periods, the applicability of Section 3.12 and other technical, administrative or operational matters) that the Administrative Agent decides, in consultation with the Borrower, may be appropriate to reflect the adoption and implementation of any such rate or to permit the use and administration thereof by the Administrative Agent in a manner substantially consistent with market practice (or, if the Administrative Agent decides that adoption of any portion of such market practice is not administratively feasible or if the Administrative Agent determines that no market practice for the administration of any such rate exists, in such other manner of administration as the Administrative Agent decides, in consultation with the Borrower, is reasonably necessary in connection with the administration of this Credit Agreement and the other Credit Documents).

“Consolidated EBITDA” means, for any period, the sum of (a) Consolidated Net Income for such period, plus (b) an amount which, in the determination of Consolidated Net Income for such period, has been deducted for (i) Consolidated Interest Expense, (ii) total federal, state, local and foreign income, value added and similar taxes, (iii) depreciation and amortization expense, (iv) non-cash stock-based compensation expenses, (v) non-cash straight line rent expense and (vi) other non-recurring, non-cash expenses (excluding any non-cash expense to the extent that it represents an accrual of or reserve for cash expenses in any future period), all as determined in accordance with GAAP.

“Consolidated EBITDAR” means, for any period, the sum of (a) Consolidated EBITDA for such period, plus (b) Consolidated Rental Expense for such period.

“Consolidated Interest Expense” means, for any period, all interest expense (including the interest component under Capital Leases and Synthetic Leases but excluding accrued interest expense associated with any Capital Lease or other obligations or liabilities arising from Permitted Government Revenue Bond Indebtedness to the extent the Borrower or a Subsidiary is the holder of the related bonds) of the Consolidated Parties on a consolidated basis for such period, as determined in accordance with GAAP. For purposes of clarification, the implied interest component under Synthetic Leases shall be considered interest expense for purposes of this definition.

“Consolidated Net Income” means, for any period, net income (excluding (a) extraordinary gains (b) other non-recurring gains and losses and (c) interest income associated with any Capital Lease or other obligations or liabilities arising from Permitted Government Revenue Bond Indebtedness to the extent the Borrower or a Subsidiary is the holder of the related bonds) after taxes for such period of the Consolidated Parties on a consolidated basis, as determined in accordance with GAAP.

“Consolidated Parties” means a collective reference to the Borrower and its Subsidiaries, and “Consolidated Party” means any one of them.

“Consolidated Rental Expense” means, for any period, cash rental expense under Operating Leases (excluding any Synthetic Lease) of the Consolidated Parties on a consolidated basis for such period, as determined in accordance with GAAP.

“Consolidated Tangible Assets” means, as of any date of determination, all assets of the Consolidated Parties on a consolidated basis as of such date minus all intangible assets of the Consolidated Parties on a consolidated basis as of such date, all as determined in accordance with GAAP.

“Continuing Director” means, as of any date of determination, any member of the Board of Directors of the Borrower who (a) was a member of the same Board of Directors on the Closing Date or (b) was nominated, appointed or approved for election or elected to such Board of Directors with the approval of a majority of the Continuing Directors who were members of such Board of Directors at the time of such nomination, appointment, approval or election; provided, that if a new holding company is

established in accordance with Section 7.4(c), the references to “the Borrower” in the foregoing definition shall be deemed to refer to the new holding company, except that clause (a) shall be deemed to refer to the Board of Directors of the Borrower on the Closing Date.

“Credit Documents” means a collective reference to this Credit Agreement, the Notes, the LOC Documents, each Incremental Term Loan Agreement, the Fee Letters and all other related agreements and documents issued or delivered hereunder or thereunder or pursuant hereto or thereto (in each case as the same may be amended, modified, restated, supplemented, extended, renewed or replaced from time to time), and “Credit Document” means any one of them.

“Debt Rating” has the meaning set forth in the definition of “Applicable Rate”.

“Debtor Relief Laws” means the Bankruptcy Code, and all other liquidation, conservatorship, bankruptcy, assignment for the benefit of creditors, moratorium, rearrangement, receivership, insolvency, reorganization, or similar debtor relief laws of the United States or other applicable jurisdictions from time to time in effect and affecting rights of creditors generally.

“Default” means any event, act or condition which with notice or lapse of time, or both, would constitute an Event of Default.

“Defaulting Lender” means, subject to Section 3.18(b), any Lender that, as reasonably determined by the Administrative Agent, (a) has failed to perform any of its funding obligations hereunder, including in respect of its Loans or Participation Interests in respect of Letters of Credit or Swingline Loans, within three Business Days of the date required to be funded by it hereunder, unless such Lender notifies the Administrative Agent and the Borrower in writing that such failure is the result of such Lender’s determination that one or more conditions precedent to funding (each of which conditions precedent, together with any applicable default, shall be specifically identified in such writing) has not been satisfied (b) has notified the Borrower or the Administrative Agent that it does not intend to comply with its prospective funding obligations hereunder or has made a public statement to that effect with respect to its prospective funding obligations hereunder or under other agreements in which it commits to extend credit, (c) has failed, within one Business Day after request by the Administrative Agent, to confirm in a manner satisfactory to the Administrative Agent that it will comply with its funding obligations unless such Lender notifies the Administrative Agent and the Borrower in writing that such failure is the result of such Lender’s determination that one or more conditions precedent to funding (each of which conditions precedent, together with any applicable default, shall be specifically identified in such writing) has not been satisfied, or (d) has, or has a direct or indirect parent company that has, (i) become the subject of a proceeding under any bankruptcy or insolvency law, (ii) had a receiver, conservator, trustee, administrator, assignee for the benefit of creditors or similar Person charged with reorganization or liquidation of its business or a custodian appointed for it, including the Federal Deposit Insurance Corporation or any other state or federal regulatory authority acting in such a capacity, (iii) become the subject of a Bail-In Action; or (iv) taken any action in furtherance of, or indicated its consent to, approval of or acquiescence in any such proceeding or appointment; provided that a Lender shall not be a Defaulting Lender solely by virtue of the ownership or acquisition of any equity interest in that Lender or any direct or indirect parent company thereof by a Governmental Authority.

“Dollar Equivalent” means, at any time, (a) with respect to any amount denominated in Dollars, such amount, and (b) with respect to any amount denominated in any Alternative Currency, the equivalent amount thereof in Dollars as determined by the Administrative Agent or an Issuing Lender, as the case may be, at such time on the basis of the Spot Rate (determined in respect of the most recent Revaluation Date) for the purchase of Dollars with such Alternative Currency.

“Dollars” and “\$” means dollars in lawful currency of the United States.

“EEA Financial Institution” means (a) any credit institution or investment firm established in any EEA Member Country which is subject to the supervision of an EEA Resolution Authority, (b) any entity established in an EEA Member Country which is a parent of an institution described in clause (a) of this definition, or (c) any financial institution established in an EEA Member Country which is a subsidiary of

an institution described in clauses (a) or (b) of this definition and is subject to consolidated supervision with its parent.

“EEA Member Country” means any of the member states of the European Union, Iceland, Liechtenstein, and Norway.

“EEA Resolution Authority” means any public administrative authority or any Person entrusted with public administrative authority of any EEA Member Country (including any delegatee) having responsibility for the resolution of any EEA Financial Institution.

“Electronic Record” has the meaning assigned to that term in, and shall be interpreted in accordance with, 15 U.S.C. 7006, as it may be amended from time to time.

“Electronic Signature” has the meaning assigned to that term in, and shall be interpreted in accordance with, 15 U.S.C. 7006, as it may be amended from time to time.

“Eligible Assignee” means any Person that meets the requirements to be an assignee under Sections 10.3(b)(iii) and (b)(v) (subject to such consents, if any, as may be required under Section 10.3(b)(iii)).

“Environmental Laws” means any and all lawful and applicable federal, state, local and foreign statutes, laws, regulations, ordinances, rules, judgments, orders, decrees, permits, concessions, grants, franchises, licenses, agreements or other governmental restrictions relating to the environment or to emissions, discharges, releases or threatened releases of pollutants, contaminants, chemicals, or industrial, toxic or hazardous substances or wastes into the environment including, without limitation, ambient air, surface water, ground water, or land, or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport, or handling of pollutants, contaminants, chemicals, or industrial, toxic or hazardous substances or wastes.

“ERISA” means the Employee Retirement Income Security Act of 1974, as amended, and any successor statute thereto, as interpreted by the rules and regulations thereunder, all as the same may be in effect from time to time. References to sections of ERISA shall be construed also to refer to any successor sections.

“ERISA Affiliate” means an entity which is under common control with any Consolidated Party within the meaning of Section 4001(a) (14) of ERISA, or is a member of a group which includes any Consolidated Party and which is treated as a single employer under Sections 414(b) or (c) of the Code.

“ERISA Event” means (i) with respect to any Single Employer Plan, the occurrence of a Reportable Event or the substantial cessation of operations (within the meaning of Section 4062(e) of ERISA); (ii) the withdrawal by any Consolidated Party or any ERISA Affiliate from a Multiple Employer Plan during a plan year in which it was a substantial employer (as such term is defined in Section 4001(a)(2) of ERISA), or the termination of a Multiple Employer Plan; (iii) the distribution of a notice of intent to terminate or the actual termination of a Single Employer Plan pursuant to Section 4041(a)(2) or 4041A of ERISA; (iv) the institution of proceedings to terminate or the actual termination of a Single Employer Plan by the PBGC under Section 4042 of ERISA; (v) any event or condition which might constitute grounds under Section 4042 of ERISA for the termination of, or the appointment of a trustee to administer, any Single Employer Plan; (vi) the complete or partial withdrawal of any Consolidated Party or any ERISA Affiliate from a Multiemployer Plan; (vii) the conditions for imposition of a lien under Section 302(f) of ERISA exist with respect to any Single Employer Plan; or (viii) the adoption of an amendment to any Single Employer Plan requiring the provision of security to such Single Employer Plan pursuant to Section 307 of ERISA.

“Erroneous Payment” shall have the meaning assigned to such term in Section 9.10(a).

“Erroneous Payment Deficiency Assignment” shall have the meaning assigned to such term in Section 9.10(d).

“Erroneous Payment Impacted Class” shall have the meaning assigned to such term in Section 9.10(d).

“Erroneous Payment Return Deficiency” shall have the meaning assigned to such term in Section 9.10(d).

“EU Bail-In Legislation Schedule” means the EU Bail-In Legislation Schedule published by the Loan Market Association (or any successor Person), as in effect from time to time.

“Euro” and “EUR” mean the single currency of the Participating Member States.

“Event of Default” shall have the meaning assigned to such term in Section 8.1.

“Existing Credit Agreement” means that certain Amended and Restated Credit Agreement dated as of November 4, 2020 by and among the Borrower, the lenders from time to time party thereto and Wells Fargo, as administrative agent.

“Existing Letters of Credit” means the letters of credit described by letter of credit number, undrawn amount, name of beneficiary and date of expiry on Schedule L.1(a), attached hereto.

“FATCA” means Sections 1471 through 1474 of the Code, as of the Closing Date (or any amended or successor version that is substantively comparable and not materially more onerous to comply with), any current or future regulations or official interpretations thereof, any agreements entered into pursuant to Section 1471(b)(1) of the Code and any fiscal or regulatory legislation, rules or practices adopted pursuant to any intergovernmental agreement, treaty or convention among Governmental Authorities implementing such Sections of the Code.

“Federal Funds Rate” means, for any day, the rate per annum equal to the weighted average of the rates on overnight federal funds transactions with members of the Federal Reserve System, as published by the Federal Reserve Bank of New York on the Business Day next succeeding such day, provided that if such rate is not so published for any day which is a Business Day, the Federal Funds Rate for such day shall be the average of the quotation for such day on such transactions received by the Administrative Agent from three federal funds brokers of recognized standing selected by the Administrative Agent. Notwithstanding the foregoing, if the Federal Funds Rate shall be less than zero, such rate shall be deemed to be zero for purposes of this Credit Agreement.

“Fee Letters” mean (i) that certain letter agreement, dated as of September 8, 2022, among the Borrower, Wells Fargo and Wells Fargo Securities, LLC, (ii) that certain letter agreement, dated as of September 8, 2022, among the Borrower, Regions Bank and Regions Capital Markets, a division of Regions Bank and (iii) that certain letter agreement, dated as of September 8, 2022, between the Borrower and Fifth Third Bank, National Association.

“Fees” means all fees payable pursuant to Section 3.5.

“Fixed Charge Coverage Ratio” means, with respect to the Consolidated Parties on a consolidated basis, as of the end of each fiscal quarter of the Consolidated Parties for the twelve month period ending on such date, the ratio of (a) Consolidated EBITDAR for the applicable period to (b) the sum of (i) the cash portion of Consolidated Interest Expense for the applicable period plus (ii) Consolidated Rental Expense for the applicable period.

“Floor” means a rate of interest equal to 0%.

“Foreign Lender” shall have the meaning assigned to such term in Section 3.11(d).

“FRB” means the Board of Governors of the Federal Reserve System of the United States.

“Fronting Exposure” means, at any time there is a Defaulting Lender, (a) with respect to an Issuing Lender, such Defaulting Lender’s Applicable Percentage of the outstanding LOC Obligations other than LOC Obligations as to which such Defaulting Lender’s participation obligation has been reallocated to other Lenders or Cash Collateralized in accordance with the terms hereof, and (b) with respect to the Swingline Lender, such Defaulting Lender’s Applicable Percentage of Swingline Loans other than Swingline Loans as to which such Defaulting Lender’s participation obligation has been reallocated to other Lenders or Cash Collateralized in accordance with the terms hereof.

“Fund” means any Person (other than a natural person) that is (or will be) engaged in making, purchasing, holding or otherwise investing in commercial loans and similar extensions of credit in the ordinary course of its activities.

“Funded Indebtedness” means, with respect to any Person, without duplication, (a) all Indebtedness of such Person other than (i) Indebtedness of the types referred to in clause (e), (f), (g), (i), and (l) of the definition of “Indebtedness” set forth in this Section 1.1 and (ii) Permitted Government Revenue Bond Indebtedness to the extent the Borrower or a Subsidiary is the holder of the related bonds, (b) all Indebtedness of another Person of the type referred to in clause (a) above secured by (or for which the holder of such Funded Indebtedness has an existing right, contingent or otherwise, to be secured by) any Lien on, or payable out of the proceeds of production from, Property owned or acquired by such Person, whether or not the obligations secured thereby have been assumed, (c) all Guaranty Obligations of such Person with respect to Indebtedness of the type referred to in clause (a) above of another Person and (d) Indebtedness of the type referred to in clause (a) above of any partnership or unincorporated joint venture in which such Person is a general partner or a joint venturer.

“GAAP” means generally accepted accounting principles in the United States applied on a consistent basis and subject to the terms of Section 1.3.

“Governmental Authority” means any federal, state, local or foreign court or governmental agency, authority, instrumentality or regulatory body.

“Guaranty Obligations” means, with respect to any Person, without duplication, any obligations of such Person (other than endorsements in the ordinary course of business of negotiable instruments for deposit or collection) guaranteeing or intended to guarantee any Indebtedness of any other Person in any manner, whether direct or indirect, and including without limitation any obligation, whether or not contingent, (a) to purchase any such Indebtedness or any Property constituting security therefor, (b) to advance or provide funds or other support for the payment or purchase of any such Indebtedness or to maintain working capital, solvency or other balance sheet condition of such other Person (including without limitation keep well agreements, maintenance agreements, comfort letters or similar agreements or arrangements) for the benefit of any holder of Indebtedness of such other Person, (c) to lease or purchase Property, securities or services primarily for the purpose of assuring the holder of such Indebtedness, or (d) to otherwise assure or hold harmless the holder of such Indebtedness against loss in respect thereof. The amount of any Guaranty Obligation hereunder shall (subject to any limitations set forth therein) be deemed to be an amount equal to the outstanding principal amount (or maximum principal amount, if larger) of the Indebtedness in respect of which such Guaranty Obligation is made.

“Hedging Agreements” means (a) any and all rate swap transactions, basis swaps, credit derivative transactions, forward rate transactions, commodity swaps, commodity options, forward commodity contracts, equity or equity index swaps or options, bond or bond price or bond index swaps or options or forward bond or forward bond price or forward bond index transactions, interest rate options, forward foreign exchange transactions, cap transactions, floor transactions, collar transactions, currency swap transactions, cross-currency rate swap transactions, currency options, spot contracts, or any other similar transactions or any combination of any of the foregoing (including any options to enter into any of the foregoing), whether or not any such transaction is governed by or subject to any master agreement, and (b) any and all transactions of any kind, and the related confirmations, which are subject to the terms and conditions of, or governed by, any form of master agreement published by the International Swaps and Derivatives Association, Inc., any International Foreign Exchange Master Agreement, or any other master agreement.

“Honor Date” shall have the meaning assigned to such term in Section 2.2(c)(i).

“Illegality Notice” shall have the meaning assigned to such term in Section 3.7(b).

“Immaterial Subsidiary” means, as of any date of determination, any Subsidiary of the Borrower that (a)(i) does not have assets with a book value in excess of ten percent (10%) of the then current book value of all of the assets of the Consolidated Parties and (ii) together with any other Subsidiaries of the Borrower that are Immaterial Subsidiaries hereunder, does not have assets with a book value in excess of fifteen percent (15%) of the then current book value of all of the assets of the Consolidated Parties and (b)(i) does not have annual revenue in excess of ten percent (10%) of the annual revenue of the Consolidated Parties and (ii) together with any other Subsidiaries of the Borrower that are Immaterial Subsidiaries hereunder, does not have annual revenue in excess of fifteen percent (15%) of the annual revenue of the Consolidated Parties.

“Incremental Term Loan” shall have the meaning assigned to such term in Section 2.1(c).

“Incremental Term Loan Agreement” means, with respect to an Incremental Term Loan, a joinder agreement in substantially the form of Exhibit 3.4 or such other form as is satisfactory to the Administrative Agent and the Borrower, in each case as executed by the Borrower, one or more Lender(s) providing an Incremental Term Loan Commitment and the Administrative Agent.

“Incremental Term Loan Commitment” means, as to each Lender, its obligation to make its portion of an Incremental Term Loan to the Borrower pursuant to Section 2.1(c) in the principal amount set forth in the applicable Incremental Term Loan Agreement.

“Incremental Term Note” or “Incremental Term Notes” means the promissory notes of the Borrower in favor of each of the Lenders evidencing the Incremental Term Loan provided pursuant to Section 2.1(g), individually or collectively, as appropriate, as such promissory notes may be amended, modified, restated, supplemented, extended, renewed or replaced from time to time.

“Indebtedness” means, with respect to any Person, without duplication, (a) all obligations of such Person for borrowed money, (b) all obligations of such Person evidenced by bonds, debentures, notes or similar instruments, or upon which interest payments are customarily made, (c) all obligations of such Person under conditional sale or other title retention agreements relating to Property purchased by such Person (other than customary reservations or retentions of title under agreements with suppliers entered into in the ordinary course of business), (d) all obligations of such Person issued or assumed as the deferred purchase price of Property or services purchased by such Person (other than trade debt incurred in the ordinary course of business and due within six months of the incurrence thereof) which would appear as liabilities on a balance sheet of such Person, (e) all obligations of such Person under take-or-pay or similar arrangements or under commodities agreements, (f) all Indebtedness of others secured by (or for which the holder of such Indebtedness has an existing right, contingent or otherwise, to be secured by) any Lien on, or payable out of the proceeds of production from, Property owned or acquired by such Person, whether or not the obligations secured thereby have been assumed, (g) all Guaranty Obligations of such Person, (h) the principal portion of all obligations of such Person under Capital Leases, (i) all obligations of such Person under Hedging Agreements, (j) the maximum amount of all standby letters of credit issued or bankers’ acceptances facilities created for the account of such Person and, without duplication, all drafts drawn thereunder (to the extent unreimbursed), (k) the principal portion of all obligations of such Person under Synthetic Leases, (l) the Indebtedness of any partnership or unincorporated joint venture in which such Person is a general partner or a joint venturer, and (m) for purposes of Funded Indebtedness only, all obligations of such Person under operating leases listed on such Person’s balance sheet.

“Indemnified Party” has the meaning specified in Section 10.5(b).

“Interest Payment Date” means (a) as to Base Rate Loans or Swingline Loans, the first day of each calendar month for the immediately preceding calendar month, the date of repayment of principal of such Loan and the Maturity Date, and (b) as to SOFR Loans, the last day of each applicable Interest Period, the date of repayment of principal of such Loan and the Maturity Date, and in addition, where the

applicable Interest Period for a SOFR Loan is greater than three months, then also the date three months from the beginning of the Interest Period and each three months thereafter.

“Interest Period” means, as to any SOFR Loan, the period commencing on the date such SOFR Loan is disbursed or converted to or continued as a SOFR Loan and ending on the date one (1), three (3) or six (6) months thereafter, in each case as selected by the Borrower in its Notice of Borrowing or Notice of Extension/Continuation and subject to availability; provided that:

(a) the Interest Period shall commence on the date of advance of or conversion to any SOFR Loan and, in the case of immediately successive Interest Periods, each successive Interest Period shall commence on the date on which the immediately preceding Interest Period expires;

(b) if any Interest Period would otherwise expire on a day that is not a Business Day, such Interest Period shall expire on the next succeeding Business Day; provided that if any Interest Period would otherwise expire on a day that is not a Business Day but is a day of the month after which no further Business Day occurs in such month, such Interest Period shall expire on the immediately preceding Business Day;

(c) any Interest Period that begins on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the calendar month at the end of such Interest Period) shall end on the last Business Day of the relevant calendar month at the end of such Interest Period;

(d) no Interest Period shall extend beyond the Maturity Date;

(e) there shall be no more than twelve (12) Interest Periods in effect at any time; and

(f) no tenor that has been removed from this definition and not reinstated pursuant to Section 3.7(c)(iv), shall be available for specification in any Notice of Borrowing or Notice of Extension/Continuation.

“Investment” means (a) the acquisition (whether for cash, property, services, assumption of Indebtedness, securities or otherwise) of all or any substantial portion of the assets, Capital Stock, bonds, notes, debentures, partnership, joint ventures or other ownership interests or other securities of any Person or (b) any deposit with, or advance, loan or other extension of credit to, any Person (other than deposits made in connection with the purchase of equipment or other assets in the ordinary course of business) or (c) any other capital contribution to or investment in any Person, including, without limitation, any Guaranty Obligations (including any support for a letter of credit issued on behalf of such Person) incurred for the benefit of such Person.

“Issuing Lender Fees” shall have the meaning assigned to such term in Section 3.5(b)(iii).

“Issuing Lenders” means Wells Fargo and U.S. Bank National Association, or any successor issuer of Letters of Credit and Bankers’ Acceptances hereunder.

“L/C Advance” means, with respect to each Lender, such Lender’s funding of its participation in any L/C Borrowing in accordance with its Applicable Percentage. All L/C Advances shall be denominated in Dollars.

“L/C Borrowing” means an extension of credit resulting from (a) a drawing under any Letter of Credit (other than an Acceptance Credit) or (b) a payment of a Bankers’ Acceptance upon presentation, in each case, which has not been reimbursed in accordance with Section 2.2(c) or refinanced by a Revolving Loan advance. All L/C Borrowings shall be denominated in Dollars.

“L/C Credit Extension” means, with respect to any Letter of Credit or Bankers’ Acceptance, the issuance thereof or extension of the expiry date thereof, or the renewal or increase of the amount thereof.

“Lender” means any of the Persons identified as a “Lender” on the signature pages hereto, and any Person which may become a Lender in accordance with the terms hereof, together with their successors and permitted assigns.

“Letter of Credit” means (a) any letter of credit issued by an Issuing Lender for the account of the Borrower in accordance with the terms of Section 2.2 and (b) any Existing Letter of Credit. A Letter of Credit may be a commercial letter of credit or a standby letter of credit. Notwithstanding anything to the contrary contained herein, a letter of credit (other than the Existing Letters of Credit) issued by an Issuing Lender other than Wells Fargo shall not be a “Letter of Credit” for purposes of the Credit Documents until such time as the Administrative Agent has been notified in writing of the issuance thereof by the applicable Issuing Lender and has confirmed with such Issuing Lender that there exists adequate availability under the Revolving Committed Amount to issue such letter of credit.

“Letter of Credit Application” means, with respect to any Letter of Credit or Bankers’ Acceptance, an application and agreement for the issuance or amendment of a Letter of Credit in the form from time to time in use by an Issuing Lender and, in the case of any Acceptance Credit, shall include the related Acceptance Documents.

“Letter of Credit Expiration Date” means the day that is seven days prior to the Maturity Date then in effect (or, if such day is not a Business Day, the next preceding Business Day).

“Leverage Ratio” means, with respect to the Consolidated Parties on a consolidated basis for the twelve-month period ending on the last day of any fiscal quarter, the ratio of (a) Funded Indebtedness of the Consolidated Parties on the last day of such period to (b) Consolidated EBITDAR for such period.

“Lien” means any mortgage, pledge, hypothecation, assignment, deposit arrangement, security interest, encumbrance, lien (statutory or otherwise), preference, priority or charge of any kind (including any agreement to give any of the foregoing, any conditional sale or other title retention agreement, any financing or similar statement or notice filed under the Uniform Commercial Code as adopted and in effect in the relevant jurisdiction or other similar recording or notice statute, and any lease in the nature thereof).

“Loan” or “Loans” means an extension of credit by a Lender to the Borrower under Article II in the form of a Revolving Loan, Swingline Loan, or an Incremental Term Loan, individually or collectively, as appropriate.

“LOC Documents” means, with respect to any Letter of Credit or Bankers’ Acceptance, such Letter of Credit or Bankers’ Acceptance, any amendments thereto, any documents delivered in connection therewith, any application therefor, and any agreements, instruments, guarantees or other documents (whether general in application or applicable only to such Letter of Credit or such Bankers’ Acceptance) governing or providing for (i) the rights and obligations of the parties concerned or at risk or (ii) any collateral security for such obligations.

“LOC Obligations” means, at any time, the sum of (i) the maximum amount which is, or at any time thereafter may become, available to be drawn under Letters of Credit then outstanding, assuming compliance with all requirements for drawings referred to in such Letters of Credit plus (ii) the maximum aggregate amount which is, or any time thereafter may become payable by the Issuing Lenders under all then outstanding Bankers’ Acceptances plus (iii) the aggregate amount of all drawings under Letters of Credit honored by the Issuing Lenders but not theretofore reimbursed by the Borrower.

“LOC Sublimit” means ONE HUNDRED FIFTY MILLION DOLLARS (\$150,000,000). The LOC Sublimit is part of the Revolving Committed Amount.

“Material Adverse Effect” means a material adverse effect on (a) the business, operations, assets, property, financial condition or liabilities of the Borrower and its Subsidiaries taken as a whole, (b) the ability of the Borrower to perform any material obligation under the Credit Documents or (c) the material rights and remedies of the Lenders under the Credit Documents.

“Material Subsidiary” means any Subsidiary that is not an Immaterial Subsidiary.

“Materials of Environmental Concern” means any gasoline or petroleum (including crude oil or any fraction thereof) or petroleum products or any hazardous or toxic substances, materials or wastes, defined or regulated as such in or under any Environmental Laws, including, without limitation, asbestos, polychlorinated biphenyls and urea-formaldehyde insulation.

“Maturity Date” means (a) as to the Revolving Loans, Swingline Loans, and Letters of Credit (and the related LOC Obligations), September 30, 2027 or, with respect to some or all of the Lenders if such date is otherwise extended pursuant to Section 3.19, September 30, 2028 or September 30, 2029, as applicable, or (b) as to an Incremental Term Loan, the final maturity date for such Incremental Term Loan as set forth in the applicable Incremental Term Loan Agreement.

“Moody’s” means Moody’s Investors Service, Inc., or any successor or assignee of the business of such company in the business of rating securities.

“Multiemployer Plan” means a Plan subject to Title IV of ERISA which is a multiemployer plan as defined in Sections 3(37) or 4001(a)(3) of ERISA.

“Multiple Employer Plan” means a Plan which any Consolidated Party or any ERISA Affiliate and at least one employer other than the Consolidated Parties or any ERISA Affiliate are contributing sponsors.

“Non-Consenting Lender” shall have the meaning assigned to such term in Section 10.18.

“Non-Extending Lender” shall have the meaning assigned to such term in Section 3.19.

“Note” or “Notes” means the Revolving Notes, Incremental Term Notes and/or the Swingline Note, individually or collectively, as appropriate.

“Notice of Account Designation” has the meaning assigned thereto in Section 2.1(d)(iii).

“Notice of Borrowing” means a written notice of borrowing in substantially the form of Exhibit 2.1(d)(i), as required by Section 2.1(d) (i).

“Notice of Extension/Conversion” means the written notice of extension or conversion in substantially the form of Exhibit 3.2, as required by Section 3.2.

“Notice of Prepayment” shall have the meaning assigned to such term in Section 3.3(a).

“Obligations” means, without duplication, all of the obligations of the Borrower to the Lenders (including the Issuing Lenders and the Swingline Lender) and the Administrative Agent, whenever arising, under this Credit Agreement, the Notes or any of the other Credit Documents (including, but not limited to, any interest accruing after the occurrence of a Bankruptcy Event with respect to the Borrower, regardless of whether such interest is an allowed claim under the Bankruptcy Code of the United States).

“OFAC” means the Office of Foreign Assets Control of the United States Department of the Treasury.

“Operating Lease” means, as applied to any Person, any lease (including, without limitation, leases which may be terminated by the lessee at any time) of any Property (whether real, personal or mixed) which is not a Capital Lease other than any such lease in which that Person is the lessor.

“Other Taxes” shall have the meaning assigned to such term in Section 3.11.

“Participant” shall have the meaning assigned to such term in Section 10.3(d).

“Participating Member State” means any member state of the European Union that has the Euro as its lawful currency in accordance with legislation of the European Union relating to Economic and Monetary Union.

“Participation Interest” means a purchase by a Lender of a participation in Letters of Credit or LOC Obligations as provided in Section 2.2, in Swingline Loans as provided in Section 2.3, or in any Loans as provided in Section 3.14.

“Payment Recipient” shall have the meaning assigned to such term in Section 9.10(a).

“PBGC” means the Pension Benefit Guaranty Corporation established pursuant to Subtitle A of Title IV of ERISA and any successor thereof.

“Permitted Government Revenue Bond Indebtedness” means a revenue bond or bonds issued by a state or local Governmental Authority, the proceeds of which are used to finance or refinance the acquisition, construction, equipping or improvement of facilities or property used by the Borrower or any Subsidiary, and any lease obligation (including deferred lease obligations) of the Borrower or any of its Subsidiaries relating thereto; provided, that (a) such revenue bonds are non-recourse to the Borrower and its Subsidiaries (unless and to the extent the Borrower or a Subsidiary is the holder of such bonds), and (b) the principal of, interest on or costs relating to such revenue bonds are payable solely from (i) proceeds of such bonds when issued as a means of implementing government tax or economic incentive programs, (ii) all or an incremental portion of sales, use, property and other generally applicable taxes (not including income taxes), whether generated by or levied on such facilities or property or the activities and business conducted thereon or upon property located in a broader area, (iii) reserve funds created with proceeds of bonds described in (i) or with revenues described in (ii) or (iv) if the Borrower or a Subsidiary of the Borrower is the holder of such bonds, payments made by the Borrower or such Subsidiary.

“Permitted Liens” means:

(i) Liens (other than Liens created or imposed under ERISA) for taxes, assessments or governmental charges or levies not yet subject to penalties for non-timely payment or Liens for taxes being contested in good faith by appropriate proceedings for which adequate reserves determined in accordance with GAAP have been established (and as to which the Property subject to any such Lien is not yet subject to foreclosure, sale or loss on account thereof);

(ii) statutory Liens of landlords and Liens of carriers, warehousemen, mechanics, materialmen and suppliers and other Liens imposed by law or pursuant to customary reservations or retentions of title arising in the ordinary course of business, provided that such Liens which are material secure only amounts not yet due and payable or, if due and payable, are unfiled and no other action has been taken to enforce the same or are being contested in good faith by appropriate proceedings for which adequate reserves determined in accordance with GAAP have been established (and as to which the Property subject to any such Lien is not yet subject to foreclosure, sale or loss on account thereof);

(iii) Liens (other than Liens created or imposed under ERISA) incurred or deposits made by any Consolidated Party in the ordinary course of business in connection with workers’ compensation, unemployment insurance and other types of social security, or to secure the performance of tenders, statutory obligations, bids, leases, government contracts, surety, indemnification, appeal, performance and return-of-money bonds, letters-of-credit, bankers acceptances and other similar obligations (exclusive of obligations for the payment of borrowed money), or as security for customs or import duties and related amounts;

(iv) Liens in connection with attachments or judgments (including judgment or appeal bonds); provided that the judgments secured shall, within 30 days after the

entry thereof, have been discharged or execution thereof stayed pending appeal, or shall have been discharged within 30 days after the expiration of any such stay;

(v) encumbrances, covenants, conditions, restrictions, easements, reservations and rights of way or zoning, building code or other restrictions (including defects or irregularities in title and similar encumbrances), as to the use of real property, or Liens incidental to conduct of the business or to the ownership of the Borrower or the Borrower's Subsidiaries' properties not securing Indebtedness that do not in the aggregate materially impair the use of said properties in the operation of the business of the Borrower and its Subsidiaries taken as a whole;

(vi) Liens on Property securing purchase money Indebtedness (including Capital Leases) or any Synthetic Leases hereafter incurred to finance the purchase price or cost of construction of fixed assets (or additions, repairs, alterations or improvements thereto); provided that any such Lien attaches to such Property concurrently with or within twelve (12) months after the later of acquisition or completion of construction (or addition, repair, alteration or improvement) and full operation thereof;

(vii) leases, licenses, subleases or sublicenses granted to others not interfering in any material respect with the business of any Consolidated Party, taken as a whole;

(viii) any interest of title of a lessor under, and Liens arising from UCC financing statements (or equivalent filings, registrations or agreements in foreign jurisdictions) relating to, operating leases permitted by this Credit Agreement;

(ix) normal and customary rights of setoff or other liens upon deposits of cash in favor of banks or other depository institutions or credit or debit card or check processors or other similar processors, in each case, in connection with the provision of such services;

(x) Liens of a collecting bank arising under Section 4-210 of the Uniform Commercial Code on items in the course of collection;

(xi) Liens in connection with Sale and Leaseback Transactions permitted by Section 7.5 and Liens in connection with earnest money deposits for acquisitions not prohibited hereunder;

(xii) Liens in favor of customers and revenue authorities arising as a matter of law to secure payment of customs duties in connection with the importation of goods;

(xiii) Liens on property or assets at the time such property or assets are acquired by any Consolidated Party; provided that such Liens are not created in contemplation of such acquisition;

(xiv) Liens on assets of any Person at the time such Person becomes a Subsidiary; provided that such Liens are not created in contemplation of such Person becoming a Subsidiary;

(xv) Liens on inventory held by any Consolidated Party under consignment or scan back arrangements entered into in the ordinary course of business;

(xvi) Liens on any inventory of any Consolidated Party in favor of a vendor of such inventory, arising in the normal course of business upon its sale to such Consolidated Party;

(xvii) Liens, if any, in favor of the Administrative Agent, the Issuing Lenders or Swingline Lender to secure the Obligations or to Cash Collateralize or otherwise secure the obligations of a Defaulting Lender to fund Participation Interests hereunder;

(xviii) Liens existing as of the Closing Date and set forth on Schedule 1.1(b); provided that no such Lien shall at any time be extended to or cover any Property other than the Property subject thereto on the Closing Date;

(xix) Liens related to Permitted Government Revenue Bond Indebtedness; provided, that the Borrower or a Subsidiary of the Borrower is the holder of such Permitted Government Revenue Bond Indebtedness;

(xx) Liens on any property or assets created, assumed or otherwise brought into existence in contemplation of the sale or other disposition of the underlying property or assets, whether directly or indirectly, by way of share disposition or otherwise;

(xxi) Liens securing debt of a Subsidiary owed to the Borrower or to another Subsidiary;

(xxii) Liens in favor of the United States of America or any State thereof, or any department, agency or instrumentality or political subdivision thereof, to secure partial, progress, advance or other payments;

(xxiii) Liens to secure debt of joint ventures in which any Consolidated Party has an interest, to the extent such Liens are on property or assets of, or equity interests in, such joint ventures;

(xxiv) Liens securing the financing of insurance premiums payable on insurance policies; provided that such Liens shall only encumber unearned premiums with respect to such insurance, interests in any state guarantee fund relating to such insurance and subject and subordinate to the rights and interests of any loss payee, loss payments which shall reduce such unearned premiums;

(xxv) Liens securing cash management obligations (that do not constitute Indebtedness), or arising out of conditional sale, title retention, consignment or similar arrangements for sale of goods and contractual rights of set-off relating to purchase orders and other similar arrangements, in each case in the ordinary course of business;

(xxvi) Liens securing Hedging Agreements; and

(xxvii) other Liens not described above, provided that the aggregate principal amount of obligations secured by such Liens plus the aggregate principal amount of unsecured Indebtedness of Subsidiaries of the Borrower outstanding pursuant to Section 7.1(f) does not exceed 15% of Consolidated Tangible Assets of the Borrower and its Subsidiaries, computed as of the end of the most recent fiscal quarter end of the Borrower for which financial statements were required to be delivered pursuant to Section 6.1(a) or 6.1(b) (or, prior to the first such delivery date of the Closing Date, as of June 25, 2022).

“Person” means any individual, partnership, joint venture, firm, corporation, limited liability company, business trust, association, trust or other enterprise (whether or not incorporated) or any Governmental Authority.

“Plan” means any employee benefit plan (as defined in Section 3(3) of ERISA) which is covered by ERISA and with respect to which any Consolidated Party or any ERISA Affiliate is (or, if such plan were terminated at such time, would under Section 4069 of ERISA be deemed to be) an “employer” within the meaning of Section 3(5) of ERISA.

“Platform” shall have the meaning assigned to such term in Section 6.1.

“Prime Rate” means, at any time, the rate of interest per annum publicly announced from time to time by the Administrative Agent as its prime rate. Each change in the Prime Rate shall be effective as of the opening of business on the day such change in such prime rate occurs. The parties hereto acknowledge that the rate announced publicly by the Administrative Agent as its prime rate is an index or base rate and shall not necessarily be its lowest or best rate charged to its customers or other banks.

“Property” means any interest in any kind of property or asset, whether real, personal or mixed, or tangible or intangible.

“PTE” means a prohibited transaction class exemption issued by the U.S. Department of Labor, as any such exemption may be amended from time to time.

“Public Lender” shall have the meaning assigned to such term in Section 6.1.

“Register” shall have the meaning assigned to such term in Section 10.3(c).

“Related Parties” means, with respect to any specified Person, such Person’s Affiliates and the partners, directors, officers, employees, agents, trustees, administrators, managers, representatives and advisors of such Person and of such Person’s Affiliates.

“Release” means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or disposing into the environment (including the abandonment or discarding of barrels, containers and other closed receptacles) of any Materials of Environmental Concern.

“Relevant Governmental Body” means the FRB or the Federal Reserve Bank of New York, or a committee officially endorsed or convened by the FRB or the Federal Reserve Bank of New York, or any successor thereto.

“Removal Effective Date” shall have the meaning assigned to such term in Section 9.6(b).

“Reportable Event” means any of the events set forth in Section 4043(c) of ERISA, other than those events as to which the notice requirement has been waived by regulation.

“Required Lenders” means, at any time, Lenders holding in the aggregate more than 50% of (i) the unfunded Commitments and the outstanding Loans, LOC Obligations and Participation Interests or (ii) if the Commitments have been terminated, the outstanding Loans, LOC Obligations and Participation Interests. The unfunded Commitments of, and the outstanding Loans, LOC Obligations and Participation Interests held or deemed held by, any Defaulting Lender shall be excluded for purposes of making a determination of Required Lenders.

“Requirement of Law” means, as to any Person, the certificate of incorporation and by-laws or other organizational or governing documents of such Person, and any law, treaty, rule or regulation or determination of an arbitrator or a court or other Governmental Authority, in each case applicable to or binding upon such Person or to which any of its material property is subject.

“Resignation Effective Date” shall have the meaning assigned to such term in Section 9.6(a).

“Resolution Authority” means an EEA Resolution Authority or, with respect to any UK Financial Institution, a UK Resolution Authority.

“Responsible Officer” means the chief executive officer, president, chief financial officer, treasurer or assistant treasurer of the Borrower, solely for purposes of the delivery of incumbency certificates pursuant to Section 4.1, the secretary or any assistant secretary of the Borrower. Any document delivered hereunder that is signed by a Responsible Officer of the Borrower shall be

conclusively presumed to have been authorized by all necessary corporate, partnership and/or other action on the part of the Borrower and such Responsible Officer shall be conclusively presumed to have acted on behalf of the Borrower.

“Revaluation Date” means with respect to any Letter of Credit, each of the following: (a) each date of issuance of a Letter of Credit denominated in an Alternative Currency, (b) each date of an amendment of any such Letter of Credit having the effect of increasing the amount thereof (solely with respect to the increased amount), (c) each date of any payment by an Issuing Lender under any Letter of Credit denominated in an Alternative Currency and (d) such additional dates as the Administrative Agent or an Issuing Lender shall determine or the Required Lenders shall require.

“Revolving Commitment” means, with respect to each Lender, the commitment of such Lender in an aggregate principal amount at any time outstanding not to exceed the Dollar amount set forth opposite such Lender’s name on Schedule 2.1 or in the Assignment and Assumption pursuant to which such Lender becomes a party hereto or in any documentation executed by such Lender pursuant to Section 3.4(c), as applicable, as such amount may be adjusted from time to time in accordance with this Credit Agreement, (i) to make Revolving Loans in accordance with the provisions of Section 2.1(a), (ii) to purchase Participation Interests in Letters of Credit in accordance with the provisions of Section 2.2(c) and (iii) to purchase Participation Interests in Swingline Loans in accordance with the provisions of Section 2.3(c).

“Revolving Committed Amount” means ONE BILLION TWO HUNDRED MILLION DOLLARS (\$1,200,000,000) as such amount may be reduced pursuant to Section 3.4(a) or increased pursuant to Section 3.4(c).

“Revolving Loans” shall have the meaning assigned to such term in Section 2.1(a).

“Revolving Note” or “Revolving Notes” means the promissory notes of the Borrower in favor of each of the Lenders evidencing the Revolving Loans provided pursuant to Section 2.1(g), individually or collectively, as appropriate, as such promissory notes may be amended, modified, restated, supplemented, extended, renewed or replaced from time to time.

“Revolving Obligations” means, collectively, the Revolving Loans, the Swingline Loans and the LOC Obligations.

“S&P” means Standard & Poor’s Rating Service, a division of S&P Global, Inc. and any successor thereto.

“Sale and Leaseback Transaction” means any arrangement pursuant to which any Consolidated Party, directly or indirectly, becomes liable as lessee, guarantor or other surety with respect to any lease, whether an Operating Lease or a Capital Lease, of any Property (whether real, personal or mixed), whether now owned or hereafter acquired (a) which such Consolidated Party has sold or transferred (or is to sell or transfer) to a Person which is not a Consolidated Party or (b) which such Consolidated Party intends to use for substantially the same purpose as any other Property which has been sold or transferred (or is to be sold or transferred) by such Consolidated Party to another Person which is not a Consolidated Party in connection with such lease.

“Sanctioned Country” means, at any time, a country, region or territory which is itself the subject or target of any Sanctions (including, without limitation, the Crimea Region of Ukraine, the so-called Donetsk People’s Republic or Luhansk People’s Republic regions of Ukraine, Cuba, Iran, North Korea and Syria).

“Sanctioned Person” means, at any time, (a) any Person listed in any Sanctions-related list of designated Persons maintained by OFAC (including OFAC’s Specially Designated Nationals and Blocked Persons List and OFAC’s Consolidated Non-SDN List), the U.S. Department of State, the United Nations Security Council, the European Union, any European member state, Her Majesty’s Treasury, or other relevant sanctions authority, (b) any Person operating, organized or resident in a Sanctioned Country, (c) any Person owned or controlled by, or acting or purporting to act for or on behalf of, directly

or indirectly, any such Person or Persons described in clauses (a) and (b), including a Person that is deemed by OFAC to be a Sanctions target based on the ownership of such legal entity by Sanctioned Person(s) or (d) any Person otherwise a target of Sanctions, including vessels and aircraft, that are designated under any Sanctions program.

“Sanctions” means any and all economic or financial sanctions, sectoral sanctions, secondary sanctions, trade embargoes and restrictions, anti-terrorism laws and anti-money laundering laws, including but not limited to those imposed, administered or enforced from time to time by the U.S. government (including those administered by OFAC or the U.S. Department of State), the United Nations Security Council, the European Union, any European member state, Her Majesty’s Treasury, or other relevant sanctions authority in any jurisdiction in which (a) the Borrower or any of its Subsidiaries or Affiliates is located or conducts business, (b) in which any of the proceeds of the Loans will be used, or (c) from which repayment of the Loans will be derived.

“Single Employer Plan” means any Plan which is covered by Title IV of ERISA, but which is not a Multiemployer Plan or a Multiple Employer Plan.

“SOFR” means a rate equal to the secured overnight financing rate as administered by the SOFR Administrator.

“SOFR Administrator” means the Federal Reserve Bank of New York (or a successor administrator of the secured overnight financing rate).

“SOFR Loan” means any Loan bearing interest at a rate based on Adjusted Term SOFR as provided in Section 2.1(f), other than pursuant to clause (c) of the definition of “Base Rate”.

“SOFR Market Index Rate” means a daily floating rate per annum equal to Adjusted Term SOFR for a one-month tenor on each day during the relevant period; provided, however, that for purposes of determining Adjusted Term SOFR, if as of 5:00 p.m. (Eastern time) on any day the Term SOFR Reference Rate for a one-month tenor has not been published by the Term SOFR Administrator and a Benchmark Replacement Date with respect to the Term SOFR Reference Rate has not occurred, then Term SOFR will be the Term SOFR Reference Rate for a one-month tenor as published by the Term SOFR Administrator on the first preceding U.S. Government Securities Business Day for which such Term SOFR Reference Rate for a one-month tenor was published by the Term SOFR Administrator so long as such first preceding U.S. Government Securities Business Day is not more than three (3) U.S. Government Securities Business Days prior to such day. Notwithstanding anything to the contrary, if the SOFR Market Index Rate shall be less than zero, then such rate shall be deemed zero for purposes of this Credit Agreement.

“Spot Rate” for a currency means the rate determined by the Administrative Agent or an Issuing Lender, as applicable, to be the rate quoted by the Person acting in such capacity as the spot rate for the purchase by such Person of such currency with another currency through its principal foreign exchange trading office at approximately 11:00 a.m. on the date two Business Days prior to the date as of which the foreign exchange computation is made; provided that the Administrative Agent or such Issuing Lender may obtain such spot rate from another financial institution designated by the Administrative Agent or such Issuing Lender if the Person acting in such capacity does not have as of the date of determination a spot buying rate for any such currency; and provided further that such Issuing Lender may use such spot rate quoted on the date as of which the foreign exchange computation is made in the case of any Letter of Credit denominated in an Alternative Currency.

“Standby Letter of Credit Fee” shall have the meaning assigned to such term in Section 3.5(b)(i).

“Subsidiary” means, as to any Person at any time, (a) any corporation more than 50% of whose Capital Stock of any class or classes having by the terms thereof ordinary voting power to elect a majority of the directors of such corporation (irrespective of whether or not at such time, any class or classes of such corporation shall have or might have voting power by reason of the happening of any contingency) is at such time owned by such Person directly or indirectly through Subsidiaries, and (b) any partnership, association, joint venture or other entity of which such Person directly or indirectly through Subsidiaries

owns at such time more than 50% of the Capital Stock. Notwithstanding the foregoing, (i) Tractor Supply GC Trust, a Maryland business trust, shall not constitute a Subsidiary of the Borrower for purposes of the Credit Documents so long as it engages in no material business other than the administration of the Borrower's retail gift card program and (ii) any Captive Insurance Subsidiary shall not constitute a Subsidiary of the Borrower for purposes of the Credit Documents so long as it engages in no material business other than insuring the Borrower and its Subsidiaries.

“Swingline Lender” means Wells Fargo, together with any successors or assigns.

“Swingline Loan Request” means a request by the Borrower for a Swingline Loan in substantially the form of Exhibit 2.3(b).

“Swingline Loans” means the loans made by the Swingline Lender pursuant to Section 2.3.

“Swingline Note” means the promissory note of the Borrower in favor of the Swingline Lender evidencing the Swingline Loans provided pursuant to Section 2.3, as such promissory note may be amended, modified, supplemented, extended, renewed or replaced from time to time.

“Swingline Sublimit” means FIFTY MILLION DOLLARS (\$50,000,000). The Swingline Sublimit is part of the Revolving Committed Amount.

“Synthetic Lease” means any synthetic lease, tax retention operating lease, off-balance sheet loan or similar off-balance sheet financing product where such transaction is considered borrowed money indebtedness for tax purposes but is classified as an Operating Lease.

“Taxes” shall have the meaning assigned to such term in Section 3.11.

“Term SOFR” means,

(a) for any calculation with respect to a SOFR Loan, the Term SOFR Reference Rate for a tenor comparable to the applicable Interest Period on the day (such day, the “Periodic Term SOFR Determination Day”) that is two (2) U.S. Government Securities Business Days prior to the first day of such Interest Period, as such rate is published by the Term SOFR Administrator; provided, however, that if as of 5:00 p.m. (Eastern time) on any Periodic Term SOFR Determination Day the Term SOFR Reference Rate for the applicable tenor has not been published by the Term SOFR Administrator and a Benchmark Replacement Date with respect to the Term SOFR Reference Rate has not occurred, then Term SOFR will be the Term SOFR Reference Rate for such tenor as published by the Term SOFR Administrator on the first preceding U.S. Government Securities Business Day for which such Term SOFR Reference Rate for such tenor was published by the Term SOFR Administrator so long as such first preceding U.S. Government Securities Business Day is not more than three (3) U.S. Government Securities Business Days prior to such Periodic Term SOFR Determination Day, and

(b) for any calculation with respect to a Base Rate Loan on any day, the Term SOFR Reference Rate for a tenor of one month on the day (such day, the “Base Rate Term SOFR Determination Day”) that is two (2) U.S. Government Securities Business Days prior to such day, as such rate is published by the Term SOFR Administrator; provided, however, that if as of 5:00 p.m. (Eastern time) on any Base Rate Term SOFR Determination Day the Term SOFR Reference Rate for the applicable tenor has not been published by the Term SOFR Administrator and a Benchmark Replacement Date with respect to the Term SOFR Reference Rate has not occurred, then Term SOFR will be the Term SOFR Reference Rate for such tenor as published by the Term SOFR Administrator on the first preceding U.S. Government Securities Business Day for which such Term SOFR Reference Rate for such tenor was published by the Term SOFR Administrator so long as such first preceding U.S. Government Securities Business Day is not more than three (3) U.S. Government Securities Business Days prior to such Base Rate Term SOFR Determination Day.

“Term SOFR Adjustment” means a percentage equal to 0.10% per annum.

“Term SOFR Administrator” means CME Group Benchmark Administration Limited (CBA) (or a successor administrator of the Term SOFR Reference Rate selected by the Administrative Agent in its reasonable discretion).

“Term SOFR Reference Rate” means the forward-looking term rate based on SOFR.

“Trade Letter of Credit Fee” shall have the meaning assigned to such term in Section 3.5(b)(ii).

“UK Financial Institution” means any BRRD Undertaking (as such term is defined under the PRA Rulebook (as amended from time to time) promulgated by the United Kingdom Prudential Regulation Authority) or any Person subject to IFPRU 11.6 of the FCA Handbook (as amended from time to time) promulgated by the United Kingdom Financial Conduct Authority, which includes certain credit institutions and investment firms, and certain affiliates of such credit institutions or investment firms.

“UK Resolution Authority” means the Bank of England or any other public administrative authority having responsibility for the resolution of any UK Financial Institution.

“Unadjusted Benchmark Replacement” means the applicable Benchmark Replacement excluding the related Benchmark Replacement Adjustment.

“United States” means the United States of America.

“Unreimbursed Amount” shall have the meaning assigned to such term in Section 2.2(c)(i).

“Unused Fee” shall have the meaning assigned to such term in Section 3.5(a).

“Unused Fee Calculation Period” shall have the meaning assigned to such term in Section 3.5(a).

“Unused Revolving Committed Amount” means, for any period, the amount by which (a) the then applicable Revolving Committed Amount exceeds (b) the daily average sum for such period of (i) the outstanding aggregate principal amount of all Revolving Loans plus (ii) the outstanding aggregate principal amount of all LOC Obligations.

“U.S. Government Securities Business Day” means any day except for (a) a Saturday, (b) a Sunday or (c) a day on which the Securities Industry and Financial Markets Association recommends that the fixed income departments of its members be closed for the entire day for purposes of trading in United States government securities; provided, that for purposes of notice requirements in Sections 2.1(d), 3.3(a), and 3.2, in each case, such day is also a Business Day.

“Voting Stock” means, with respect to any Person, Capital Stock issued by such Person the holders of which are ordinarily, in the absence of contingencies, entitled to vote for the election of directors (or persons performing similar functions) of such Person, even though the right so to vote has been suspended by the happening of such a contingency.

“Wells Fargo” means Wells Fargo Bank, National Association, a national banking association.

“Wholly Owned Subsidiary” of any Person means any Subsidiary 100% of whose Voting Stock or other equity interest is at the time owned by such Person directly or indirectly through other Wholly Owned Subsidiaries.

“Write-Down and Conversion Powers” means, (a) with respect to any EEA Resolution Authority, the write-down and conversion powers of such EEA Resolution Authority from time to time under the Bail-In Legislation for the applicable EEA Member Country, which write-down and conversion powers are described in the EU Bail-In Legislation Schedule, and (b) with respect to the United Kingdom, any powers of the applicable Resolution Authority under the Bail-In Legislation to cancel, reduce, modify or change the form of a liability of any UK Financial Institution or any contract or instrument under which that liability arises, to convert all or part of that liability into shares, securities or obligations of that

Person or any other Person, to provide that any such contract or instrument is to have effect as if a right had been exercised under it or to suspend any obligation in respect of that liability or any of the powers under that Bail-In Legislation that are related to or ancillary to any of those powers.

1.2 Computation of Time Periods.

For purposes of computation of periods of time hereunder, the word “from” means “from and including” and the words “to” and “until” each mean “to but excluding.”

1.3 Accounting Terms.

Except as otherwise expressly provided herein, all accounting terms used herein shall be interpreted, and all financial statements and certificates and reports as to financial matters required to be delivered to the Lenders hereunder shall be prepared, in accordance with GAAP applied on a consistent basis. All calculations made for the purposes of determining compliance with this Credit Agreement shall (except as otherwise expressly provided herein) be made by application of GAAP applied on a basis consistent with the most recent annual or quarterly financial statements delivered pursuant to Section 6.1 (or, prior to the delivery of the first financial statements pursuant to Section 6.1, consistent with the financial statements as at December 25, 2021). In the event that any Accounting Change (as defined below) shall occur and such change results in a change in the method of calculation of financial covenants, standards or terms in this Credit Agreement, then the Borrower and the Administrative Agent agree to enter into good faith negotiations in order to amend such provisions of this Credit Agreement so as to reflect equitably such Accounting Changes with the desired result that the criteria for evaluating the Borrower’s financial condition shall be the same after such Accounting Changes as if such Accounting Changes had not been made. Until such time as such an amendment shall have been executed and delivered by the Borrower, the Administrative Agent and the Required Lenders, all financial covenants, standards and terms in this Credit Agreement shall continue to be calculated or construed as if such Accounting Changes had not occurred. “Accounting Changes” refers to changes in GAAP required by the promulgation of any rule, regulation, pronouncement or opinion by the Financial Accounting Standards Board of the American Institute of Certified Public Accountants or, if applicable, the Securities and Exchange Commission.

1.4 Letter of Credit Amounts.

Unless otherwise specified herein, the amount of a Letter of Credit at any time shall be deemed to be the Dollar Equivalent of the stated amount of such Letter of Credit in effect at such time; provided, however, that with respect to any Letter of Credit that, by its terms or the terms of any LOC Document related thereto, provides for one or more automatic increases in the stated amount thereof, the amount of such Letter of Credit shall be deemed to be the Dollar Equivalent of the maximum stated amount of such Letter of Credit after giving effect to all such increases, whether or not such maximum stated amount is in effect at such time.

1.5 Exchange Rates; Currency Equivalents.

(a) The Administrative Agent or an Issuing Lender, as applicable, shall determine the Spot Rates as of each Revaluation Date to be used for calculating Dollar Equivalent amounts of Letters of Credit and outstanding amounts of all Letters of Credit denominated in Alternative Currencies. Such Spot Rates shall become effective as of such Revaluation Date and shall be the Spot Rates employed in converting any amounts between the applicable currencies until the next Revaluation Date to occur. Except for purposes of financial statements delivered by the Consolidated Parties hereunder or calculating financial covenants hereunder or except as otherwise provided herein, the applicable amount of any currency (other than Dollars) for purposes of the Credit Documents shall be such Dollar Equivalent amount as so determined by the Administrative Agent or such Issuing Lender, as applicable.

(b) Wherever in this Credit Agreement in connection with the issuance, amendment or extension of a Letter of Credit, an amount, such as a required minimum or multiple amount, is expressed in Dollars, but such Letter of Credit is denominated in an Alternative Currency, such amount shall be the relevant Alternative Currency Equivalent of such Dollar amount (rounded to the nearest unit of such

Alternative Currency, with 0.5 of a unit being rounded upward), as determined by the Administrative Agent or an Issuing Lender, as the case may be.

1.6 Alternative Currencies.

The Borrower may from time to time request that an Issuing Lender issue a Letter of Credit in a currency other than Dollars; provided that such requested currency is a lawful currency that is readily available and freely transferable and convertible into Dollars. In the case of any such request, such request shall be subject to the approval of the Administrative Agent and such Issuing Lender.

1.7 Change of Currency.

(a) Each obligation of the Borrower to make a payment denominated in the national currency unit of any member state of the European Union that adopts the Euro as its lawful currency after the date hereof shall be redenominated into Euro at the time of such adoption. If, in relation to the currency of any such member state, the basis of accrual of interest expressed in this Credit Agreement in respect of that currency shall be inconsistent with any convention or practice in the London interbank market for the basis of accrual of interest in respect of the Euro, such expressed basis shall be replaced by such convention or practice with effect from the date on which such member state adopts the Euro as its lawful currency.

(b) Each provision of this Credit Agreement shall be subject to such reasonable changes of construction as the Administrative Agent may from time to time specify in a written notice to the Borrower to be appropriate to reflect the adoption of the Euro by any member state of the European Union and any relevant market conventions or practices relating to the Euro.

(c) Each provision of this Credit Agreement also shall be subject to such reasonable changes of construction as the Administrative Agent may from time to time specify in a written notice to the Borrower to be appropriate to reflect a change in currency of any other country and any relevant market conventions or practices relating to the change in currency.

1.8 Rates.

The Administrative Agent does not warrant or accept any responsibility for, and shall not have any liability with respect to, (a) the continuation of, administration of, submission of, calculation of or any other matter related to the Term SOFR Reference Rate, Adjusted Term SOFR or Term SOFR, or any component definition thereof or rates referred to in the definition thereof, or with respect to any alternative, successor or replacement rate thereto (including any Benchmark Replacement), including whether the composition or characteristics of any such alternative, successor or replacement rate (including any Benchmark Replacement), as it may or may not be adjusted pursuant to Section 3.7(c), will be similar to, or produce the same value or economic equivalence of, or have the same volume or liquidity as, the Term SOFR Reference Rate, Adjusted Term SOFR, Term SOFR or any other Benchmark prior to its discontinuance or unavailability, or (b) the effect, implementation or composition of any Conforming Changes. The Administrative Agent and its Affiliates or other related entities may engage in transactions that affect the calculation of the Term SOFR Reference Rate, Adjusted Term SOFR, Term SOFR, any alternative, successor or replacement rate (including any Benchmark Replacement) or any relevant adjustments thereto and such transactions may be adverse to the Borrower. The Administrative Agent may select information sources or services in its reasonable discretion to ascertain the Term SOFR Reference Rate, Adjusted Term SOFR or Term SOFR, or any other Benchmark, any component definition thereof or rates referred to in the definition thereof, in each case pursuant to the terms of this Credit Agreement, and shall have no liability to the Borrower, any Lender or any other person or entity for damages of any kind, including direct or indirect, special, punitive, incidental or consequential damages, costs, losses or expenses (whether in tort, contract or otherwise and whether at law or in equity), for any error or calculation of any such rate (or component thereof) provided by any such information source or service.

1.9 Divisions.

For all purposes under the Credit Documents, in connection with any division or plan of division under Delaware law (or any comparable event under a different jurisdiction's laws): (a) if any asset, right, obligation or liability of any Person becomes the asset, right, obligation or liability of a different Person, then it shall be deemed to have been transferred from the original Person to the subsequent Person, and (b) if any new Person comes into existence, such new Person shall be deemed to have been organized on the first date of its existence by the holders of its Capital Stock at such time.

1.10 Pro Forma Adjustments for Acquisitions.

In accordance with GAAP, for each period of measurement if during such period the Borrower or any Subsidiary made any acquisition, the consolidated results of operations or assets of the Borrower and its Subsidiaries shall include the results of operations of the Person or assets subject to such acquisition, on a pro forma basis as if such acquisition occurred on the first day of such period.

ARTICLE II.

CREDIT FACILITIES

2.1 Revolving Loans and Incremental Term Loans.

(a) Revolving Commitment. Subject to the terms and conditions hereof and in reliance upon the representations and warranties set forth herein, each Lender severally agrees to make available to the Borrower such Lender's Applicable Percentage of revolving credit loans requested by the Borrower in Dollars ("Revolving Loans") from time to time from the Closing Date until the Maturity Date, or such earlier date as the Revolving Commitments shall have been terminated as provided herein; provided, however, that (i) with regard to the Lenders collectively, the amount of the Revolving Obligations outstanding shall not exceed the Revolving Committed Amount and (ii) with regard to each Lender individually, such Lender's Applicable Percentage of the sum of the Revolving Loans plus LOC Obligations outstanding plus Swingline Loans outstanding shall not exceed such Lender's Revolving Commitment. Revolving Loans may consist of Base Rate Loans or SOFR Loans, or a combination thereof, as the Borrower may request. Revolving Loans hereunder may be repaid and reborrowed in accordance with the provisions hereof.

(b) [Reserved].

(c) Incremental Term Loans. Subject to Section 3.4(c), on the effective date of the applicable Incremental Term Loan Agreement, each Lender party thereto severally agrees to make its portion of a term loan (each, an "Incremental Term Loan") in a single advance to the Borrower in Dollars in the amount of its Incremental Term Loan Commitment as set forth in such Incremental Term Loan Agreement. Amounts repaid on the Incremental Term Loans may not be reborrowed. The Incremental Term Loans may consist of Base Rate Loans or SOFR Loans, or a combination thereof, as the Borrower may request.

(d) Borrowings.

(i) Notice of Borrowing. The Borrower shall request a Revolving Loan borrowing and/or an Incremental Term Loan borrowing by written notice (or telephonic notice promptly confirmed in writing) to the Administrative Agent not later than (i) 12:00 noon (Charlotte, North Carolina time) on the Business Day of the requested borrowing in the case of Base Rate Loans and (ii) 10:30 a.m. (Charlotte, North Carolina time) on the second Business Day prior to the date of the requested borrowing in the case of SOFR Loans. Each such request for borrowing shall be irrevocable and shall specify (A) that a borrowing of Revolving Loans and/or Incremental Term Loans is requested, (B) the date of the requested borrowing (which shall be a Business Day), (C) the aggregate principal amount to be borrowed, and (D) whether the borrowing shall be comprised of Base Rate Loans, SOFR Loans or a combination thereof, and if SOFR Loans are requested, the Interest Period(s) therefor. If the Borrower shall fail to specify in any such Notice

of Borrowing (I) an applicable Interest Period in the case of a SOFR Loan, then such notice shall be deemed to be a request for an Interest Period of one month, or (II) the type of Loan requested, then such notice shall be deemed to be a request for a Base Rate Loan hereunder. The Administrative Agent shall give notice to each affected Lender promptly upon receipt of each Notice of Borrowing pursuant to this Section 2.1(d)(i), the contents thereof and each such Lender's share of any borrowing to be made pursuant thereto.

(ii) Minimum Amounts. Each Base Rate Loan that is a Revolving Loan shall be in a minimum aggregate principal amount of \$100,000 and integral multiples of \$1,000 in excess thereof (or the remaining amount of the Revolving Committed Amount, if less), and each SOFR Loan that is a Revolving Loan shall be in a minimum aggregate principal amount of \$2,500,000 and integral multiples of \$50,000 in excess thereof (or the remaining amount of the Revolving Committed Amount, if less). Each Base Rate Loan that is an Incremental Term Loan shall be in a minimum aggregate principal amount of \$1,000,000 and integral multiples of \$100,000 in excess thereof (or the remaining amount of the Incremental Term Loan Commitment, if less), and each SOFR Loan that is an Incremental Term Loan shall be in a minimum aggregate principal amount of \$2,500,000 and integral multiples of \$100,000 in excess thereof (or the remaining amount of the Incremental Term Loan Commitment, if less).

(iii) Advances. Each Lender will make its Applicable Percentage of each Revolving Loan borrowing or Incremental Term Loan borrowing available to the Administrative Agent for the account of the Borrower as specified in Section 3.15, or in such other manner as the Administrative Agent may specify in writing, by 2:00 p.m. (Charlotte, North Carolina time) on the date specified in the applicable Notice of Borrowing in Dollars and in funds immediately available to the Administrative Agent. Such borrowing will then be made available to the Borrower by the Administrative Agent by crediting the account of the Borrower on the books of such office with the aggregate of the amounts made available to the Administrative Agent by the Lenders and in like funds as received by the Administrative Agent. The Borrower hereby irrevocably authorizes the Administrative Agent to disburse the proceeds of each borrowing requested pursuant to this Section in immediately available funds by crediting or wiring such proceeds to the deposit account of the Borrower identified in the most recent Notice of Account Designation substantially in the form Notice of Account Designation attached as Exhibit 2.1(d)(iii) (a "Notice of Account Designation") delivered by the Borrower to the Administrative Agent or as may be otherwise agreed upon by the Borrower and the Administrative Agent from time to time. Subject to Section 3.15 hereof, the Administrative Agent shall not be obligated to disburse the portion of the proceeds of any Loan requested pursuant to this Section to the extent that any Lender has not made available to the Administrative Agent its Applicable Percentage of such Loan.

(e) Repayment.

(i) Subject to the terms of Section 3.19, the principal amount of all Revolving Loans shall be due and payable in full on the applicable Maturity Date, unless accelerated sooner pursuant to Section 8.2.

(ii) [Reserved].

(iii) Incremental Term Loans. The Borrower shall repay the outstanding principal amount of the Incremental Term Loans in the installments on the dates and in the amounts set forth in the applicable Incremental Term Loan Agreement (as such installments may hereafter be adjusted as a result of prepayments made pursuant to Section 3.3), unless accelerated sooner pursuant to Section 8.2.

(f) Interest. Subject to the provisions of Section 3.1,

(i) Base Rate Loans. During such periods as Revolving Loans and/or Incremental Term Loans shall be comprised in whole or in part of Base Rate Loans, such Base Rate Loans shall bear interest at a per annum rate equal to the Adjusted Base Rate.

(ii) SOFR Loans. During such periods as Revolving Loans and/or Incremental Term Loans shall be comprised in whole or in part of SOFR Loans, such SOFR Loans shall bear interest at a per annum rate equal to Adjusted Term SOFR.

(iii) Term SOFR Conforming Changes. In connection with the use or administration of Term SOFR, the Administrative Agent will have the right to make Conforming Changes from time to time and, notwithstanding anything to the contrary herein or in any other Credit Document, any amendments implementing such Conforming Changes will become effective without any further action or consent of any other party to this Credit Agreement or any other Credit Document. The Administrative Agent will promptly notify the Borrower and the Lenders of the effectiveness of any Conforming Changes in connection with the use or administration of Term SOFR.

Interest on Revolving Loans and Incremental Term Loans shall be payable in arrears on each applicable Interest Payment Date (or at such other times as may be specified herein).

(g) Notes.

(i) If requested by a Lender, the Revolving Loans made by such Lender shall be evidenced by a duly executed promissory note of the Borrower to such Lender in an original principal amount equal to such Lender's Revolving Commitment and in substantially the form of Exhibit 2.1(g)(i).

(ii) [Reserved].

(iii) If requested by a Lender, the Incremental Term Loan made by such Lender shall be evidenced by a duly executed promissory note of the Borrower to such Lender in an original principal amount equal to such Lender's Incremental Term Loan Commitment and in substantially the form of Exhibit 2.1(g)(iii).

(h) Interest Periods. No more than twelve SOFR Loans shall be outstanding hereunder at any time (it being understood that, for purposes hereof, SOFR Loans with different Interest Periods shall be considered as separate SOFR Loans, even if they begin on the same date, although borrowings, extensions and conversions may, in accordance with the provisions hereof, be combined at the end of existing Interest Periods to constitute a new SOFR Loan with a single Interest Period).

2.2 Letter of Credit Subfacility.

(a) The Letter of Credit Commitment.

(i) Subject to the terms and conditions set forth herein, (A) each Issuing Lender agrees, in reliance upon the agreements of the other Lenders set forth in this Section 2.2, (1) from time to time on any Business Day during the period from the Closing Date until the Letter of Credit Expiration Date, to issue Letters of Credit denominated in Dollars or in one or more Alternative Currencies for the account of the Borrower or any Subsidiary, and to amend or extend Letters of Credit previously issued by it, in accordance with subsection (b) below, (2) to honor drawings under the Letters of Credit and (3) with respect to Acceptance Credits, to create Bankers' Acceptances in accordance with the terms thereof and hereof; and (B) the Lenders with Revolving Commitments severally agree to participate in Letters of Credit and Bankers' Acceptances issued for the account of the Borrower and any Subsidiary and any drawings thereunder; provided that no Issuing Lender shall be obligated to make any L/C Credit Extension with respect to any Letter of Credit, and no Lender shall be obligated to participate in any Letter of Credit if as of the date of such L/C Credit Extension, (x) the sum of the Revolving Loans outstanding plus LOC Obligations outstanding plus Swingline Loans outstanding would exceed the Revolving Committed Amount, (y) with regard to any Lender individually, such Lender's Applicable Percentage of the sum of the Revolving Loans outstanding plus LOC Obligations outstanding plus Swingline Loans outstanding would exceed such Lender's Revolving Commitment or (z) the amount of LOC Obligations outstanding would exceed the LOC Sublimit;

~~provided, further,~~ that all Acceptance Credits issued and Bankers' Acceptances created shall be denominated in Dollars. Within the foregoing limits, and subject to the terms and conditions hereof, the Borrower's ability to obtain Letters of Credit and Bankers' Acceptances shall be fully revolving, and accordingly the Borrower may, during the foregoing period, obtain Letters of Credit or Bankers' Acceptances, as applicable, to replace Letters of Credit or Bankers' Acceptances that have expired or that have been drawn upon and reimbursed. All Existing Letters of Credit shall be deemed to have been issued pursuant hereto, and from and after the Closing Date shall be subject to and governed by the terms and conditions hereof.

(ii) No Issuing Lender shall issue any Letter of Credit or Bankers' Acceptance, as applicable, if:

(A) subject to Section 2.2(b)(iii), the expiry date of such requested Letter of Credit would occur more than eighteen months after the date of issuance, unless the Required Lenders have approved such expiry date; or

(B) the maturity date of any Bankers' Acceptance issued under any such requested Acceptance Credit would occur more than 180 days from the date of creation of such Bankers' Acceptance and in any event not later than 60 days before the Letter of Credit Expiration Date, unless the Required Lenders have approved such expiry date;

(C) the expiry date of such requested Letter of Credit or the maturity date of any Bankers' Acceptance issued under such requested Letter of Credit would occur after the Letter of Credit Expiration Date, unless all the Lenders have approved such expiry date; or

(D) as to Acceptance Credits, the Bankers' Acceptance created or to be created thereunder shall not be an eligible bankers' acceptance under Section 13 of the Federal Reserve Act (12 U.S.C. § 372).

(iii) No Issuing Lender shall be under any obligation to issue any Letter of Credit, or Bankers' Acceptance, as applicable, if:

(A) any order, judgment or decree of any Governmental Authority or arbitrator shall by its terms purport to enjoin or restrain such Issuing Lender from issuing such Letter of Credit or any related Bankers' Acceptance, or any law applicable to such Issuing Lender or any request or directive (whether or not having the force of law) from any Governmental Authority with jurisdiction over such Issuing Lender shall prohibit, or request that such Issuing Lender refrain from, the issuance of letters of credit or related bankers' acceptances generally or such Letter of Credit or any related Bankers' Acceptance in particular or shall impose upon such Issuing Lender with respect to such Letter of Credit or related Bankers' Acceptance any restriction, reserve or capital requirement (for which such Issuing Lender is not otherwise compensated hereunder) not in effect on the Closing Date, or shall impose upon such Issuing Lender any unreimbursed loss, cost or expense which was not applicable on the Closing Date and which such Issuing Lender in good faith deems material to it;

(B) the issuance of such Letter of Credit or Bankers' Acceptance would violate one or more generally applicable policies of such Issuing Lender;

(C) such Letter of Credit or Bankers' Acceptance contains any provisions for automatic reinstatement of the stated amount after any drawing thereunder; or

(D) any Lender is at that time a Defaulting Lender, unless (i) such Issuing Lender has entered into arrangements, including the delivery of Cash Collateral, reasonably satisfactory to such Issuing Lender (in its sole discretion) with such Lender, or (ii) the Borrower has delivered Cash Collateral or entered into another arrangement with such Issuing Lender that is reasonably satisfactory to such Issuing Lender (in its sole

discretion), to eliminate such Issuing Lender's actual or potential (with respect to such requested Letter of Credit or Bankers' Acceptance) Fronting Exposure (after giving effect to Section 3.18(a)(iv)) with respect to the Defaulting Lender arising from either the Letter of Credit or Bankers' Acceptance then proposed to be issued or that Letter of Credit or Bankers' Acceptance and all other LOC Obligations as to which such Issuing Lender has actual Fronting Exposure, as it may elect in its sole discretion.

(iv) No Issuing Lender shall amend any Letter of Credit if such Issuing Lender would not be permitted at such time to issue the Letter of Credit in its amended form under the terms hereof.

(v) No Issuing Lender shall be under any obligation to amend any Letter of Credit if (A) such Issuing Lender would have no obligation at such time to issue such Letter of Credit in its amended form under the terms hereof, or (B) the beneficiary of such Letter of Credit does not accept the proposed amendment to such Letter of Credit.

(vi) Each Issuing Lender shall act on behalf of the Lenders with respect to any Letters of Credit and Bankers' Acceptances issued by it and the documents associated therewith, and each Issuing Lender shall have all of the benefits and immunities (A) provided to the Administrative Agent in Article IX with respect to any acts taken or omissions suffered by such Issuing Lender in connection with Letters of Credit and Bankers' Acceptances issued by it or proposed to be issued by it and LOC Documents pertaining to such Letters of Credit and Bankers' Acceptances as fully as if the term "Administrative Agent" as used in Article IX included such Issuing Lender with respect to such acts or omissions, and (B) as additionally provided herein with respect to such Issuing Lender.

(b) Procedures for Issuance and Amendment of Letters of Credit; Auto-Extension Letters of Credit.

(i) Each Letter of Credit shall be issued or amended, as the case may be, upon the request of the Borrower delivered to the applicable Issuing Lender (whether paper or electronic) (with a copy to the Administrative Agent) in the form of a Letter of Credit Application, appropriately completed and signed by a Responsible Officer of the Borrower or approved electronically by a user designated by a Responsible Officer. Such Letter of Credit Application must be received by such Issuing Lender and the Administrative Agent not later than 11:00 a.m. (Charlotte, North Carolina time) at least two Business Days (or such later date and time as the Administrative Agent and such Issuing Lender may agree in a particular instance in their sole discretion) prior to the proposed issuance date or date of amendment, as the case may be. In the case of a request for an initial issuance of a Letter of Credit, such Letter of Credit Application (whether paper or electronic) shall specify in form and detail satisfactory to such Issuing Lender: (A) the proposed issuance date of the requested Letter of Credit (which shall be a Business Day); (B) the amount and currency thereof; (C) the expiry date thereof; (D) the name and address of the beneficiary thereof; (E) the documents to be presented by such beneficiary in case of any drawing or presentation thereunder; (F) the full text of any certificate to be presented by such beneficiary in case of any drawing or presentation thereunder; (G) the purpose and nature of the requested Letter of Credit; and (H) such other matters as such Issuing Lender may reasonably require. In the case of a request for an amendment of any outstanding Letter of Credit, such Letter of Credit Application shall specify in form and detail satisfactory to such Issuing Lender (A) the Letter of Credit to be amended; (B) the proposed date of amendment thereof (which shall be a Business Day); (C) the nature of the proposed amendment; and (D) such other matters as such Issuing Lender may require. Additionally, the Borrower shall furnish to such Issuing Lender and the Administrative Agent such other documents and information pertaining to such requested Letter of Credit issuance or amendment, including any LOC Documents, as such Issuing Lender or the Administrative Agent may reasonably require.

(ii) Promptly after receipt of any Letter of Credit Application, the applicable Issuing Lender will confirm with the Administrative Agent (by telephone or in writing) that the Administrative Agent has received a copy of such Letter of Credit Application from the Borrower

and, if not, such Issuing Lender will provide the Administrative Agent with a copy thereof. Unless such Issuing Lender has received written notice from any Lender, the Administrative Agent or the Borrower at least one Business Day prior to the requested date of issuance or amendment of the applicable Letter of Credit, that one or more applicable conditions contained in Article IV shall not be satisfied, then, subject to the terms and conditions hereof, such Issuing Lender shall, on the requested date, issue a Letter of Credit for the account of the Borrower or the applicable Subsidiary or enter into the applicable amendment, as the case may be, in each case in accordance with such Issuing Lender's usual and customary business practices. Immediately upon the issuance of each Letter of Credit, each Lender shall be deemed to, and hereby irrevocably and unconditionally agrees to, purchase from such Issuing Lender a Participation Interest in such Letter of Credit in an amount equal to the product of such Lender's Applicable Percentage time the amount of such Letter of Credit. Immediately upon the creation of each Bankers' Acceptance, each Lender shall be deemed to, and hereby irrevocably and unconditionally agrees to, purchase from such Issuing Lender a Participation Interest in such Bankers' Acceptance in an amount equal to the product of such Lender's Applicable Percentage times the amount of such Bankers' Acceptance.

(iii) If the Borrower so requests in any applicable Letter of Credit Application, the applicable Issuing Lender may, in its sole discretion, agree to issue a Letter of Credit that has automatic extension provisions (each, an "Auto-Extension Letter of Credit"); provided that any such Auto-Extension Letter of Credit must permit such Issuing Lender to prevent any such extension at least once in each twelve-month period (commencing with the date of issuance of such Letter of Credit) by giving prior notice to the beneficiary thereof not later than a day (the "Non-Extension Notice Date") in each such twelve-month period to be agreed upon at the time such Letter of Credit is issued. Unless otherwise directed by such Issuing Lender, the Borrower shall not be required to make a specific request to such Issuing Lender for any such extension. Once an Auto-Extension Letter of Credit has been issued, the Lenders shall be deemed to have authorized (but may not require) such Issuing Lender to permit the extension of such Letter of Credit at any time to an expiry date not later than the Letter of Credit Expiration Date; provided, however, that such Issuing Lender shall not permit any such extension if (A) such Issuing Lender has determined that it would not be permitted, or would have no obligation, at such time to issue such Letter of Credit in its revised form (as extended) under the terms hereof (by reason of the provisions of clause (ii) or (iii) of Section 2.2(a), or otherwise), or (B) it has received notice (which may be by telephone or in writing) on or before the day that is seven Business Days before the Non-Extension Notice Date (1) from the Administrative Agent that the Required Lenders have elected not to permit such extension or (2) from the Administrative Agent, any Lender or the Borrower that one or more of the applicable conditions specified in Section 4.2 is not then satisfied, and in each case directing such Issuing Lender not to permit such extension.

(iv) Promptly after its delivery of any Letter of Credit or any amendment to a Letter of Credit to an advising bank with respect thereto or to the beneficiary thereof, the applicable Issuing Lender will also deliver to the Borrower and the Administrative Agent a true and complete copy of such Letter of Credit or amendment.

(c) Drawings and Reimbursements; Funding of Participations.

(i) Upon receipt from the beneficiary of any Letter of Credit of any notice of a drawing or, with respect to any Acceptance Credit, presentation of documents, under such Letter of Credit, or any presentation for payment of a Bankers' Acceptance the applicable Issuing Lender shall notify the Borrower and the Administrative Agent thereof. In the case of a Letter of Credit denominated in an Alternative Currency, the Borrower shall reimburse the applicable Issuing Lender in such Alternative Currency, unless (A) such Issuing Lender (at its option) shall have specified in such notice that it will require reimbursement in Dollars, or (B) in the absence of any such requirement for reimbursement in Dollars, the Borrower shall have notified such Issuing Lender promptly following receipt of the notice of such drawing for payment that the Borrower will reimburse such Issuing Lender in Dollars. In the case of any such reimbursement in Dollars of a drawing under a Letter of Credit denominated in an Alternative Currency, the applicable Issuing Lender shall notify the Borrower of the Dollar Equivalent of the amount of the

drawing promptly following the determination thereof. Not later than 11:00 a.m. on the date of any payment by any Issuing Lender under a Letter of Credit or Bankers' Acceptance, as applicable (each such date, an "Honor Date"), the Borrower shall reimburse the applicable Issuing Lender through the Administrative Agent in an amount equal to the amount of such drawing or Bankers' Acceptance, as applicable and in the applicable currency; provided, that the Borrower has received notice of such payment by 10:00 a.m. on such Honor Date, otherwise the Borrower shall make such payment not later than 11:00 a.m. on the following Business Day (together with interest thereon). If the Borrower fails to so reimburse the applicable Issuing Lender by such time, the Administrative Agent shall promptly notify each Lender of the Honor Date, the amount of the unreimbursed drawing under such Letter of Credit or payment under such Bankers' Acceptance (expressed in Dollars in the amount of the Dollar Equivalent thereof in the case of a Letter of Credit denominated in an Alternative Currency) (the "Unreimbursed Amount"), and the amount of such Lender's Applicable Percentage. In such event, the Borrower shall be deemed to have requested a Revolving Loan advance comprised of Base Rate Loans to be disbursed on the Honor Date in an amount equal to the Unreimbursed Amount, without regard to the minimum and multiples specified in Section 2.1 for the principal amount of Base Rate Loans, but subject to the amount of the unutilized portion of the Revolving Committed Amount and the conditions set forth in Section 4.2 (other than the delivery of a Notice of Borrowing). Any notice given by any Issuing Lender or the Administrative Agent pursuant to this Section 2.2(c)(i) may be given by telephone if immediately confirmed in writing; provided that the lack of such an immediate confirmation shall not affect the conclusiveness or binding effect of such notice.

(ii) Each Lender (including the Lenders acting as Issuing Lenders) with a Revolving Commitment shall upon any notice pursuant to Section 2.2(c)(i) make funds available (and the Administrative Agent may apply Cash Collateral provided for this purpose) for the account of the applicable Issuing Lender at the Administrative Agent's office in an amount equal to its Applicable Percentage of the Dollar Equivalent of the Unreimbursed Amount not later than 1:00 p.m. on the Business Day specified in such notice by the Administrative Agent, whereupon, subject to the provisions of Section 2.2(c)(iii), each Lender that so makes funds available shall be deemed to have made a Base Rate Loan to the Borrower in such amount. The Administrative Agent shall remit the funds so received to the applicable Issuing Lender.

(iii) With respect to any Unreimbursed Amount that is not fully refinanced by a Revolving Loan advance because the conditions set forth in Section 4.2 cannot be satisfied or for any other reason, the Borrower shall be deemed to have incurred from the applicable Issuing Lender an L/C Borrowing in the amount of the Unreimbursed Amount that is not so refinanced, which L/C Borrowing shall be due and payable on demand (together with interest) and shall bear interest at the rate specified in Section 3.1. In such event, each Lender's payment to the Administrative Agent for the account of the applicable Issuing Lender pursuant to Section 2.2(c)(ii) shall be deemed payment in respect of its participation in such L/C Borrowing and shall constitute an L/C Advance from such Lender in satisfaction of its participation obligation under this Section 2.2.

(iv) Until each Lender funds its Revolving Loan or L/C Advance pursuant to this Section 2.2(c) to reimburse the applicable Issuing Lender for any amount drawn under any Letter of Credit or payments made on any Bankers' Acceptance, interest in respect of such Lender's Applicable Percentage of such amount shall be solely for the account of such Issuing Lender.

(v) Each Lender's obligation to make Revolving Loans or L/C Advances to reimburse the Issuing Lenders for amounts drawn under Letters of Credit and payments made on Bankers' Acceptances, as contemplated by this Section 2.2(c), shall be absolute and unconditional and shall not be affected by any circumstance, including (A) any set-off, counterclaim, recoupment, defense or other right which such Lender may have against the applicable Issuing Lender, the Borrower or any other Person for any reason whatsoever; (B) the occurrence or continuance of a Default or Event of Default, or (C) any other occurrence, event or condition, whether or not similar to any of the foregoing; provided, however, that each Lender's obligation to make Revolving Loans pursuant to this Section 2.2(c) is subject to the conditions set forth in Section 4.2 (other than delivery by the Borrower of a Notice of Borrowing). No such

making of an L/C Advance shall relieve or otherwise impair the obligation of the Borrower to reimburse the applicable Issuing Lender for the amount of any payment made by such Issuing Lender under any Letter of Credit or Bankers' Acceptance, together with interest as provided herein.

(vi) If any Lender fails to make available to the Administrative Agent for the account of the applicable Issuing Lender any amount required to be paid by such Lender pursuant to the foregoing provisions of this Section 2.2(c) by the time specified in Section 2.2(c)(ii), then, without limiting the other provisions of this Credit Agreement, such Issuing Lender shall be entitled to recover from such Lender (acting through the Administrative Agent), on demand, such amount with interest thereon for the period from the date such payment is required to the date on which such payment is immediately available to such Issuing Lender at a rate per annum equal to the greater of the Federal Funds Rate and a rate determined by such Issuing Lender in accordance with banking industry rules on interbank compensation, plus any administrative, processing or similar fees customarily charged by such Issuing Lender in connection with the foregoing. If such Lender pays such amount (with interest and fees as aforesaid), the amount so paid shall constitute such Lender's Revolving Loan included in the relevant borrowing or L/C Advance in respect of the relevant L/C Borrowing, as the case may be. A certificate of an Issuing Lender submitted to any Lender (through the Administrative Agent) with respect to any amounts owing under this clause (vi) shall be presumed correct absent manifest error.

(d) Repayment of Participations.

(i) At any time after any Issuing Lender has made a payment under any Letter of Credit or Bankers' Acceptance and has received from any Lender such Lender's L/C Advance in respect of such payment in accordance with Section 2.2(c), if the Administrative Agent receives for the account of the applicable Issuing Lender any payment in respect of the related Unreimbursed Amount or interest thereon (whether directly from the Borrower or otherwise, including proceeds of Cash Collateral applied thereto by the Administrative Agent), the Administrative Agent will distribute to such Lender its Applicable Percentage thereof in the same funds as those received by the Administrative Agent.

(ii) If any payment received by the Administrative Agent for the account of any Issuing Lender pursuant to Section 2.2(c)(i) is required to be returned under any of the circumstances described in Section 3.14 (including pursuant to any settlement entered into by the applicable Issuing Lender in its discretion), each Lender shall pay to the Administrative Agent for the account of the applicable Issuing Lender its Applicable Percentage thereof on demand of the Administrative Agent, plus interest thereon from the date of such demand to the date such amount is returned by such Lender, at a rate per annum equal to the Federal Funds Rate from time to time in effect. The obligations of the Lenders under this clause shall survive the payment in full of the Obligations and the termination of this Credit Agreement.

(e) Obligations Absolute. The obligation of the Borrower to reimburse the applicable Issuing Lender for each drawing under each Letter of Credit and each payment under any Bankers' Acceptance and to repay each L/C Borrowing shall be absolute, unconditional and irrevocable, and shall be paid strictly in accordance with the terms of this Credit Agreement under all circumstances, including the following:

(i) any lack of validity or enforceability of such Letter of Credit or Bankers' Acceptance, this Credit Agreement, or any other agreement or instrument relating thereto;

(ii) the existence of any claim, counterclaim, set-off, defense or other right that the Borrower or any Subsidiary may have at any time against any beneficiary or any transferee of such Letter of Credit or Bankers' Acceptance (or any Person for whom any such beneficiary or any such transferee may be acting), such Issuing Lender or any other Person, whether in connection with this Credit Agreement, the transactions contemplated hereby or by such Letter of Credit or Bankers' Acceptance or any agreement or instrument relating thereto, or any unrelated transaction;

(iii) any draft, demand, certificate or other document or endorsement presented under or in connection with such Letter of Credit or Bankers' Acceptance proving to be forged, fraudulent, invalid or insufficient in any respect or any statement therein being untrue or inaccurate in any respect; or any loss or delay in the transmission or otherwise of any document required in order to make a drawing under such Letter of Credit or obtain payment under such Bankers' Acceptance;

(iv) any payment made by such Issuing Lender under such Letter of Credit to any Person purporting to be a trustee in bankruptcy, debtor-in-possession, assignee for the benefit of creditors, liquidator, receiver or other representative of or successor to any beneficiary or any transferee of such Letter of Credit, including any arising in connection with any proceeding under the Bankruptcy Code or any other Debtor Relief Laws;

(v) any adverse change in the relevant exchange rates or in the availability of the relevant Alternative Currency to the Borrower or any Subsidiary or in the relative currency markets generally; or

(vi) any other circumstance or happening whatsoever, whether or not similar to any of the foregoing, including any other circumstance that might otherwise constitute a defense available to, or a discharge of, the Borrower or any Subsidiary.

provided, that nothing in this Section 2.3(e) shall be deemed a waiver of the third and fourth sentences in Section 2.3(f).

The Borrower shall promptly examine a copy of each Letter of Credit and each amendment thereto that is delivered to it and, in the event of any claim of noncompliance with the Borrower's instructions or other irregularity, the Borrower will immediately notify the applicable Issuing Lender. The Borrower shall be conclusively deemed to have waived any such claim against such Issuing Lender and its correspondents unless such notice is given as aforesaid.

(f) Role of Issuing Lenders. Each Lender and the Borrower agree that, in paying any drawing under a Letter of Credit or making any payment under a Bankers' Acceptance, no Issuing Lender shall have any responsibility to obtain any document (other than any sight draft, certificates and documents expressly required by such Letter of Credit and the original Bankers' Acceptance) or to ascertain or inquire as to the validity or accuracy of any such document or the authority of the Person executing or delivering any such document. None of the Issuing Lenders, the Administrative Agent, any of their respective Related Parties nor any correspondent, participant or assignee of any Issuing Lender shall be liable to any Lender for (i) any action taken or omitted in connection herewith at the request or with the approval of the Lenders or the Required Lenders, as applicable; (ii) any action taken or omitted in the absence of gross negligence or willful misconduct; or (iii) the due execution, effectiveness, validity or enforceability of any document or instrument related to any Letter of Credit, or Bankers' Acceptance or LOC Document. The Borrower hereby assumes all risks of the acts or omissions of any beneficiary or transferee with respect to its use of any Letter of Credit or Bankers' Acceptance; provided, however, that this assumption is not intended to, and shall not, preclude the Borrower's pursuing such rights and remedies as it may have against the beneficiary or transferee at law or under any other agreement. None of the Issuing Lenders, the Administrative Agent, any of their respective Related Parties nor any correspondent, participant or assignee of any Issuing Lender, shall be liable or responsible for any of the matters described in clauses (i) through (vi) of Section 2.2(e); provided, however, that anything in such clauses to the contrary notwithstanding, the Borrower may have a claim against an Issuing Lender, and an Issuing Lender may be liable to the Borrower, to the extent, but only to the extent, of any direct, as opposed to consequential or exemplary, damages suffered by the Borrower which the Borrower proves were caused by such Issuing Lender's willful misconduct or gross negligence or such Issuing Lender's willful failure to pay under any Letter of Credit after the presentation to it by the beneficiary of a sight draft and certificate(s) strictly complying with the terms and conditions of a Letter of Credit or to honor any Bankers' Acceptance presented for payment in strict compliance with its terms and conditions unless such Issuing Lender is prevented or prohibited from so paying as a result of any order or directive from any court or other Governmental Authority. In furtherance and not in limitation of the foregoing, each Issuing Lender may accept documents that appear on their face to be in order, without responsibility for

further investigation, regardless of any notice or information to the contrary, and no Issuing Lender shall be responsible for the validity or sufficiency of any instrument endorsing, transferring or assigning or purporting to endorse or transfer or assign a Letter of Credit or the rights or benefits thereunder or proceeds thereof, in whole or in part, which may prove to be invalid or ineffective for any reason.

(g) Applicability of ISP and UCP. Unless otherwise expressly agreed by the applicable Issuing Lender and the Borrower when a Letter of Credit is issued (including any such agreement applicable to an Existing Letter of Credit), (i) the rules of the “International Standby Practices 1998” published by the Institute of International Banking Law & Practice (or such later version thereof as may be in effect at the time of issuance) shall apply to each standby Letter of Credit, and (ii) the rules of the Uniform Customs and Practice for Documentary Credits, as most recently published by the International Chamber of Commerce at the time of issuance shall apply to each commercial Letter of Credit.

(h) Conflict with Letter of Credit Application. In the event of any conflict between the terms hereof and the terms of any Letter of Credit Application, the terms hereof shall control.

(i) Letters of Credit Issued for Subsidiaries. Notwithstanding that a Letter of Credit or Bankers’ Acceptance issued or outstanding hereunder is in support of any obligations of, or is for the account of, a Subsidiary, the Borrower shall be obligated to reimburse the applicable Issuing Lender hereunder for any and all drawings under such Letter of Credit or Bankers’ Acceptance, as applicable. The Borrower hereby acknowledges that the issuance of Letters of Credit or Bankers’ Acceptances for the account of Subsidiaries inures to the benefit of the Borrower, and that the Borrower’s business derives substantial benefits from the businesses of such Subsidiaries.

(j) Monthly Reports. Each Issuing Lender shall provide to the Administrative Agent a list of outstanding Letters of Credit issued by it (together with type and amounts) on a monthly basis.

2.3 Swingline Loans Subfacility.

(a) Swingline Loans. Subject to the terms and conditions set forth herein and in the other Credit Documents and in reliance upon the agreements of the other Lenders set forth herein, the Swingline Lender shall make loans, unless (x) any Lender at such time is a Defaulting Lender hereunder and (y) the Swingline Lender has not entered into arrangements satisfactory to it with the Borrower or such Defaulting Lender to eliminate the Fronting Exposure with respect to such Defaulting Lender in which case the Swingline Lender may in its sole discretion make loans, to the Borrower in Dollars at any time and from time to time from the Closing Date to but not including the Maturity Date for the Revolving Commitments, or such earlier date as the Revolving Commitments shall have been terminated as provided herein (each such loan, a “Swingline Loan” and collectively, the “Swingline Loans”); provided that (i) the aggregate principal amount of the Swingline Loans outstanding at any one time shall not exceed the Swingline Sublimit and (ii) with regard to the Lenders collectively, the amount of Revolving Obligations outstanding shall not exceed the Revolving Committed Amount. Prior to the Maturity Date, Swingline Loans may be repaid and reborrowed by the Borrower in accordance with the provisions hereof.

(b) Method of Borrowing and Funding Swingline Loans. By no later than 2:30 p.m. (Charlotte, North Carolina time), on the date of the requested borrowing of Swingline Loans, the Borrower shall telephone the Swingline Lender as well as submit a Swingline Loan Request to the Swingline Lender in the form of Exhibit 2.3(b), setting forth (i) the amount of the requested Swingline Loan, (ii) the date of the requested Swingline Loan and (iii) whether the borrowing shall be comprised of Loans bearing interest at the Adjusted Base Rate or the SOFR Market Index Rate plus the Applicable Rate and complying in all respects with Section 4.2. The Swingline Lender shall initiate the transfer of funds representing the Swingline Loan advance to the Borrower by 3:00 p.m. on the Business Day of the requested borrowing. Each Swingline Loan shall be in a minimum amount of \$100,000 and in integral multiples of \$1,000 in excess thereof. The Borrower hereby irrevocably authorizes the Administrative Agent to disburse the proceeds of each borrowing requested pursuant to this Section in immediately available funds by crediting or wiring such proceeds to the deposit account of the Borrower identified in the most recent Notice of Account Designation substantially in the form Notice of Account Designation

delivered by the Borrower to the Administrative Agent or as may be otherwise agreed upon by the Borrower and the Administrative Agent from time to time.

(c) **Repayment and Participations of Swingline Loans.** The Borrower agrees to repay all Swingline Loans within five Business Days of demand therefor by the Swingline Lender. Each repayment of a Swingline Loan may be accomplished by requesting Revolving Loans which request is not subject to the conditions set forth in Section 4.2. In the event that the Borrower shall fail to timely repay any Swingline Loan, and in any event upon (i) a request by the Swingline Lender, (ii) the occurrence of an Event of Default described in Section 8.1(e) or (iii) the acceleration of any Loan or termination of any Commitment pursuant to Section 8.2, each other Lender with a Revolving Commitment shall irrevocably and unconditionally purchase (and the Administrative Agent may apply Cash Collateral available with respect to the applicable Swingline Loan) from the Swingline Lender, without recourse or warranty, an undivided interest and participation in such Swingline Loan in an amount equal to such other Lender's Applicable Percentage thereof, by directly purchasing a participation in such Swingline Loan in such amount (regardless of whether the conditions precedent thereto set forth in Section 4.2 are then satisfied, whether or not the Borrower has submitted a Notice of Borrowing and whether or not the Commitments are then in effect, any Event of Default exists or all the Loans have been accelerated) and paying the proceeds thereof to the Swingline Lender at the address provided in Section 10.1, or at such other address as the Swingline Lender may designate, in Dollars and in immediately available funds. If such amount is not in fact made available to the Swingline Lender by any Lender, the Swingline Lender shall be entitled to recover such amount on demand from such Lender, together with accrued interest thereon for each day from the date of demand thereof, at the Federal Funds Rate. If such Lender does not pay such amount forthwith upon the Swingline Lender's demand therefor, and until such time as such Lender makes the required payment, the Swingline Lender shall be deemed to continue to have outstanding Swingline Loans in the amount of such unpaid participation obligation for all purposes of the Credit Documents other than those provisions requiring the other Lenders to purchase a participation therein. Further, such Lender shall be deemed to have assigned any and all payments made of principal and interest on its Loans, and any other amounts due to it hereunder to the Swingline Lender to fund Swingline Loans in the amount of the participation in Swingline Loans that such Lender failed to purchase pursuant to this Section 2.3(c) until such amount has been purchased (as a result of such assignment or otherwise). The principal amount of all Swingline Loans shall be due and payable in full on the Maturity Date, unless accelerated sooner pursuant to Section 8.2 or required to be repaid by the Swingline Lender pursuant to the foregoing terms of this Section 2.3(c).

(d) **Interest.** Subject to the provisions of Section 3.1, each Swingline Loan shall bear interest, at the option of the Borrower, at a per annum rate equal to (i) the Adjusted Base Rate or (ii) the SOFR Market Index Rate plus the Applicable Rate. Interest on Swingline Loans shall be payable in arrears on each applicable Interest Payment Date (or at such other times as may be specified herein).

(e) **Swingline Note.** If requested by the Swingline Lender, the Swingline Loans made by the Swingline Lender shall be evidenced by a duly executed promissory note of the Borrower to the Swingline Lender in the face amount of the Swingline Sublimit and in substantially the form of Exhibit 2.3(e).

(f) **Repayment.** All Swingline Loans outstanding on the Maturity Date for the Revolving Commitments shall be due and payable in full on such date unless accelerated sooner pursuant to Section 8.2.

ARTICLE III.

OTHER PROVISIONS RELATING TO CREDIT FACILITIES

3.1 Default Rate.

(i) Immediately upon the occurrence, and during the continuance, of an Event of Default under Section 8.1(a) or 8.1(e) or (ii) at the election of the Required Lenders, upon the occurrence, and during the continuance, of any other Event of Default, the principal of and, to the extent permitted by law, interest on

the Loans and any other amounts owing hereunder or under the other Credit Documents shall bear interest, payable on demand, at a per annum rate 2% greater than the rate which would otherwise be applicable (or if no rate is applicable, whether in respect of interest, fees or other amounts, then the Adjusted Base Rate plus 2%).

3.2 Extension and Conversion.

The Borrower shall have the option, on any Business Day, to extend existing Loans into a subsequent permissible Interest Period or to convert Loans into Loans of another interest rate type; provided, however, that (i) except as provided in Section 3.8, SOFR Loans may be converted into Base Rate Loans or extended as SOFR Loans for new Interest Periods only on the last day of the Interest Period applicable thereto, (ii) without the consent of the Required Lenders, SOFR Loans may be extended, and Base Rate Loans may be converted into SOFR Loans, only if the conditions precedent set forth in Section 4.2 are satisfied on the date of extension or conversion, (iii) Loans extended as, or converted into, SOFR Loans shall be subject to the terms of the definition of "Interest Period" set forth in Section 1.1 and shall be in such minimum amounts as provided in Section 2.1(d)(ii), (iv) no more than ten SOFR Loans shall be outstanding hereunder at any time (it being understood that, for purposes hereof, SOFR Loans with different Interest Periods shall be considered as separate SOFR Loans, even if they begin on the same date, although borrowings, extensions and conversions may, in accordance with the provisions hereof, be combined at the end of existing Interest Periods to constitute a new SOFR Loan with a single Interest Period) and (v) any request for extension or conversion of a SOFR Loan which shall fail to specify an Interest Period shall be deemed to be a request for an Interest Period of one month. Each such extension or conversion shall be effected by the Borrower by giving a Notice of Extension/Conversion (or telephonic notice promptly confirmed in writing) to the office of the Administrative Agent specified in specified in Schedule 10.1, or at such other office as the Administrative Agent may designate in writing, prior to (i) 12:00 noon (Charlotte, North Carolina time) on the Business Day of, in the case of the conversion of a SOFR Loan into a Base Rate Loan, and (ii) 10:30 a.m. (Charlotte, North Carolina time) on the second Business Day prior to, in the case of the extension of a SOFR Loan as, or conversion of a Base Rate Loan into, a SOFR Loan, the date of the proposed extension or conversion, specifying the date of the proposed extension or conversion, the Loans to be so extended or converted, the types of Loans into which such Loans are to be converted and, if appropriate, the applicable Interest Periods with respect thereto. Each request for extension or conversion shall be irrevocable and shall constitute a representation and warranty by the Borrower of the matters specified in subsections (b), (c), (d) and (e) of Section 4.2. In the event the Borrower fails to request extension or conversion of any SOFR Loan in accordance with this Section, then the Borrower shall be deemed to have requested an extension or conversion thereof to a SOFR Loan with an Interest Period of one month at the end of the Interest Period applicable thereto. In the event any such conversion or extension is not permitted or required by this Section, then such SOFR Loan shall be automatically converted into a Base Rate Loan at the end of the Interest Period applicable thereto. The Administrative Agent shall give each Lender notice as promptly as practicable of any such proposed extension or conversion affecting any Loan. This Section shall not apply to Swingline Loans.

3.3 Prepayments.

(a) Voluntary Prepayments.

The Borrower shall have the right to prepay Loans in whole or in part from time to time, with irrevocable prior written notice to the Administrative Agent substantially in the form attached as Exhibit 3.3 (a "Notice of Prepayment") given prior to but not later than (i) 2:00 p.m. (Charlotte, North Carolina time) on the same Business Day as each prepayment of a Base Rate Loan or a Swingline Loan and (ii) 11:00 a.m. (Charlotte, North Carolina time) on the same Business Day as each prepayment of a SOFR Loan, specifying the date and amount of prepayment, whether the prepayment is of Revolving Loans, Swingline Loans, or Incremental Term Loans, or a combination thereof and, if a combination thereof, the amount allocable to each and whether the prepayment is of SOFR Loans, Base Rate Loans, Loans bearing interest at the SOFR Market Index Rate plus the Applicable Rate or a combination thereof, and, if of a combination thereof, the amount allocable to each. Upon receipt of such notice, the Administrative Agent shall promptly notify each Lender. If any such notice is given, the amount

specified in such notice shall be due and payable on the date set forth in such notice; provided, however, that each partial prepayment of Loans shall be in a minimum principal amount of \$1,000,000 and integral multiples of \$100,000. Subject to the foregoing terms and Section 3.18, amounts prepaid under this Section 3.3(a) shall be applied as the Borrower may elect; provided that if the Borrower fails to specify a voluntary prepayment then such prepayment shall be applied to the applicable Loans, in each case first to Base Rate Loans and then to SOFR Loans, in direct order of Interest Period maturities and, in the case of a prepayment of an Incremental Term Loan, such prepayment shall be applied ratably to the remaining principal amortization payments. A Notice of Prepayment received after the time periods required above shall be deemed received on the next Business Day. All prepayments under this Section 3.3(a) shall be subject to Section 3.12, but otherwise without premium or penalty.

(b) Mandatory Prepayments.

(i) If at any time the sum of the aggregate amount of the outstanding Revolving Loans plus LOC Obligations outstanding plus Swingline Loans outstanding shall exceed the Revolving Committed Amount, the Borrower shall immediately make payment on the Loans and/or Cash Collateralize the LOC Obligations in an amount sufficient to eliminate such excess. All amounts required to be paid pursuant to Section 3.3(b) shall be applied as follows: to the Swingline Loans and to the Revolving Loans and (after all Revolving Loans and Swingline Loans have been repaid) to a cash collateral account in respect of LOC Obligations. Within the parameters of the applications set forth above, prepayments shall be applied first to Base Rate Loans and then to SOFR Loans in direct order of Interest Period maturities.

(ii) Upon the occurrence of a Change of Control, unless the Required Lenders shall elect otherwise, (A) the Commitments shall automatically terminate and (B) the Borrower shall promptly, and in any event, within three Business Days, prepay all accrued fees and all unpaid principal of and any accrued interest in respect of all Loans and Cash Collateralize all LOC Obligations.

(iii) All prepayments under this Section 3.3(b) shall be subject to Section 3.12.

3.4 Termination of Revolving Commitments, Reduction of Revolving Committed Amount or Increase in Commitments.

(a) Voluntary Reductions of Revolving Committed Amount. The Borrower may from time to time permanently reduce or terminate the Revolving Committed Amount in whole or in part (in minimum aggregate amounts of \$5,000,000 or in integral multiples of \$1,000,000 in excess thereof (or, if less, the full remaining amount of the then applicable Revolving Committed Amount)) upon five Business Days' prior written notice to the Administrative Agent; provided, that, no such termination or reduction shall be made which would cause the sum of the aggregate principal amount of the outstanding Revolving Loans plus LOC Obligations plus Swingline Loans to exceed the Revolving Committed Amount or unless, concurrently with such termination or reduction, the Revolving Loans and Swingline Loans are repaid to the extent necessary to eliminate such excess. The Administrative Agent shall promptly notify each affected Lender of receipt by the Administrative Agent of any notice from the Borrower pursuant to this Section 3.4(a).

(b) Mandatory Termination of Revolving Commitments. The Revolving Commitments shall automatically terminate on the Maturity Date therefor.

(c) Increase in Commitments. The Borrower shall have the right, upon at least fifteen (15) Business Days' prior written notice to the Administrative Agent, to increase (in one or more increases) the Revolving Committed Amount or institute one or more Incremental Term Loans at any time prior to the date that is three (3) months prior to the Maturity Date, subject, however, in any such case, to satisfaction of the following conditions precedent:

(i) the sum of (A) the aggregate amount of all increases in the Revolving Committed Amount pursuant to this Section 3.4(c), plus (B) the aggregate original principal amount of all Incremental Term Loans made pursuant to Section 2.1(c), shall not exceed \$500,000,000;

(ii) no Default or Event of Default shall exist prior to or after giving effect to such increase or institution on the date on which such increase or institution is to become effective;

(iii) the representations and warranties set forth in Article V shall be true and correct in all material respects on and as of the date on which such increase or institution is to become effective (except for those which expressly relate to an earlier date);

(iv) such increase or institution shall be in a minimum amount of \$10,000,000 and in integral multiples of \$5,000,000 in excess thereof (or such lesser amounts as the Administrative Agent may agree);

(v) such requested increase or institution shall only be effective upon receipt by the Administrative Agent of (A) additional commitments in a corresponding amount of such requested increase or institution from either existing Lenders and/or one or more other institutions that qualify as an Eligible Assignee (it being understood and agreed that no existing Lender shall be required to provide an additional commitment) and (B) documentation from each institution providing an additional commitment evidencing their commitment and their obligations under this Credit Agreement in form and substance acceptable to the Administrative Agent (which documentation shall take the form of Incremental Term Loan Agreements, in the case of an institution of an Incremental Term Loan);

(vi) the Administrative Agent shall have received all documents (including resolutions of the board of directors of the Borrower) it may reasonably request relating to the corporate or other necessary authority for and the validity of such increase or institution, and any other matters relevant thereto, all in form and substance reasonably satisfactory to the Administrative Agent;

(vii) if any Revolving Loans are outstanding at the time of the increase in the Revolving Committed Amount, the Borrower shall, if applicable, prepay one or more existing Revolving Loans (such prepayment to be subject to Section 3.12) in an amount necessary such that after giving effect to the increase in the Revolving Committed Amount, each Lender will hold its pro rata share (based on its Applicable Percentage of the increased Revolving Committed Amount) of outstanding Revolving Loans;

(viii) if the reallocation, if any, of outstanding Loans among the Lenders in connection with such increase results in the prepayment of SOFR Loans on a day which is not the last day of an Interest Period with respect thereto, the Borrower shall have paid to each affected Lender such amounts, if any, as may be required pursuant to Section 3.12; and

(ix) in the case of the institution of an Incremental Term Loan:

(A) the final maturity date for such Incremental Term Loan shall be as set forth in the applicable Incremental Term Loan Agreement; provided that such date shall not be earlier than the Maturity Date;

(B) the scheduled principal amortization payments under such Incremental Term Loan shall be as set forth in the applicable Incremental Term Loan Agreement; and

(C) the Applicable Rate for such Incremental Term Loan shall be the percentage(s) per annum set forth in the applicable Incremental Term Loan Agreement;

3.5 Fees.

(a) Unused Fee. In consideration of the Revolving Commitments of the Lenders hereunder, the Borrower agrees to pay to the Administrative Agent for the account of each Lender with a Revolving Commitment a fee (the "Unused Fee") equal to the Applicable Rate per annum for Unused Fees then in effect on the Unused Revolving Committed Amount for each day during the applicable Unused Fee Calculation Period (hereinafter defined), subject to adjustment as provided in Section 3.18. The Unused Fee shall commence to accrue on the Closing Date and shall be due and payable in arrears on the first business day of each April, July, October and January (and any date that the Revolving Committed Amount is reduced as provided in Section 3.4 and the Maturity Date) for the immediately preceding quarter (or portion thereof) (each such quarter or portion thereof for which the Unused Fee is payable hereunder being herein referred to as an "Unused Fee Calculation Period"), beginning with the first of such dates to occur after the Closing Date. For purposes of computation of the Unused Fees, the Swingline Loans shall not be counted toward or considered usage of the Revolving Committed Amount.

(b) Letter of Credit Fees.

(i) Standby Letter of Credit Issuance Fee. In consideration of the issuance of standby Letters of Credit hereunder, the Borrower promises to pay to the Administrative Agent for the account of each Lender with a Revolving Commitment a fee in Dollars (the "Standby Letter of Credit Fee") on such Lender's Applicable Percentage of the Dollar Equivalent of the average daily maximum amount available to be drawn under each such standby Letter of Credit computed at a per annum rate for each day from the date of issuance to the date of expiration equal to the Applicable Rate; provided, however, any Standby Letter of Credit Fees otherwise payable for the account of a Defaulting Lender with respect to any Letter of Credit as to which such Defaulting Lender has not provided Cash Collateral satisfactory to the applicable Issuing Lender pursuant to Section 2.2 shall be payable, to the maximum extent permitted by applicable law, to the other Lenders in accordance with the upward adjustments in their respective Applicable Percentages allocable to such Letter of Credit pursuant to Section 3.18(a)(iv), with the balance of such fee, if any, payable to the applicable Issuing Lender for its own account (or in the event the Borrower has provided such Cash Collateral, such balance shall be deemed waived and shall not be payable by the Borrower). The Standby Letter of Credit Fee will be payable quarterly in arrears on the first Business Day of each April, July, October and January for the immediately preceding quarter (or a portion thereof).

(ii) Trade Letter of Credit Drawing Fee. In consideration of the issuance of trade Letters of Credit and Bankers' Acceptances hereunder, the Borrower promises to pay to the Administrative Agent for the account of each Lender with a Revolving Commitment a fee in Dollars (the "Trade Letter of Credit Fee") on such Lender's Applicable Percentage of the Dollar Equivalent of the average daily maximum amount available to be drawn under each such trade Letter of Credit and each Bankers' Acceptance computed at a per annum rate for each day from the date of issuance to the date of expiration equal to the Applicable Rate; provided, however, any Trade Letter of Credit Fees otherwise payable for the account of a Defaulting Lender with respect to any trade Letter of Credit or Bankers' Acceptance as to which such Defaulting Lender has not provided Cash Collateral satisfactory to the applicable Issuing Lender pursuant to Section 2.2 shall be payable, to the maximum extent permitted by applicable law, to the other Lenders in accordance with the upward adjustments in their respective Applicable Percentages allocable to such trade Letter of Credit or Bankers' Acceptance pursuant to Section 3.18(a)(iv), with the balance of such fee, if any, payable to the applicable Issuing Lender for its own account (or in the event the Borrower has provided such Cash Collateral, such balance shall be deemed waived and shall not be payable by the Borrower). The Trade Letter of Credit Fee will be payable quarterly in arrears on the first Business Day of each April, July, October and January for the immediately preceding quarter (or a portion thereof).

(iii) Issuing Lender Fees. In addition to the Standby Letter of Credit Fee payable pursuant to clause (i) above and the Trade Letter of Credit Fee payable pursuant to clause (ii) above, the Borrower promises to pay to each Issuing Lender for its own account without sharing by the other Lenders customary charges from time to time of such Issuing Lender with respect to the issuance, amendment, transfer, administration, cancellation and conversion of, and drawings under, such Letters of Credit and Bankers' Acceptances (collectively, the "Issuing Lender Fees").

3.6 Capital Adequacy and Liquidity.

If any Lender or any Issuing Lender determines that any Change in Law affecting such Lender or such Issuing Lender or any Applicable Lending Office of such Lender or such Lender's or such Issuing Lender's holding company, if any, regarding capital or liquidity requirements, has or would have the effect of reducing the rate of return on such Lender's or such Issuing Lender's capital or on the capital of such Lender's or such Issuing Lender's holding company, if any, as a consequence of this Credit Agreement, the Revolving Commitment of such Lender or the Loans made by, or participations in Letters of Credit or Swingline Loans held by, such Lender, or the Letters of Credit issued by such Issuing Lender, to a level below that which such Lender or such Issuing Lender or such Lender's or such Issuing Lender's holding company could have achieved but for such Change in Law (taking into consideration such Lender's or such Issuing Lender's policies and the policies of such Lender's or such Issuing Lender's holding company with respect to capital adequacy and liquidity), then from time to time upon written request of such Lender or such Issuing Lender the Borrower shall promptly pay to such Lender or such Issuing Lender, as the case may be, such additional amount or amounts as will compensate such Lender or such Issuing Lender or such Lender's or such Issuing Lender's holding company for any such reduction suffered. Each determination by any such Lender of amounts owing under this Section shall, absent manifest error, be presumed correct and binding on the parties hereto.

3.7 Changed Circumstances.

(a) Circumstances Affecting Benchmark Availability. Subject to clause (c) below, in connection with any request for a SOFR Loan or a conversion to or continuation thereof or otherwise, if for any reason (i) the Administrative Agent shall determine (which determination shall be conclusive and binding absent manifest error) that reasonable and adequate means do not exist for ascertaining Adjusted Term SOFR for the applicable Interest Period with respect to a proposed SOFR Loan on or prior to the first day of such Interest Period or (ii) the Required Lenders shall determine (which determination shall be conclusive and binding absent manifest error) that Adjusted Term SOFR does not adequately and fairly reflect the cost to such Lenders of making or maintaining such Loans during such Interest Period and, in the case of clause (ii), the Required Lenders have provided notice of such determination to the Administrative Agent, then, in each case, the Administrative Agent shall promptly give notice thereof to the Borrower. Upon notice thereof by the Administrative Agent to the Borrower, any obligation of the Lenders to make SOFR Loans, and any right of the Borrower to convert any Loan to or continue any Loan as a SOFR Loan, shall be suspended (to the extent of the affected SOFR Loans or the affected Interest Periods) until the Administrative Agent (with respect to clause (ii), at the instruction of the Required Lenders) revokes such notice. Upon receipt of such notice, (A) the Borrower may revoke any pending request for a borrowing of, conversion to or continuation of SOFR Loans (to the extent of the affected SOFR Loans or the affected Interest Periods) or, failing that, the Borrower will be deemed to have converted any such request into a request for a borrowing of or conversion to Base Rate Loans in the amount specified therein and (B) any outstanding affected SOFR Loans will be deemed to have been converted into Base Rate Loans at the end of the applicable Interest Period. Upon any such prepayment or conversion, the Borrower shall also pay accrued interest on the amount so prepaid or converted, together with any additional amounts required pursuant to Section 3.12.

(b) Laws Affecting SOFR Availability. If, after the date hereof, the introduction of, or any change in, any applicable law or any change in the interpretation or administration thereof by any Governmental Authority, central bank or comparable agency charged with the interpretation or administration thereof, or compliance by any of the Lenders (or any of their respective Applicable Lending Offices) with any request or directive (whether or not having the force of law) of any such Governmental Authority, central bank or comparable agency, shall make it unlawful or impossible for any of the Lenders (or any of their respective Applicable Lending Offices) to honor its obligations hereunder to make or maintain any SOFR Loan, or to determine or charge interest based upon SOFR, the Term SOFR Reference Rate, Adjusted Term SOFR or Term SOFR, such Lender shall promptly give notice thereof to the Administrative Agent and the Administrative Agent shall promptly give notice to the Borrower and the other Lenders (an "Illegality Notice"). Thereafter, until each affected Lender notifies the Administrative Agent and the Administrative Agent notifies the Borrower that the circumstances giving rise to such determination no longer exist, (i) any obligation of the Lenders to make SOFR Loans, and any right of the Borrower to convert any Loan to a SOFR Loan or continue any Loan as a SOFR

Loan, shall be suspended and (ii) if necessary to avoid such illegality, the Administrative Agent shall compute the Base Rate without reference to clause (c) of the definition of “Base Rate”. Upon receipt of an Illegality Notice, the Borrower shall, if necessary to avoid such illegality, upon demand from any Lender (with a copy to the Administrative Agent), prepay or, if applicable, convert all SOFR Loans to Base Rate Loans (in each case, if necessary to avoid such illegality, the Administrative Agent shall compute the Base Rate without reference to clause (c) of the definition of “Base Rate”), on the last day of the Interest Period therefor, if all affected Lenders may lawfully continue to maintain such SOFR Loans to such day, or immediately, if any Lender may not lawfully continue to maintain such SOFR Loans to such day. Upon any such prepayment or conversion, the Borrower shall also pay accrued interest on the amount so prepaid or converted, together with any additional amounts required pursuant to Section 3.12.

(c) Benchmark Replacement Setting.

(i) Benchmark Replacement. Notwithstanding anything to the contrary herein or in any other Credit Document, upon the occurrence of a Benchmark Transition Event, the Administrative Agent and the Borrower may amend this Credit Agreement to replace the then-current Benchmark with a Benchmark Replacement. Any such amendment with respect to a Benchmark Transition Event will become effective at 5:00 p.m. (Eastern time) on the fifth (5th) Business Day after the Administrative Agent has posted such proposed amendment to all affected Lenders and the Borrower so long as the Administrative Agent has not received, by such time, written notice of objection to such amendment from Lenders comprising the Required Lenders. No replacement of a Benchmark with a Benchmark Replacement pursuant to this Section 3.7(c)(i) will occur prior to the applicable Benchmark Transition Start Date.

(ii) Benchmark Replacement Conforming Changes. In connection with the use, administration, adoption or implementation of a Benchmark Replacement, the Administrative Agent will have the right to make Conforming Changes from time to time and, notwithstanding anything to the contrary herein or in any other Credit Document (excluding, for the avoidance of doubt, any Hedging Agreements), any amendments implementing such Conforming Changes will become effective without any further action or consent of any other party to this Credit Agreement or any other Credit Document.

(iii) Notices; Standards for Decisions and Determinations. The Administrative Agent will promptly notify the Borrower and the Lenders of (A) the implementation of any Benchmark Replacement and (B) the effectiveness of any Conforming Changes in connection with the use, administration, adoption or implementation of a Benchmark Replacement. The Administrative Agent will promptly notify the Borrower of the removal or reinstatement of any tenor of a Benchmark pursuant to Section 3.7(c)(iv). Any determination, decision or election that may be made by the Administrative Agent or, if applicable, any Lender (or group of Lenders) pursuant to this Section 3.7(c), including any determination with respect to a tenor, rate or adjustment or of the occurrence or non-occurrence of an event, circumstance or date and any decision to take or refrain from taking any action or any selection, will be conclusive and binding absent manifest error and may be made in its or their sole discretion and without consent from any other party to this Credit Agreement or any other Credit Document, except, in each case, as expressly required pursuant to this Section 3.7(c).

(iv) Unavailability of Tenor of Benchmark. Notwithstanding anything to the contrary herein or in any other Credit Document, at any time (including in connection with the implementation of a Benchmark Replacement), (A) if the then-current Benchmark is a term rate (including the Term SOFR Reference Rate) and either (1) any tenor for such Benchmark is not displayed on a screen or other information service that publishes such rate from time to time as selected by the Administrative Agent in its reasonable discretion or (2) the regulatory supervisor for the administrator of such Benchmark has provided a public statement or publication of information announcing that any tenor for such Benchmark is not or will not be representative, then the Administrative Agent may modify the definition of “Interest Period” (or any similar or analogous definition) for any Benchmark settings at or after such time to remove such unavailable or non-representative tenor and (B) if a tenor that was removed pursuant to clause (A) above either (1) is subsequently displayed on a screen or information service for a Benchmark

(including a Benchmark Replacement) or (2) is not, or is no longer, subject to an announcement that it is not or will not be representative for a Benchmark (including a Benchmark Replacement), then the Administrative Agent may modify the definition of “Interest Period” (or any similar or analogous definition) for all Benchmark settings at or after such time to reinstate such previously removed tenor.

(v) **Benchmark Unavailability Period.** Upon the Borrower’s receipt of notice of the commencement of a Benchmark Unavailability Period, (A) the Borrower may revoke any pending request for a borrowing of, conversion to or continuation of SOFR Loans to be made, converted or continued during any Benchmark Unavailability Period and, failing that, the Borrower will be deemed to have converted any such request into a request for a borrowing of or conversion to Base Rate Loans and (B) any outstanding affected SOFR Loans will be deemed to have been converted to Base Rate Loans at the end of the applicable Interest Period. During any Benchmark Unavailability Period or at any time that a tenor for the then-current Benchmark is not an Available Tenor, the component of the Base Rate based upon the then-current Benchmark or such tenor for such Benchmark, as applicable, will not be used in any determination of the Base Rate.

3.8 Illegality.

If, in any applicable jurisdiction, the Administrative Agent, any Issuing Lender or any Lender determines that any applicable law has made it unlawful, or that any Governmental Authority has asserted that it is unlawful, for the Administrative Agent, any Issuing Lender or any Lender to (i) perform any of its obligations hereunder or under any other Credit Document, (ii) to fund or maintain its participation in any Loan or (iii) issue, make, maintain, fund or charge interest or fees with respect to any extension of credit, such Person shall promptly notify the Administrative Agent, then, upon the Administrative Agent notifying the Borrower, and until such notice by such Person is revoked, any obligation of such Person to issue, make, maintain, fund or charge interest or fees with respect to any such extension of credit shall be suspended, and to the extent required by applicable law, cancelled. Upon receipt of such notice, the Borrower shall, (A) repay that Person’s participation in the Loans or other applicable Obligations on the last day of the Interest Period for each Loan, or on another applicable date with respect to another Obligation, occurring after the Administrative Agent has notified the Borrower or, in each case, if earlier, the date specified by such Person in the notice delivered to the Administrative Agent (being no earlier than the last day of any applicable grace period permitted by applicable law) and (B) take all reasonable actions requested by such Person to mitigate or avoid such illegality.

3.9 Increased Costs.

If any Change in Law shall:

(i) impose, modify or deem applicable any reserve (including pursuant to regulations issued from time to time by the FRB for determining the maximum reserve requirement (including any emergency, special, supplemental or other marginal reserve requirement) with respect to eurocurrency funding (currently referred to as “Eurocurrency liabilities” in Regulation D of the FRB, as amended and in effect from time to time)), special deposit, compulsory loan, insurance charge or similar requirement against assets of, deposits with or for the account of, or advances, loans or other credit extended or participated in by, any Lender or any Issuing Lender;

(ii) subject any Lender to any tax of any kind whatsoever (excluding federal taxation of the overall net income of any Lender and withholding Taxes imposed under FATCA) with respect to this Credit Agreement, any Letter of Credit, any Bankers’ Acceptance, any Participation Interest in a Letter of Credit or Bankers’ Acceptance or any SOFR Loan made by it, or change the basis of taxation of payments to such Lender in respect thereof (except for Taxes or Other Taxes covered by Section 3.11); or

(iii) impose on any Lender or any Issuing Lender any other condition, cost or expense (other than Taxes) affecting this Credit Agreement or Loans made by such Lender or any Letter of Credit or participation therein;

and the result of any of the foregoing shall be to increase the cost to such Lender or any Issuing Lender of making, converting to, continuing or maintaining any Loan (or of maintaining its obligation to make any such Loan), or to increase the cost to such Lender or such Issuing Lender of participating in, issuing or maintaining any Letter of Credit (or of maintaining its obligation to participate in or to issue any Letter of Credit), or to reduce the amount of any sum received or receivable by such Lender or such Issuing Lender hereunder (whether of principal, interest or any other amount) then, upon written request of such Lender or such Issuing Lender, the Borrower shall promptly pay to any such Lender or such Issuing Lender, as the case may be, such additional amount or amounts as will compensate such Lender or such Issuing Lender, as the case may be, for such additional costs incurred or reduction suffered.

3.10 Mitigation Obligations, Etc.

(a) Certificates for Reimbursement. A certificate of a Lender or an Issuing Lender setting forth the amount or amounts necessary to compensate such Lender or such Issuing Lender or any of their respective holding companies, as the case may be, as specified in Section 3.6 or 3.9 and delivered to the Borrower, shall be conclusive absent manifest error. The Borrower shall pay such Lender or such Issuing Lender, as the case may be, the amount shown as due on any such certificate within ten days after receipt thereof.

(b) Delay in Requests. Failure or delay on the part of any Lender or any Issuing Lender to demand compensation pursuant to the foregoing provisions of this Section shall not constitute a waiver of such Lender's or such Issuing Lender's right to demand such compensation; provided that the Borrower shall not be required to compensate any Lender or any Issuing Lender pursuant to Section 3.6 or 3.9 for any increased costs incurred or reductions suffered more than nine months prior to the date that such Lender or such Issuing Lender, as the case may be, notifies the Borrower of the Change in Law giving rise to such increased costs or reductions and of such Lender's or such Issuing Lender's intention to claim compensation therefor (except that, if the Change in Law giving rise to such increased costs or reductions is retroactive, then the nine-month period referred to above shall be extended to include the period of retroactive effect thereof).

(c) Designation of a Different Applicable Lending Office. If any Lender requests compensation under Section 3.6 or 3.9, or the Borrower is required to pay any additional amount to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 3.11, or if any Lender gives a notice pursuant to Section 3.8, then such Lender shall, as applicable, use reasonable efforts to designate a different Applicable Lending Office for funding or booking its Loans hereunder or to assign its rights and obligations hereunder to another of its offices, branches or affiliates, if, in the judgment of such Lender, such designation or assignment (i) would eliminate or reduce amounts payable pursuant to Section 3.6, 3.9 or 3.11, as the case may be, in the future, or eliminate the need for the notice pursuant to Section 3.8, as applicable, and (ii) in each case, would not subject such Lender to any unreimbursed cost or expense and would not otherwise be disadvantageous to such Lender. The Borrower hereby agrees to pay all reasonable costs and expenses incurred by any Lender in connection with any such designation or assignment.

(d) Replacement of Lenders. If any Lender requests compensation under Section 3.6 or 3.9, if any Lender gives a notice pursuant to Section 3.8, or if the Borrower is required to pay any additional amount to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 3.11, the Borrower may replace such Lender in accordance with Section 10.18

3.11 Taxes.

(a) Any and all payments by the Borrower to or for the account of any Lender or the Administrative Agent hereunder or under any other Credit Document shall be made free and clear of and without deduction for any and all present or future taxes, duties, levies, imposts, deductions, charges or withholdings, and all liabilities with respect thereto, excluding, in the case of each Lender and the Administrative Agent, (A) taxes imposed on its income, and franchise taxes imposed on it, by the jurisdiction under the laws of which such Lender (or its Applicable Lending Office) or the Administrative

Agent (as the case may be) is organized or any political subdivision thereof and (B) any withholding taxes imposed under FATCA (all such non-excluded taxes, duties, levies, imposts, deductions, charges, withholdings, and liabilities being hereinafter referred to as “Taxes”). If the Borrower shall be required by law to deduct any Taxes from or in respect of any sum payable under this Credit Agreement or any other Credit Document to any Lender or the Administrative Agent, (i) the sum payable shall be increased as necessary so that after making all required deductions (including deductions applicable to additional sums payable under this Section 3.11) such Lender or the Administrative Agent receives an amount equal to the sum it would have received had no such deductions been made, (ii) the Borrower shall make such deductions, (iii) the Borrower shall pay the full amount deducted to the relevant taxation authority or other authority in accordance with applicable law, and (iv) the Borrower shall furnish to the Administrative Agent, at its address referred to in Section 10.1, the original or a certified copy of a receipt evidencing payment thereof.

(b) In addition, the Borrower agrees to pay any and all present or future stamp or documentary taxes and any other excise or property taxes or charges or similar levies which arise from any payment made under this Credit Agreement or any other Credit Document or from the execution or delivery of, or otherwise with respect to, this Credit Agreement or any other Credit Document (hereinafter referred to as “Other Taxes”).

(c) The Borrower agrees to indemnify each Lender and the Administrative Agent for the full amount of Taxes and Other Taxes (including, without limitation, any Taxes or Other Taxes imposed or asserted by any jurisdiction on amounts payable under this Section 3.11) paid by such Lender or the Administrative Agent (as the case may be) and any liability (including penalties, interest, and expenses) arising therefrom or with respect thereto.

(d) Each Lender that is a United States Person under section 7701(a)(30), on or prior to the date of its execution and delivery of this Credit Agreement in the case of each Lender listed on the signature pages hereof and on or prior to the date on which it becomes a Lender in the case of each other Lender, and from time to time thereafter if requested in writing by the Borrower or the Administrative Agent, shall provide the Borrower and the Administrative Agent with Internal Revenue Service Form W-9 certifying that such Lender is exempt from U.S. federal backup withholding tax. Each Lender that is not a United States Person under Section 7701(a)(30) of the Code (a “Foreign Lender”), on or prior to the date of its execution and delivery of this Credit Agreement in the case of each Lender listed on the signature pages hereof and on or prior to the date on which it becomes a Lender in the case of each other Lender, and from time to time thereafter if requested in writing by the Borrower or the Administrative Agent (but only so long as such Lender remains lawfully able to do so), shall provide the Borrower and the Administrative Agent with (i) Internal Revenue Service Form W-8BEN or W-8ECI, as appropriate, or any successor form prescribed by the Internal Revenue Service, certifying that such Lender is entitled to benefits under an income tax treaty to which the United States is a party which reduces the rate of withholding tax on payments of interest or certifying that the income receivable pursuant to this Credit Agreement is effectively connected with the conduct of a trade or business in the United States, or (ii) any other form or certificate required by any taxing authority (including any certificate required by Sections 871(h) and 881(c) of the Internal Revenue Code), certifying that such Lender is entitled to an exemption from or a reduced rate of tax on payments pursuant to this Credit Agreement or any of the other Credit Documents.

In addition, if a payment made to a Lender under any Credit Document would be subject to U.S. federal withholding Tax imposed by FATCA if such Lender were to fail to comply with the applicable reporting requirements of FATCA (including those contained in Section 1471(b) or 1472(b) of the Code, as applicable), such Lender shall deliver to the Borrower and the Administrative Agent at the time or times prescribed by law and at such time or times reasonably requested by the Borrower or the Administrative Agent such documentation prescribed by applicable law (including as prescribed by Section 1471(b)(3)(C)(i) of the Code) and such additional documentation reasonably requested by the Borrower or the Administrative Agent as may be necessary for the Borrower and the Administrative Agent to comply with their obligations under FATCA and to determine that such Lender has complied with such Lender’s obligations under FATCA or to determine the amount to deduct and withhold from such payment. Solely for purposes of this paragraph, “FATCA” shall include any amendments made to FATCA after the date of this Credit Agreement.

(e) For any period with respect to which a Lender has failed to provide the Borrower and the Administrative Agent with the appropriate form pursuant to Section 3.11(d) (unless such failure is due to a change in treaty, law, or regulation occurring subsequent to the date on which a form originally was required to be provided), such Lender shall not be entitled to indemnification under Section 3.11(a) or 3.11(b) with respect to Taxes imposed by the United States; provided, however, that should a Lender, which is otherwise exempt from or subject to a reduced rate of withholding tax, become subject to Taxes because of its failure to deliver a form required hereunder, the Borrower shall take such steps as such Lender shall reasonably request to assist such Lender to recover such Taxes.

(f) If the Borrower is required to pay additional amounts to or for the account of any Lender pursuant to this Section 3.11, then such Lender will agree to use reasonable efforts to change the jurisdiction of its Applicable Lending Office so as to eliminate or reduce any such additional payment which may thereafter accrue if such change, in the reasonable judgment of such Lender, is not otherwise disadvantageous to such Lender.

(g) Within thirty (30) days after the date of any payment of Taxes, the Borrower shall furnish to the Administrative Agent the original or a certified copy of a receipt evidencing such payment.

(h) Without prejudice to the survival of any other agreement of the Borrower hereunder, the agreements and obligations of the Borrower contained in this Section 3.11 shall survive the repayment of the Loans, LOC Obligations and other obligations under the Credit Documents and the termination of the Commitments hereunder.

3.12 Indemnity.

The Borrower hereby indemnifies each of the Lenders against any loss, cost or expense (including any loss, cost or expense arising from the liquidation or reemployment of funds or from any fees payable) which may arise, be attributable to or result due to or as a consequence of (a) any failure by the Borrower to make any payment when due of any amount due hereunder in connection with a SOFR Loan, (b) any failure of the Borrower to borrow or continue a SOFR Loan or convert to a SOFR Loan on a date specified therefor in a Notice of Borrowing or Notice of Extension/Continuation, (c) any failure of the Borrower to prepay any SOFR Loan on a date specified therefor in any Notice of Prepayment, (d) any payment, prepayment or conversion of any SOFR Loan on a date other than the last day of the Interest Period therefor (including as a result of an Event of Default) or (e) the assignment of any SOFR Loan other than on the last day of the Interest Period applicable thereto as a result of a request by the Borrower pursuant to Section 10.18. A certificate of such Lender setting forth the basis for determining such amount or amounts necessary to compensate such Lender shall be forwarded to the Borrower through the Administrative Agent and shall be conclusively presumed to be correct save for manifest error. All of the obligations of the Borrower under this Section 3.12 shall survive the resignation or replacement of the Administrative Agent or any assignment of rights by, or the replacement of, a Lender, the termination of the Commitments and the repayment, satisfaction or discharge of all obligations under any Credit Document.

3.13 Pro Rata Treatment.

Except to the extent otherwise provided herein:

(a) Loans. Each Loan, each payment or (subject to the terms of Section 3.3) prepayment of principal of any Loan or reimbursement obligations arising from drawings under Letters of Credit, each payment of interest on the Loans or reimbursement obligations arising from drawings under Letters of Credit, each payment of Unused Fees, each payment of the Standby Letter of Credit Fee, each payment of the Trade Letter of Credit Fee, each reduction in Commitments and each conversion or extension of any Loan, shall be allocated pro rata among the applicable Lenders in accordance with the respective Applicable Percentages.

(b) Advances. The obligations of the Lenders hereunder to make Loans and to fund Participation Interests in Letters of Credit and Swingline Loans or to make any payment under Section 10.5(c) are several and not joint. The failure of any Lender to make any Loan or to fund any such

Participation Interests or to make any payment under Section 10.5(c), on any date required hereunder shall not relieve any other Lender of its corresponding obligation to do so on such date, and no Lender shall be responsible for the failure of any other Lender to so make its Loan, purchase its Participation Interests or to make any payment under Section 10.5(c).

(c) Funding by Lenders; Presumption by Administrative Agent. Unless the Administrative Agent shall have received notice from a Lender prior to the proposed date of any borrowing of SOFR Loans (or, in the case of any borrowing of Base Rate Loans, prior to 1:00 p.m. on the date of such borrowing) that such Lender will not make available to the Administrative Agent such Lender's share of such borrowing, the Administrative Agent may assume that such Lender has made such share available on such date in accordance with Section 2.1 (or, in the case of a borrowing of Base Rate Loans, that such Lender has made such share available in accordance with and at the time required by Section 2.1) and may, in reliance upon such assumption, make available to the Borrower a corresponding amount. In such event, if a Lender has not in fact made its share of the applicable borrowing available to the Administrative Agent, then the applicable Lender and the Borrower severally agree to pay to the Administrative Agent forthwith on demand such corresponding amount in immediately available funds with interest thereon, for each day from and including the date such amount is made available to the Borrower to but excluding the date of payment to the Administrative Agent, at (A) in the case of a payment to be made by such Lender, the greater of the Federal Funds Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation, plus any administrative, processing or similar fees customarily charged by the Administrative Agent in connection with the foregoing, and (B) in the case of a payment to be made by the Borrower, the interest rate applicable to Base Rate Loans; the Administrative Agent shall not request that the Borrower make such payment unless such Lender has not made such payment to the Administrative Agent within two Business Days following demand. If the Borrower and such Lender shall pay such interest to the Administrative Agent for the same or an overlapping period, the Administrative Agent shall promptly remit to the Borrower the amount of such interest paid by the Borrower for such period. If such Lender pays its share of the applicable borrowing to the Administrative Agent, then the amount so paid shall constitute such Lender's Loan included in such borrowing. Any payment by the Borrower shall be without prejudice to any claim the Borrower may have against a Lender that shall have failed to make such payment to the Administrative Agent.

(d) Payments by Borrower; Presumptions by Administrative Agent. Unless the Administrative Agent shall have received notice from the Borrower prior to the date on which any payment is due to the Administrative Agent for the account of the Lenders or any Issuing Lender hereunder that the Borrower will not make such payment, the Administrative Agent may assume that the Borrower has made such payment on such date in accordance herewith and may, in reliance upon such assumption, distribute to the Lenders or the applicable Issuing Lender, as the case may be, the amount due. In such event, if the Borrower has not in fact made such payment, then each of the Lenders or each of the Issuing Lenders, as the case may be, severally agrees to repay to the Administrative Agent forthwith on demand the amount so distributed to such Lender or such Issuing Lender, in immediately available funds with interest thereon, for each day from and including the date such amount is distributed to it to but excluding the date of payment to the Administrative Agent, at the greater of the Federal Funds Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation.

A notice of the Administrative Agent to any Lender or the Borrower with respect to any amount owing under this subsection (c) shall be presumed correct, absent manifest error.

3.14 Sharing of Payments.

The Lenders agree among themselves that, in the event that any Lender shall obtain payment in respect of any Loan, LOC Obligations or any other obligation owing to such Lender under this Credit Agreement through the exercise of a right of setoff, banker's lien or counterclaim, or pursuant to a secured claim under Section 506 of Title 11 of the United States Code or other security or interest arising from, or in lieu of, such secured claim, received by such Lender under any applicable bankruptcy, insolvency or other similar law or otherwise, or by any other means, in excess of its pro rata share of such payment as provided for in this Credit Agreement, such Lender shall promptly purchase from the other

Lenders a Participation Interest in such Loans, LOC Obligations and other obligations in such amounts, and make such other adjustments from time to time, as shall be equitable to the end that all Lenders share such payment in accordance with their respective ratable shares as provided for in this Credit Agreement. The Lenders further agree among themselves that if payment to a Lender obtained by such Lender through the exercise of a right of setoff, banker's lien, counterclaim or other event as aforesaid shall be rescinded or must otherwise be restored, each Lender which shall have shared the benefit of such payment shall, by repurchase of a Participation Interest theretofore sold, return its share of that benefit (together with its share of any accrued interest payable with respect thereto) to each Lender whose payment shall have been rescinded or otherwise restored. The Borrower agrees that any Lender so purchasing such a Participation Interest may, to the fullest extent permitted by law, exercise all rights of payment, including setoff, banker's lien or counterclaim, with respect to such Participation Interest as fully as if such Lender were a holder of such Loan, LOC Obligations or other obligation in the amount of such Participation Interest. Except as otherwise expressly provided in this Credit Agreement, if any Lender or the Administrative Agent shall fail to remit to the Administrative Agent or any other Lender an amount payable by such Lender or the Administrative Agent to the Administrative Agent or such other Lender pursuant to this Credit Agreement on the date when such amount is due, such payments shall be made together with interest thereon for each date from the date such amount is due until the date such amount is paid to the Administrative Agent or such other Lender at a rate per annum equal to the Federal Funds Rate. If under any applicable bankruptcy, insolvency or other similar law, any Lender receives a secured claim in lieu of a setoff to which this Section 3.14 applies, such Lender shall, to the extent practicable, exercise its rights in respect of such secured claim in a manner consistent with the rights of the Lenders under this Section 3.14 to share in the benefits of any recovery on such secured claim.

3.15 Payments, Computations; Retroactive Adjustments of Applicable Rate.

All payments hereunder shall be made to the Administrative Agent in Dollars in immediately available funds, without recoupment, setoff, deduction, counterclaim or withholding of any kind, and, except as otherwise specifically provided herein, at the Administrative Agent's office specified in Schedule 10.1 not later than 2:00 p.m. (Charlotte, North Carolina time) on the date when due. Payments received after such time shall be deemed to have been received on the next succeeding Business Day. The Administrative Agent may (but shall not be obligated to) debit the amount of any such payment which is not made by such time to any ordinary deposit account of the Borrower maintained with the Administrative Agent (with notice to the Borrower). The Borrower shall, at the time it makes any payment under this Credit Agreement, specify to the Administrative Agent the Loans, LOC Obligations, Fees, interest or other amounts payable by the Borrower hereunder to which such payment is to be applied (and in the event that it fails so to specify, or if such application would be inconsistent with the terms hereof, the Administrative Agent shall distribute such payment to the Lenders in such manner as the Administrative Agent may determine to be appropriate in respect of obligations owing by the Borrower hereunder, subject to the terms of Section 3.13(a)). The Administrative Agent will distribute such payments to such Lenders, if any such payment is received prior to 2:00 p.m. (Charlotte, North Carolina time) on a Business Day in like funds as received prior to the end of such Business Day and otherwise the Administrative Agent will distribute such payment to such Lenders on the next succeeding Business Day. Whenever any payment hereunder shall be stated to be due on a day which is not a Business Day, the due date thereof shall be extended to the next succeeding Business Day (subject to accrual of interest and Fees for the period of such extension), except that in the case of SOFR Loans, if the extension would cause the payment to be made in the next following calendar month, then such payment shall instead be made on the next preceding Business Day. All computations of interest for Base Rate Loans determined by reference to the Prime Rate shall be made on the basis of a year of 365 or 366 days, as the case may be, and actual days elapsed. All other computations of fees and interest shall be made on the basis of a 360-day year and actual days elapsed (which results in more fees or interest, as applicable, being paid than if computed on the basis of a 365-day year). Interest shall accrue on each Loan for the day on which the Loan is made, and shall not accrue on a Loan, or any portion thereof, for the day on which the Loan or such portion is paid; provided that any Loan that is repaid on the same day on which it is made shall, subject to this Section 3.15, bear interest for one day. Each determination by the Administrative Agent of an interest rate or fee hereunder shall be presumed correct, absent manifest error.

3.16 Evidence of Debt.

(a) Each Lender shall maintain an account or accounts evidencing each Loan made by such Lender to the Borrower from time to time, including the amounts of principal and interest payable and paid to such Lender from time to time under this Credit Agreement. Each Lender will make reasonable efforts to maintain the accuracy of its account or accounts and to promptly update its account or accounts from time to time, as necessary.

(b) The Administrative Agent shall maintain the Register pursuant to Section 10.3(c), and a subaccount for each Lender, in which Register and subaccounts (taken together) shall be recorded (i) the amount, type and Interest Period of each such Loan hereunder, (ii) the amount of any principal or interest due and payable or to become due and payable to each Lender hereunder and (iii) the amount of any sum received by the Administrative Agent hereunder from or for the account of the Borrower and each Lender's share thereof. The Administrative Agent will make reasonable efforts to maintain the accuracy of the subaccounts referred to in the preceding sentence and to promptly update such subaccounts from time to time, as necessary.

(c) The entries made in the accounts, Register and subaccounts maintained pursuant to subsection (b) of this Section 3.16 (and, if consistent with the entries of the Administrative Agent, subsection (a)) shall be presumed correct, absent manifest error and amounts of the obligations of the Borrower therein recorded; provided, however, that the failure of any Lender or the Administrative Agent to maintain any such account, such Register or such subaccount, as applicable, or any error therein, shall not in any manner affect the obligation of the Borrower to repay the Obligations owing to such Lender.

3.17 Cash Collateral.

(a) Certain Credit Support Events. Upon the request of the Administrative Agent or an Issuing Lender (i) if such Issuing Lender has honored any full or partial drawing request under any Letter of Credit or made any payment under any Bankers' Acceptance and such drawing or payment has resulted in an L/C Borrowing, or (ii) if, as of the Letter of Credit Expiration Date, any LOC Obligation for any reason remains outstanding, the Borrower shall, in each case, immediately Cash Collateralize the then outstanding amount of all LOC Obligations. At any time that there shall exist a Defaulting Lender, within three (3) Business Days after the request of the Administrative Agent, an Issuing Lender or the Swingline Lender, the Borrower shall deliver to the Administrative Agent Cash Collateral in an amount sufficient to cover all Fronting Exposure (after giving effect to Section 3.18(a)(iv)) and any Cash Collateral provided by the Defaulting Lender).

(b) Grant of Security Interest. All Cash Collateral (other than credit support not constituting funds subject to deposit) shall be maintained in blocked, non-interest bearing deposit accounts at Wells Fargo. The Borrower, and to the extent provided by any Lender, such Lender, hereby grants to (and subjects to the control of) the Administrative Agent, for the benefit of the Administrative Agent, the Issuing Lenders and the Lenders (including the Swingline Lender), and agrees to maintain, a first priority security interest in all such cash, deposit accounts and all balances therein, and all other property so provided as collateral pursuant hereto, and in all proceeds of the foregoing, all as security for the obligations to which such Cash Collateral may be applied pursuant to Section 3.17(c). If at any time the Administrative Agent determines that Cash Collateral is subject to any right or claim of any Person other than the Administrative Agent as herein provided, or that the total amount of such Cash Collateral is less than the applicable Fronting Exposure and other obligations secured thereby, the Borrower will, promptly upon demand by the Administrative Agent, pay or provide to the Administrative Agent additional Cash Collateral in an amount sufficient to eliminate such deficiency.

(c) Application. Notwithstanding anything to the contrary contained in this Credit Agreement, Cash Collateral provided under any of this Section 3.17 or Sections 2.2, 2.3, 3.3, 3.18 or 8.2 in respect of Letters of Credit, Bankers' Acceptances or Swingline Loans shall be held and applied to the satisfaction of the specific LOC Obligations, Swingline Loans, obligations to fund participations therein (including, as to Cash Collateral provided by a Defaulting Lender, any interest accrued on such obligation) and other obligations for which the Cash Collateral was so provided, prior to any other application of such property as may be provided for herein.

(d) Release. Cash Collateral (or the appropriate portion thereof) provided to reduce Fronting Exposure or other obligations shall be released promptly following (i) the elimination of the applicable Fronting Exposure or other obligations giving rise thereto (including by the termination of Defaulting Lender status of the applicable Lender (or, as appropriate, its assignee following compliance with Section 10.3(b)(vi))) or (ii) the Administrative Agent's good faith determination that there exists excess Cash Collateral; provided, however, (x) that Cash Collateral furnished by or on behalf of the Borrower shall not be released during the continuance of a Default or Event of Default (and following application as provided in this Section 3.17 may be otherwise applied in accordance with Section 8.3), and (y) the Person providing Cash Collateral and the applicable Issuing Lender or Swingline Lender, as applicable, may agree that Cash Collateral shall not be released but instead held to support future anticipated Fronting Exposure or other obligations.

3.18 Defaulting Lenders.

(a) Adjustments. Notwithstanding anything to the contrary contained in this Credit Agreement, if any Lender becomes a Defaulting Lender, then, until such time as that Lender is no longer a Defaulting Lender, to the extent permitted by applicable law:

(i) Waivers and Amendments. That Defaulting Lender's right to approve or disapprove any amendment, waiver or consent with respect to this Credit Agreement shall be restricted as set forth in Section 10.6 or the definition of "Required Lenders".

(ii) Reallocation of Payments. Any payment of principal, interest, fees or other amounts received by the Administrative Agent for the account of that Defaulting Lender (whether voluntary or mandatory, at maturity, pursuant to Article VIII or otherwise, and including any amounts made available to the Administrative Agent by that Defaulting Lender pursuant to Section 10.2), shall be applied at such time or times as may be determined by the Administrative Agent as follows: first, to the payment of any amounts owing by that Defaulting Lender to the Administrative Agent hereunder; second, to the payment on a pro rata basis of any amounts owing by that Defaulting Lender to the Issuing Lenders or Swingline Lender hereunder; third, if so determined by the Administrative Agent or requested by an Issuing Lender or Swingline Lender, to be held as Cash Collateral for future funding obligations of that Defaulting Lender of any participation in any Swingline Loan, Letter of Credit or Bankers' Acceptance; fourth, as the Borrower may request (so long as no Default or Event of Default exists), to the funding of any Loan in respect of which that Defaulting Lender has failed to fund its portion thereof as required by this Credit Agreement, as determined by the Administrative Agent; fifth, if so determined by the Administrative Agent and the Borrower, to be held in a non-interest bearing deposit account and released in order to satisfy obligations of that Defaulting Lender to fund Loans under this Credit Agreement; sixth, to the payment of any amounts owing to the Lenders, the Issuing Lenders or Swingline Lender as a result of any judgment of a court of competent jurisdiction obtained by any Lender, any Issuing Lender or Swingline Lender against that Defaulting Lender as a result of that Defaulting Lender's breach of its obligations under this Credit Agreement; seventh, so long as no Default or Event of Default exists, to the payment of any amounts owing to the Borrower as a result of any judgment of a court of competent jurisdiction obtained by the Borrower against that Defaulting Lender as a result of that Defaulting Lender's breach of its obligations under this Credit Agreement; and eighth, to that Defaulting Lender or as otherwise directed by a court of competent jurisdiction; provided that if (x) such payment is a payment of the principal amount of any Loans or L/C Borrowings in respect of which that Defaulting Lender has not fully funded its appropriate share and (y) such Loans or L/C Borrowings were made at a time when the conditions set forth in Section 4.2 were satisfied or waived, such payment shall be applied solely to pay the Loans of, and L/C Borrowings owed to, all non-Defaulting Lenders on a pro rata basis prior to being applied to the payment of any Loans of, or L/C Borrowings owed to, that Defaulting Lender. Any payments, prepayments or other amounts paid or payable to a Defaulting Lender that are applied (or held) to pay amounts owed by a Defaulting Lender or to post Cash Collateral pursuant to this Section 3.18(a)(ii) shall be deemed paid to and redirected by that Defaulting Lender, and each Lender irrevocably consents hereto.

(iii) Certain Fees. That Defaulting Lender (x) shall not be entitled to receive any Unused Fee pursuant to Section 3.5(a) for any period during which that Lender is a Defaulting Lender (and the Borrower shall not be required to pay any such fee that otherwise would have been required to have been paid to that Defaulting Lender) and (y) shall be limited in its right to receive Standby Letter of Credit Fees and Trade Letter of Credit Fees as provided in Section 3.5(b).

(iv) Reallocation of Applicable Percentages to Reduce Fronting Exposure. During any period in which there is a Defaulting Lender, for purposes of computing the amount of the obligation of each non-Defaulting Lender to acquire, refinance or fund participations in Letters of Credit or Swingline Loans pursuant to Sections 2.2 and 2.3, the "Applicable Percentage" of each non-Defaulting Lender shall be computed without giving effect to the Revolving Commitment of that Defaulting Lender; provided, that, (i) each such reallocation shall be given effect only if, at the date of such reallocation, no Default or Event of Default exists; and (ii) the aggregate obligation of each non-Defaulting Lender to acquire, refinance or fund Participation Interests in Letters of Credit, Bankers' Acceptances and Swingline Loans shall not exceed the positive difference, if any, of (1) the Revolving Commitment of that non-Defaulting Lender minus (2) the aggregate outstanding principal amount of the Revolving Loans of that Lender.

(b) Defaulting Lender Cure. If the Borrower, the Administrative Agent, the Swingline Lender and the Issuing Lenders agree in writing in their sole discretion that a Defaulting Lender should no longer be deemed to be a Defaulting Lender, the Administrative Agent will so notify the parties hereto, whereupon as of the effective date specified in such notice and subject to any conditions set forth therein (which may include arrangements with respect to any Cash Collateral), that Lender will, to the extent applicable, purchase that portion of outstanding Loans of the other Lenders or take such other actions as the Administrative Agent may determine to be necessary to cause the Loans and funded and unfunded participations in Letters of Credit, Bankers' Acceptances and Swingline Loans to be held on a pro rata basis by the Lenders in accordance with their Applicable Percentages (without giving effect to Section 3.18(a)(iv)), whereupon that Lender will cease to be a Defaulting Lender; provided that no adjustments will be made retroactively with respect to fees accrued or payments made by or on behalf of the Borrower while that Lender was a Defaulting Lender; and provided, further, that except to the extent otherwise expressly agreed by the affected parties, no change hereunder from Defaulting Lender to Lender will constitute a waiver or release of any claim of any party hereunder arising from that Lender's having been a Defaulting Lender.

3.19 Extension Option

(a) Request for Extensions. Not more than twice during the term of this Credit Agreement, the Borrower may by notice to the Administrative Agent (which notice must be given not earlier than 60 days prior to the next anniversary of the Closing Date and not later than 30 days prior to the next anniversary of the Closing Date (the "Anniversary Date")), request that the Lenders extend the Maturity Date for one additional year; provided that at no time shall the tenor of this Credit Agreement exceed five years. Each Lender shall, by notice to the Borrower and the Administrative Agent not later than the 15th day following the date of any such request from the Borrower, advise the Borrower whether or not it agrees to extend the Maturity Date as requested. Each decision by a Lender shall be in the sole discretion of such Lender, and any Lender that has not so advised the Administrative Agent by the 15th day following the date of such request from the Borrower shall be deemed to have declined to agree to such extension. Each of the parties hereto acknowledges and agrees that no Lender shall be obligated to extend the Maturity Date pursuant to the terms of this Section 3.19. Any Lender who fails to agree to the extension request of the Borrower, as set forth herein, shall be referred to, for purposes of this Section, as a "Non-Extending Lender".

(b) Extension. If the Administrative Agent and the Lenders holding unfunded Commitments and outstanding Loans representing at least 50% of the Revolving Committed Amount agree to any such request for extension of the Maturity Date (collectively, the "Approving Lenders"), then the Borrower may, subject to the conditions set forth in Section 3.19(d), extend the Maturity Date for an additional year solely as to the Approving Lenders; provided that the Maturity Date shall never extend beyond any date for which the Borrower does not have approval. If Non-Extending Lenders hold unfunded Commitments

and outstanding Loans representing more than 50% of the Revolving Committed Amount, then the Borrower shall withdraw its extension request and the Maturity Date will remain unchanged. With respect to the Non-Extending Lenders, it is understood and agreed that the Maturity Date relating to the Non-Extending Lenders shall remain unchanged and the repayment of all obligations owed to them and the termination of their Commitments shall occur on the then existing Maturity Date without giving effect to such extension request.

(c) Replacement of Non-Extending Lenders. Subject to the satisfaction of the minimum extension requirement in Section 3.19(b) and the other conditions to the effectiveness of any such extension set forth in Section 3.19(d), the Borrower shall have the right (but not the obligation), in its sole discretion, to, no later than the date that occurs sixty (60) days following the applicable Anniversary Date, elect to replace any Non-Extending Lender pursuant to Section 10.18 by causing such Non-Extending Lender to assign and delegate, without recourse, its interests, rights and obligations as a Lender under this Credit Agreement and the related Credit Documents to one or more existing Lenders or Eligible Assignees (provided, that the applicable existing Lender or Eligible Assignee agrees to the extension of the Maturity Date requested by the Borrower).

(d) Conditions to Effectiveness of Extensions. Notwithstanding the foregoing, the extension of the Maturity Date of each Approving Lender pursuant to this Section 3.19 shall not be effective with respect to any Approving Lender unless, on the applicable Anniversary Date: (i) no Default shall exist or be continuing either prior to or after giving effect thereto; (ii) the representations and warranties contained in this Credit Agreement and the other Credit Documents shall be true and correct in all material respects on and as of such date with the same effect as if made on and as of such date (except for any such representation and warranty that by its terms is made only as of an earlier date, which representation and warranty shall remain true and correct in all material respects as of such earlier date) and (iii) the Administrative Agent shall have received all documents (including resolutions of the board of directors of the Borrower) it may reasonably request relating to the corporate or other necessary authority for and the validity of such extension, and any other matters relevant thereto, all in form and substance reasonably satisfactory to the Administrative Agent.

ARTICLE IV.

CONDITIONS

4.1 Closing Conditions.

The obligation of the Lenders to enter into this Credit Agreement and to make the initial Loans or the Issuing Lenders to issue the initial Letter of Credit, whichever shall occur first, shall be subject to satisfaction of the following conditions (in form and substance acceptable to the Lenders):

(a) Executed Credit Documents. Receipt by the Administrative Agent of duly executed copies of: (i) this Credit Agreement, (ii) the Notes in favor of the Lenders that have requested a Note and (iii) all other Credit Documents, each in form and substance acceptable to the Administrative Agent in its sole discretion.

(b) Corporate Documents. Receipt by the Administrative Agent of the following:

(i) Charter Documents. Copies of the articles or certificates of incorporation or other organization documents of the Borrower certified to be true and complete as of a recent date by the appropriate Governmental Authority of the state or other jurisdiction of its incorporation or organization and certified by a secretary or assistant secretary of the Borrower to be true and correct as of the Closing Date.

(ii) Bylaws. A copy of the bylaws, operating agreement or partnership agreement of the Borrower certified by a secretary or assistant secretary of the Borrower to be true and correct as of the Closing Date.

- (iii) Resolutions. Copies of resolutions of the Board of Directors or other governing body of the Borrower approving and adopting the Credit Documents to which it is a party, the transactions contemplated therein and authorizing execution and delivery thereof, certified by a secretary or assistant secretary of the Borrower to be true and correct and in force and effect as of the Closing Date.
- (iv) Good Standing. Copies of certificates of good standing, existence or its equivalent with respect to the Borrower certified as of a recent date by the appropriate Governmental Authorities of the state or other jurisdiction of incorporation and each other jurisdiction in which the failure to so qualify and be in good standing could have a Material Adverse Effect.
- (v) Incumbency. An incumbency certificate of the Borrower certified by a secretary or assistant secretary to be true and correct as of the Closing Date.
- (c) Opinions of Counsel. The Administrative Agent shall have received a legal opinion in form and substance reasonably satisfactory to the Administrative Agent dated as of the Closing Date from counsel to the Borrower.
- (d) Material Adverse Effect. Since December 25, 2021, there shall not have occurred or otherwise exist an event or condition which has had or would reasonably be expected to have a Material Adverse Effect.
- (e) Consents; Litigation.
- (i) Governmental and Third-Party Approvals. The Borrower shall have received all material governmental, shareholder and third-party consents and approvals necessary in connection with this Credit Agreement and the transactions contemplated hereby, which shall be in full force and effect.
- (ii) No Litigation, Etc. No action, suit, proceeding or investigation shall be pending or, to the knowledge of the Borrower, threatened in any court or before any arbitrator or any Governmental Authority that could reasonably be expected to have a Material Adverse Effect.
- (f) Officer's Certificates. The Administrative Agent shall have received a certificate or certificates executed by the chief financial officer, president or treasurer of the Borrower as of the Closing Date stating that immediately after giving effect to this Credit Agreement, the other Credit Documents and all the transactions contemplated therein to occur on such date, (1) no Default or Event of Default exists, (2) all representations and warranties contained herein and in the other Credit Documents are true and correct in all material respects (except for those which expressly relate to an earlier date), and (3) the Borrower is in compliance with each of the financial covenants set forth in Section 6.11.
- (g) Existing Indebtedness. All existing Indebtedness of the Borrower and its Subsidiaries (excluding Indebtedness permitted pursuant to Section 7.1) shall be repaid in full, all commitments (if any) in respect thereof shall have been terminated and all guarantees therefor and security therefor shall be released, and the Administrative Agent shall have received payoff letters in form and substance satisfactory to it evidencing such repayment, termination and release.
- (h) Fees and Expenses. Payment by the Borrower of all invoiced and documented fees and expenses owed by them to the Lenders, the Arrangers and the Administrative Agent, including, without limitation, payment to the Administrative Agent and the Arrangers of the fees set forth in the Fee Letters.
- (i) Notice of Account Designation. The Administrative Agent shall have received a Notice of Account Designation specifying the account or accounts to which the proceeds of any Loans made on or after the Closing Date are to be disbursed.

(j) KYC and Beneficial Ownership Certification. The Arrangers shall have received, at least five (5) Business Days prior to the Closing Date, all documentation and other information required by regulatory authorities under applicable “know your customer” and anti-money-laundering rules and regulations, including, without limitation, the Act. If Borrower qualifies as a “legal entity customer” under the Beneficial Ownership Regulation, the Borrower shall have delivered to the Administrative Agent, and directly to any Lender requesting the same, a Beneficial Ownership Certification in relation to it, in each case at least five (5) Business Days prior to the Closing Date.

Without limiting the generality of the last paragraph of Section 9.3, for purposes of determining compliance with the conditions specified in this Section 4.1, each Lender that has signed this Credit Agreement shall be deemed to have consented to, approved or accepted or to be satisfied with, each document or other matter required thereunder to be consented to or approved by or acceptable or satisfactory to a Lender unless the Administrative Agent shall have received notice from such Lender prior to the proposed Closing Date specifying its objection thereto.

4.2 Conditions to all Extensions of Credit.

The obligations of each Lender to make, convert or extend any Loan and of each Issuing Lender to issue or extend any Letter of Credit (including the initial Loans and the initial Letter of Credit) are subject to satisfaction of the following conditions:

(a) The Borrower shall have delivered (i) in the case of any Loan, an appropriate Notice of Borrowing or Notice of Extension/Conversion or (ii) in the case of any Letter of Credit, an Issuing Lender shall have received an appropriate request for issuance in accordance with the provisions of Section 2.2(b);

(b) The representations and warranties set forth in Article V (other than Sections 5.2 and 5.8) shall, subject to the limitations set forth therein, be true and correct in all material respects, except for any representation and warranty that is qualified by materiality or reference to Material Adverse Effect, which such representation and warranty shall be true and correct in all respects, as of such date (except for those which expressly relate to an earlier date);

(c) No Default or Event of Default shall exist and be continuing either prior to or after giving effect thereto; and

(d) Immediately after giving effect to the making of such Loan (and the application of the proceeds thereof) or to the issuance of such Letter of Credit, as the case may be, (i) the sum of the aggregate principal amount of outstanding Revolving Loans plus LOC Obligations outstanding plus outstanding Swingline Loans shall not exceed the Revolving Committed Amount, (ii) the LOC Obligations shall not exceed the LOC Sublimit and (iii) the outstanding Swingline Loans shall not exceed the Swingline Sublimit.

(e) In the case of a Letter of Credit to be denominated in an Alternative Currency, there shall not have occurred any change in national or international financial, political or economic conditions or currency exchange rates or exchange controls which in the reasonable opinion of the Administrative Agent or the applicable Issuing Lender would make it impracticable for such Letter of Credit to be denominated in the relevant Alternative Currency.

The delivery of each Notice of Borrowing, each Notice of Extension/Conversion and each request for a Letter of Credit pursuant to Section 2.2(b) shall constitute a representation and warranty by the Borrower of the correctness of the matters specified in subsections (b), (c) and (d) above.

ARTICLE V.

REPRESENTATIONS AND WARRANTIES

The Borrower hereby represents and warrants to the Administrative Agent and each Lender that:

5.1 Financial Condition.

The financial statements delivered to the Lenders pursuant to Section 6.1(a) and (b), (i) have been prepared in accordance with GAAP and (ii) present fairly (on the basis disclosed in the footnotes to such financial statements) in all material respects the consolidated and consolidating financial condition, results of operations and cash flows of the Consolidated Parties as of such date and for such periods.

5.2 No Material Change.

Since December 25, 2021, there has been no development or event relating to or affecting the Borrower which has had or could reasonably be expected to have a Material Adverse Effect.

5.3 Organization and Good Standing.

Each of the Borrower and its Material Subsidiaries (a) is duly organized, validly existing and is in good standing under the laws of the jurisdiction of its incorporation or organization, (b) has the requisite power and authority to own and operate all its property, to lease the property it operates as lessee and to conduct the business in which it is currently engaged except to the extent that the failure to have such legal right could not reasonably be expected to have a Material Adverse Effect and (c) is duly qualified to conduct business and in good standing under the laws of each jurisdiction where its ownership, lease or operation of property or the conduct of its business requires such qualification except to the extent that the failure to so qualify or be in good standing could not reasonably be expected to have a Material Adverse Effect.

5.4 Power; Authorization; Enforceable Obligations.

The Borrower has the corporate or other necessary power and authority, to make, deliver and perform the Credit Documents to which it is a party, to obtain extensions of credit hereunder, and has taken all necessary corporate action to authorize the borrowings and other extensions of credit on the terms and conditions of this Credit Agreement and to authorize the execution, delivery and performance of the Credit Documents to which it is a party. No consent or authorization of, filing with, notice to or other similar act by or in respect of, any Governmental Authority or any other Person is required to be obtained or made by or on behalf of the Borrower in connection with the borrowings or other extensions of credit hereunder or with the execution, delivery, performance, validity or enforceability of the Credit Documents, except for such approvals, consents, authorizations, actions or notices that have been duly obtained, taken or made and in full force and effect. This Credit Agreement has been, and each other Credit Document will be, duly executed and delivered on behalf of the Borrower. This Credit Agreement constitutes, and each other Credit Document, when executed and delivered, will constitute, a legal, valid and binding obligation of the Borrower enforceable against the Borrower in accordance with its terms, except as enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforcement of creditors' rights generally and by general equitable principles (whether enforcement is sought by proceedings in equity or at law).

5.5 No Conflicts.

Neither the execution and delivery of the Credit Documents, nor the consummation of the transactions contemplated therein, nor performance of and compliance with the terms and provisions thereof by the Borrower will (a) violate or conflict with any provision of its articles or certificate of incorporation or bylaws or other organizational or governing documents of the Borrower, (b) violate, contravene or materially conflict with any material Requirement of Law or any other material law, regulation (including, without limitation, Regulation U or Regulation X), order, writ, judgment, injunction, decree or permit applicable to it, (c) violate, contravene or conflict with contractual provisions of, or cause an event of default under, any indenture, loan agreement, mortgage, deed of trust, contract or other agreement or instrument to which it is a party or by which it may be bound, the violation of which could reasonably be expected to have a Material Adverse Effect, or (d) result in or require the creation of

any Lien upon or with respect to its properties. No Default or Event of Default has occurred and is continuing.

5.6 Ownership.

Except where the failure to have such title could not reasonably be expected to have a Material Adverse Effect, each of the Borrower and its Material Subsidiaries is the owner of, and has good and marketable title to, all of its respective assets that are necessary for the operation of its respective business and none of such assets is subject to any Lien other than Permitted Liens.

5.7 Anti-Corruption Laws and Sanctions.

None of (a) the Borrower or any Subsidiary, or (b) to the knowledge of the Borrower, any of the Borrower's or Subsidiary's respective directors, officers, employees or affiliates or any agent or representative of the Borrower or any Subsidiary that will act in any capacity in connection with or benefit from the credit facility established hereby, (i) is a Sanctioned Person or currently the subject or target of any Sanctions or (ii) has taken any action, directly or indirectly, that would result in a material violation by such Person of any Anti-Corruption Laws.

5.8 Litigation.

There are no actions, suits or legal, equitable, arbitration or administrative proceedings, pending or, to the knowledge of the Borrower, threatened against the Borrower or any of its Material Subsidiaries which could reasonably be expected to have a Material Adverse Effect.

5.9 Taxes.

Except where the failure of which would not be reasonably expected to have a Material Adverse Effect, (a) each of the Borrower and its Material Subsidiaries has filed, or caused to be filed, all material income tax returns and all other tax returns (federal, state, local and foreign) required to be filed and paid, (b) all amounts of taxes shown thereon to be due (including interest and penalties) and (c) all other material taxes, fees, assessments and other governmental charges (including mortgage recording taxes, documentary stamp taxes and intangibles taxes) owing by it, except for such taxes (i) which are not yet delinquent or (ii) that are being contested in good faith and by proper proceedings, and against which adequate reserves are being maintained in accordance with GAAP. The Borrower is not aware as of the Closing Date of any proposed tax assessments against it or any Material Subsidiary that would, if made, have a Material Adverse Effect.

5.10 Compliance with Law.

Each of the Borrower and its Material Subsidiaries is in compliance with all Requirements of Law and all other laws, rules, regulations, orders and decrees (including without limitation Environmental Laws) applicable to it, or to its properties, unless such failure to comply could not reasonably be expected to have a Material Adverse Effect or in such instances in which such Requirements of Law, rules, regulations, orders or decrees are being contested in good faith by appropriate proceedings diligently conducted.

5.11 ERISA.

(a) Except as could not reasonably be expected to have a Material Adverse Effect, during the five year period prior to the date on which this representation is made or deemed made: (i) no ERISA Event has occurred, and, to the best knowledge of the Borrower, no event or condition has occurred or exists as a result of which any ERISA Event could reasonably be expected to occur, with respect to any Single Employer Plan, Multiemployer Plan or Multiple Employer Plan; (ii) no Single Employer Plan has failed to contribute the "minimum required contribution" as defined in Section 430 of the Code; (iii) each Plan has been maintained, operated, and funded in compliance with its own terms and in material compliance with the provisions of ERISA, the Code, and any other applicable federal or state laws; and

(iv) no lien in favor of the PBGC or a Plan has arisen or is reasonably likely to arise on account of any Single Employer Plan.

(b) Except as could not reasonably be expected to have a Material Adverse Effect, the actuarial present value of all “benefit liabilities” (as defined in Section 4001(a)(16) of ERISA), whether or not vested, under each Single Employer Plan, as of the last annual valuation date prior to the date on which this representation is made or deemed made (determined, in each case, in accordance with Financial Accounting Standards Board Statement 87, utilizing the actuarial assumptions used in such Single Employer Plan’s most recent actuarial valuation report), did not exceed as of such valuation date the fair market value of the assets of such Single Employer Plan.

(c) Neither the Borrower nor any ERISA Affiliate has incurred, or, to the best knowledge of the Borrower, could be reasonably expected to incur, any withdrawal liability under ERISA to any Multiemployer Plan or Multiple Employer Plan. Neither the Borrower nor any ERISA Affiliate would become subject to any withdrawal liability under ERISA if the Borrower or any ERISA Affiliate were to withdraw completely from all Multiemployer Plans and Multiple Employer Plans as of the valuation date most closely preceding the date on which this representation is made or deemed made. Neither the Borrower nor any ERISA Affiliate has received any notification that any Multiemployer Plan is insolvent (within the meaning of Section 4245 of ERISA) or has been terminated (within the meaning of Title IV of ERISA), and no Multiemployer Plan is, to the best knowledge of the Borrower, reasonably expected to be insolvent, or terminated.

(d) Except as could not reasonably be expected to have a Material Adverse Effect, no prohibited transaction (within the meaning of Section 406 of ERISA or Section 4975 of the Code) or breach of fiduciary responsibility has occurred with respect to a Plan which has subjected or may subject the Borrower or any ERISA Affiliate to any liability under Sections 406, 409, 502(i), or 502(l) of ERISA or Section 4975 of the Code, or under any agreement or other instrument pursuant to which the Borrower or any ERISA Affiliate has agreed or is required to indemnify any Person against any such liability.

(e) Except as could not reasonably be expected to have a Material Adverse Effect, neither the Borrower nor any ERISA Affiliates has any material liability with respect to “expected post-retirement benefit obligations” within the meaning of the Financial Accounting Standards Board Statement 106. Except as could not reasonably be expected to have a Material Adverse Effect, each Plan which is a welfare plan (as defined in Section 3(1) of ERISA) to which Sections 601-609 of ERISA and Section 4980B of the Code apply has been administered in compliance in all material respects of such sections.

5.12 [Reserved].

5.13 Governmental Regulations, Etc.

(a) No part of the Letters of Credit or proceeds of the Loans will be used, directly or indirectly, (i) in a manner that would constitute a violation of Regulation T, Regulation U or Regulation X or (ii) to finance or refinance any (A) commercial paper issued by the Borrower or (B) any other Indebtedness, except for Indebtedness that the Borrower incurred for general corporate or working capital purposes. “Margin stock” within the meaning of Regulation U does not constitute more than 25% of the value of the consolidated assets of the Consolidated Parties. If requested by any Lender or the Administrative Agent, the Borrower will furnish to the Administrative Agent and each Lender a statement to the effect of the foregoing sentences in conformity with the requirements of FR Form U-1 referred to in Regulation U.

(b) The Borrower is not subject to regulation under the Federal Power Act or the Investment Company Act of 1940, each as amended. In addition, the Borrower is not an “investment company” registered or required to be registered under the Investment Company Act of 1940, as amended, and is not controlled by such a company.

5.14 Purpose of Loans and Letters of Credit.

The proceeds of the credit extensions hereunder shall be used solely by the Borrower (i) to refinance existing Indebtedness, including the Existing Credit Agreement, and (ii) for general corporate purposes.

5.15 [Reserved].

5.16 Disclosure and Beneficial Ownership.

Neither this Credit Agreement nor any financial statements delivered to the Lenders nor any other document, certificate or statement furnished to the Lenders by or on behalf of the Borrower in connection with the transactions contemplated hereby contains any untrue statement of a material fact or omits to state a material fact necessary in order to make the statements contained therein or herein, in light of the circumstances under which they were made, not materially misleading. As of the Closing Date, all of the information included in any Beneficial Ownership Certification delivered in connection with this Credit Agreement, if any, is true and correct in all material respects.

5.17 No Affected Financial Institution.

Neither the Borrower nor any Subsidiary thereof is an Affected Financial Institution.

ARTICLE VI.

AFFIRMATIVE COVENANTS

The Borrower hereby covenants and agrees that, so long as this Credit Agreement is in effect or any amounts payable hereunder or under any other Credit Document shall remain outstanding, and until all of the Commitments hereunder shall have terminated:

6.1 Financial Statements.

The Borrower will furnish, or cause to be furnished, to the Administrative Agent and each of the Lenders:

(a) Annual Financial Statements. As soon as available, and in any event within 90 days after the close of each fiscal year of the Consolidated Parties, the consolidated and consolidating balance sheet and income statement of the Consolidated Parties, as of the end of such fiscal year, together with related consolidated and consolidating statements of operations and retained earnings and of cash flows for such fiscal year, setting forth in comparative form consolidated and consolidating figures for the preceding fiscal year, all such financial information described above to be in reasonable form and detail and audited by independent certified public accountants of recognized national standing reasonably acceptable to the Administrative Agent and whose opinion shall be to the effect that such financial statements have been prepared in accordance with GAAP (except for changes with which such accountants concur) and shall not be limited as to the scope of the audit or qualified in any manner.

(b) Quarterly Financial Statements. As soon as available, and in any event within 45 days after the close of each fiscal quarter of the Consolidated Parties (other than the fourth fiscal quarter, in which case 90 days after the end thereof) a consolidated and consolidating balance sheet and income statement of the Consolidated Parties, as of the end of such fiscal quarter, together with related consolidated and consolidating statements of operations and retained earnings and of cash flows for such fiscal quarter, in each case setting forth in comparative form consolidated and consolidating figures for the corresponding period of the preceding fiscal year, all such financial information described above to be in reasonable form and detail and reasonably acceptable to the Administrative Agent, and accompanied by a certificate of the chief financial officer of the Borrower to the effect that such quarterly financial statements fairly present in all material respects the financial condition of the Consolidated Parties and have been prepared in accordance with GAAP, subject to changes resulting from audit and normal year-end audit adjustments.

(c) Officer's Certificate. At the time of delivery of the financial statements provided for in Sections 6.1(a) and 6.1(b) above, a certificate of the chief financial officer, president, treasurer or controller of the Borrower substantially in the form of Exhibit 6.1(c), (i) demonstrating compliance with the financial covenants contained in Section 6.11 by calculation thereof as of the end of each such fiscal period and (ii) stating that no Default or Event of Default exists, or if any Default or Event of Default does exist, specifying the nature and extent thereof and what action the Borrower proposes to take with respect thereto (which delivery may, unless the Administrative Agent, or a Lender requests executed originals, be by electronic communication including fax or email and shall be deemed to be an original authentic counterpart thereof for all purposes).

(d) Auditor's Reports. At the time of delivery of the financial statements provided for in Section 6.1(a) and 6.1(b) above, a copy of any other material report or "management letter" submitted by independent accountants to Borrower in connection with any annual, interim or special audit of the books of Borrower.

(e) Reports. Promptly upon transmission or receipt thereof, copies of any filings and registrations with, and reports to or from, the Securities and Exchange Commission, or any successor agency, and copies of all financial statements, proxy statements, notices and reports as any Consolidated Party shall send to its shareholders or to a holder of any Indebtedness owed by any Consolidated Party in its capacity as such a holder.

(f) Notices. Upon obtaining knowledge thereof, the Borrower will give written notice to the Administrative Agent immediately of (i) the occurrence of an event or condition consisting of a Default or Event of Default, specifying the nature and existence thereof and what action the Borrower proposes to take with respect thereto, and (ii) the occurrence of any of the following with respect to any Consolidated Party (A) the pendency or commencement of any litigation, arbitral or governmental proceeding against such Person which if adversely determined could reasonably be expected to have a Material Adverse Effect or (B) any notice or determination concerning the imposition of any withdrawal liability by a Multiemployer Plan against such Person or any ERISA Affiliate or the termination of any Plan in each case, the liability of which could reasonably be expected to have a Material Adverse Effect.

(g) ERISA. Upon obtaining knowledge thereof, the Borrower will give written notice to the Administrative Agent promptly (and in any event within five business days) of: (i) of any event or condition, including, but not limited to, any Reportable Event, that constitutes, or might reasonably lead to, an ERISA Event; (ii) with respect to any Multiemployer Plan, the receipt of notice as prescribed in ERISA or otherwise of any withdrawal liability assessed against the Borrower or any ERISA Affiliates, or of a determination that any Multiemployer Plan is insolvent (within the meaning of Title IV of ERISA); (iii) the failure to make full payment on or before the due date (including extensions) thereof of all amounts which any Consolidated Party or any ERISA Affiliate is required to contribute to each Single Employer Plan pursuant to its terms and as required to meet the minimum funding standard set forth in ERISA and the Code with respect thereto; or (iv) any change in the funding status of any Single Employer Plan that reasonably could be expected to have a Material Adverse Effect, together with a description of any such event or condition or a copy of any such notice and a statement by the chief financial officer of the Borrower briefly setting forth the details regarding such event, condition, or notice, and the action, if any, which has been or is being taken or is proposed to be taken by the Borrower with respect thereto. Promptly upon request, the Borrower shall furnish the Administrative Agent and the Lenders with such additional information concerning any Plan as may be reasonably requested, including, but not limited to, copies of each annual report/return (Form 5500 series), as well as all schedules and attachments thereto required to be filed with the Department of Labor and/or the Internal Revenue Service pursuant to ERISA and the Code, respectively, for each "plan year" (within the meaning of Section 3(39) of ERISA).

(h) Other Information. With reasonable promptness upon any such request, such other information regarding the business, properties or financial condition of any Consolidated Party as the Administrative Agent or the Required Lenders may reasonably request.

Documents required to be delivered pursuant to Section 6.1(a), (b) or (e) (to the extent any such documents are included in materials otherwise filed with the Securities and Exchange Commission) may be delivered electronically and if so delivered, shall be deemed to have been delivered on the date (i) on

which the Borrower posts such documents or provides a link thereto on the Borrower's website on the Internet at the website address listed on Schedule 10.1; or (ii) on which such documents are posted on the Borrower's behalf on an Internet or intranet website, if any, to which each Lender and the Administrative Agent have access (whether a commercial, third-party website or whether sponsored by the Administrative Agent); provided that: (i) the Borrower shall deliver paper copies of such documents to the Administrative Agent or any Lender upon its request to the Borrower to deliver such paper copies until a written request to cease delivering paper copies is given by the Administrative Agent or such Lender and (ii) the Borrower shall notify the Administrative Agent and each Lender (by facsimile or electronic mail) of the posting of any such documents and provide to the Administrative Agent by electronic mail electronic versions (i.e., soft copies) of such documents. The Administrative Agent shall have no obligation to request the delivery of or to maintain paper copies of the documents referred to above, and in any event shall have no responsibility to monitor compliance by the Borrower with any such request by a Lender for delivery, and each Lender shall be solely responsible for requesting delivery to it or maintaining its copies of such documents.

The Borrower hereby acknowledges that (a) the Administrative Agent and/or the Arrangers will make available to the Lenders and the Issuing Lenders materials and/or information provided by or on behalf of the Borrower hereunder (collectively, "Borrower Materials") by posting the Borrower Materials on Syndtrak or another similar electronic system (the "Platform") and (b) certain of the Lenders (each, a "Public Lender") may have personnel who do not wish to receive material non-public information with respect to the Borrower or its Affiliates, or the respective securities of any of the foregoing, and who may be engaged in investment and other market-related activities with respect to such Persons' securities. The Borrower hereby agrees that (w) all Borrower Materials that are to be made available to Public Lenders shall be clearly and conspicuously marked "PUBLIC" which, at a minimum, shall mean that the word "PUBLIC" shall appear prominently on the first page thereof; (x) by marking Borrower Materials "PUBLIC," the Borrower shall be deemed to have authorized the Administrative Agent, the Arrangers, the Issuing Lenders and the Lenders to treat such Borrower Materials as not containing any material non-public information with respect to the Borrower or its securities for purposes of United States Federal and state securities laws (provided, however, that to the extent such Borrower Materials constitute Information, they shall be treated as set forth in Section 10.14); (y) all Borrower Materials marked "PUBLIC" are permitted to be made available through a portion of the Platform designated "Public Side Information"; and (z) the Administrative Agent and the Arrangers shall be entitled to treat any Borrower Materials that are not marked "PUBLIC" as being suitable only for posting on a portion of the Platform not designated "Public Side Information."

6.2 Preservation of Existence and Franchises.

The Borrower will, and will cause each of its Subsidiaries, to preserve, maintain and keep in full force and effect its existence, rights, franchises and authority except where failure to do so could not reasonably be expected to have a Material Adverse Effect.

6.3 Books and Records.

The Borrower will, and will cause each of its Subsidiaries to, keep proper books and records of its material transactions in accordance with good accounting practices on the basis of GAAP (including the establishment and maintenance of appropriate reserves).

6.4 Compliance with Law.

The Borrower will, and will cause each of its Subsidiaries to, comply with all laws, rules, regulations and orders, and all applicable restrictions imposed by all Governmental Authorities, applicable to it and its Property, including Environmental Laws, if noncompliance with any such law, rule, regulation, order or restriction could reasonably be expected to have a Material Adverse Effect or in such instances in which such laws, rules, regulations, orders, decrees or restrictions are being contested in good faith by appropriate proceedings diligently conducted.

6.5 Payment of Taxes.

The Borrower will, and will cause each of its Subsidiaries to, pay and discharge all taxes, assessments and governmental charges or levies imposed upon it, or upon its income or profits, or upon any of its properties, before they shall become delinquent; provided, however, that no Consolidated Party shall be required to pay any such tax, assessment, charge or levy, which is being contested in good faith by appropriate proceedings and as to which adequate reserves therefor have been established in accordance with GAAP, unless the failure to make any such payment could reasonably be expected to have a Material Adverse Effect.

6.6 Insurance.

The Borrower will, and will cause each of its Subsidiaries to, at all times maintain in full force and effect insurance, which may include self-insurance (including worker's compensation insurance, liability insurance, casualty insurance and business interruption insurance) in such amounts, covering such risks and liabilities and with such deductibles or self-insurance retentions as are in accordance with normal industry practice. Notwithstanding anything to the contrary herein, the Borrower and its Subsidiaries may obtain all or any insurance required under this Section 6.6 or any other Credit Document through a Captive Insurance Subsidiary.

6.7 [Reserved].

6.8 [Reserved].

6.9 Use of Proceeds.

The Borrower will use the proceeds of the Loans and will use the Letters of Credit solely for the purposes set forth in Section 5.14.

6.10 Audits/Inspections.

If an Event of Default has occurred and is continuing, upon reasonable notice and during normal business hours, the Borrower will, and will cause each of its Subsidiaries to, permit representatives appointed by the Administrative Agent, including, without limitation, independent accountants, agents, attorneys, and appraisers to visit and inspect its property, including its books and records, its accounts receivable and inventory, its facilities and its other business assets, and to make photocopies or photographs thereof and to write down and record any information such representative obtains and shall permit the Administrative Agent or its representatives to investigate and verify the accuracy of information provided to the Lenders and to discuss all such matters with the officers, employees and representatives of such Person, all at the expense of the Borrower.

6.11 Financial Covenants.

(a) Fixed Charge Coverage Ratio. The Fixed Charge Coverage Ratio, as of the last day of each fiscal quarter of the Borrower, shall be greater than or equal to 2.00 to 1.00.

(b) Leverage Ratio. The Leverage Ratio, as of the last day of each fiscal quarter of the Borrower, shall be less than or equal to 4.00 to 1.00.

6.12 [Reserved].

6.13 Compliance with Anti-Corruption Laws and Sanctions.

The Borrower will maintain in effect and enforce policies and procedures designed to promote and to achieve compliance by the Borrower, its Subsidiaries and their respective directors, officers and employees (a) in all material respects with Anti-Corruption Laws and (b) with applicable Sanctions.

6.14 Beneficial Ownership Regulation.

The Borrower will, and will cause its Subsidiaries to, (a) notify the Administrative Agent and each Lender that previously received a Beneficial Ownership Certification (or a certification that the Borrower qualifies for an express exclusion to the “legal entity customer” definition under the Beneficial Ownership Regulation) of any change in the information provided in the Beneficial Ownership Certification that would result in a change to the list of beneficial owners identified therein (or, if applicable, the Borrower ceasing to fall within an express exclusion to the definition of “legal entity customer” under the Beneficial Ownership Regulation) and (b) promptly upon the reasonable request of the Administrative Agent or any Lender, provide the Administrative Agent or directly to such Lender, as the case may be, any information or documentation requested by it for purposes of complying with the Beneficial Ownership Regulation.

ARTICLE VII.

NEGATIVE COVENANTS

The Borrower hereby covenants and agrees that, so long as this Credit Agreement is in effect or any amounts payable hereunder or under any other Credit Document shall remain outstanding, and until all of the Commitments hereunder shall have terminated:

7.1 Subsidiary Indebtedness.

The Borrower will not permit any of its Subsidiaries to contract, create, incur, assume or permit to exist any Indebtedness, except:

- (a) Indebtedness arising under this Credit Agreement and the other Credit Documents;
- (b) purchase money Indebtedness (including obligations in respect of Capital Leases) or any Synthetic Leases hereafter incurred to finance the purchase of fixed assets; provided that (i) such Indebtedness when incurred shall not exceed the purchase price of the asset(s) financed and (ii) no such Indebtedness shall be refinanced for a principal amount in excess of the principal balance outstanding thereon at the time of such refinancing (except by an amount equal to a reasonable premium or other reasonable amount paid, and fees and expenses reasonably incurred, in connection with such refinancing);
- (c) Indebtedness set forth in Schedule 7.1 and any renewals, refinancings or extensions thereof (without increasing the amount thereof except by an amount equal to a reasonable premium or other reasonable amount paid, and fees and expenses reasonably incurred, in connection with such refinancing and by an amount equal to any existing commitments unutilized thereunder);
- (d) obligations in respect of Hedging Agreements entered into in order to manage existing or anticipated interest rate or exchange rate risks and not for speculative purposes;
- (e) intercompany Indebtedness arising out of loans, advances and Guaranty Obligations;
- (f) other Indebtedness; provided that the aggregate outstanding principal amount of such Indebtedness at the time incurred shall not exceed the difference between (i) 15% of Consolidated Tangible Assets of the Borrower and its Subsidiaries, computed as of the end of the most recent fiscal quarter end of the Borrower for which financial statements were required to be delivered pursuant to Section 6.1(a) or 6.1(b) (or, prior to the first such delivery date of the Closing Date, as of June 25, 2022) minus (ii) the aggregate outstanding principal amount of Indebtedness of the Borrower secured by Liens permitted by clause (xxvii) of the definition of Permitted Liens;
- (g) Permitted Government Revenue Bond Indebtedness;
- (h) Indebtedness in respect of Sale and Leaseback Transactions permitted by Section 7.5;

(i) Guaranty Obligations of any Subsidiary in respect to Indebtedness of the Borrower or of another Subsidiary not prohibited hereunder;

(j) Indebtedness of any Person that becomes a Subsidiary after the date hereof; provided, such Indebtedness exists at the time such Person becomes a Subsidiary and is not created in contemplation of or in connection with such Person becoming a Subsidiary;

(k) Indebtedness (i) resulting from a bank or other financial institution honoring a check, draft or similar instrument in the ordinary course of business or (ii) arising under or in connection with cash management services in the ordinary course of business; and

(l) Indebtedness in respect of indemnification obligations in connection with bonds and letters of credit related to self-insurance and insurance programs and policies of the Borrower and its Subsidiaries.

7.2 Liens.

The Borrower will not permit any Consolidated Party to contract, create, incur, assume or permit to exist any Lien with respect to any of its Property, whether now owned or after acquired, except for Permitted Liens.

7.3 Nature of Business.

The Borrower will not permit the Consolidated Parties taken as a whole to substantively alter the character or conduct of the business (taken as a whole) conducted by such Persons as of the Closing Date.

7.4 Consolidation, Merger, Dissolution, etc.

The Borrower will not permit any Consolidated Party to enter into any transaction of merger or consolidation or liquidate, wind up or dissolve itself (or suffer any liquidation or dissolution); provided that, notwithstanding the foregoing provisions of this Section 7.4, (a) the Borrower may merge or consolidate with a third party or with any of its Subsidiaries provided that (i) the Borrower shall be the continuing or surviving corporation and (ii) after giving effect to such transaction, no Default or Event of Default exists; (b) any Consolidated Party (other than the Borrower) (i) may be merged or consolidated with or into any other Consolidated Party or into any Person that becomes a Consolidated Party, (ii) may dispose of all or substantially all of its assets (upon voluntary liquidation or otherwise) to any other Consolidated Party and thereafter be dissolved provided that, after giving effect to such transaction, no Default or Event of Default exists and (iii) may dissolve, provided that it owns no material assets; and (c) the Borrower may become a direct or indirect wholly-owned Subsidiary of a holding company if the direct and indirect holders of the Voting Stock of such holding company immediately following that transaction are substantially the same as the holders of the Borrower's Voting Stock immediately prior to that transaction.

7.5 Asset Dispositions.

The Borrower will not permit any Consolidated Party to sell, lease, transfer or otherwise dispose of any Property other than (a) the sale of inventory in the ordinary course of business for fair consideration, (b) the sale or disposition of machinery and equipment no longer used or useful in the conduct of such Person's business, (c) the sale, lease, transfer or other disposition of Property to the Borrower in the ordinary course of business, (d) dispositions of assets to a Governmental Authority in connection with the granting of state or local tax or economic development incentives where the Borrower or a Subsidiary retains a leasehold interest in such property; provided, that (i) the use of such assets by the Borrower or any of its Subsidiaries is not materially limited or restricted thereby and (ii) the Borrower or a Subsidiary has the right to reacquire such assets for nominal consideration, which shall include cancellation by the Borrower or any Subsidiary of any bond held by the Borrower or such Subsidiary related to Permitted Government Revenue Bond Indebtedness, (e) dispositions of unwanted assets that were acquired in connection with an acquisition constituting an Investment; provided, that such

disposition (i) is completed on fair and reasonable terms no less favorable to the Borrower or a Subsidiary than the Borrower or such Subsidiary would obtain in a comparable arms-length transaction and (ii) occurs within a reasonable period of time after completion of such acquisition, (f) Sale and Leaseback Transactions, (g) transfers permitted by Section 7.4, (h) the sale, lease, transfer, conveyance or other disposition of Property among the Consolidated Parties, (i) the sale, lease, transfer, conveyance or other disposition of assets by any Consolidated Party to a Captive Insurance Subsidiary, from time to time, for the purpose of capitalizing such Captive Insurance Subsidiary, (j) the sale, lease, transfer, conveyance or other disposition in one or a series of related transactions of any assets (including Capital Stock) of any Consolidated Party or of any Person that becomes a Consolidated Party (i) acquired in a transaction not prohibited under this Credit Agreement, which assets are not used or useful in the core or principal business of such Consolidated Party, or (ii) made in connection with the approval of any applicable antitrust authority or pursuant to Requirements of Law or otherwise necessary or advisable in the good faith determination of the Borrower to consummate any acquisition not prohibited under this Credit Agreement and (k) other sales of assets of the Consolidated Parties having a net book value not to exceed 20% of Consolidated Tangible Assets of the Borrower and its Subsidiaries, computed as of the end of the most recent fiscal quarter end of the Borrower for which financial statements were required to be delivered pursuant to Section 6.1(a) or 6.1(b) (or, prior to the first such delivery date of the Closing Date, as of June 25, 2022).

7.6 Transactions with Affiliates.

Except as set forth on Schedule 7.6, the Borrower will not enter into any transaction or series of transactions with any officer, director, shareholder, Subsidiary or Affiliate of the Borrower other than (a) normal compensation and reimbursement of expenses of officers and directors, (b) intercompany transfers, (c) the provision of insurance to the Borrower by any Captive Insurance Subsidiary and (d) except as otherwise specifically limited in this Credit Agreement, other transactions which are entered into in the ordinary course of the Borrower's business on terms and conditions substantially as favorable to such Person as would be obtainable by it in a comparable arms-length transaction with a Person other than an officer, director, shareholder, Subsidiary or Affiliate.

7.7 Anti-Corruption Laws and Sanctions.

The Borrower will not request any extension of credit, and the Borrower shall not use, and shall ensure that its Subsidiaries and its or their respective directors, officers, employees and agents shall not use, the proceeds of any extension of credit (i) in furtherance of an offer, payment, promise to pay, or authorization of the payment or giving of money, or anything else of value, to any Person in violation in any material respect of any Anti-Corruption Laws, (ii) for the purpose of funding, financing or facilitating any activities, business or transaction of or with any Sanctioned Person, or in any Sanctioned Country, or (iii) in any manner that would result in a violation of any Sanctions by any Person (including any Person participating in the transaction, whether as a Lender, an Arranger, the Administrative Agent, an Issuing Lender, the Swingline Lender, or otherwise).

ARTICLE VIII.

EVENTS OF DEFAULT

8.1 Events of Default.

An Event of Default shall exist upon the occurrence of any of the following specified events (each an "Event of Default"):

(a) Payment. The Borrower shall:

(i) default in the payment when due of any principal of any of the Loans or of any reimbursement obligations arising from drawings under Letters of Credit, or

(ii) default, and such default shall continue for five (5) or more Business Days, in the payment when due of any interest on the Loans or on any reimbursement obligations arising from drawings under Letters of Credit, or of any Fees or other amounts owing hereunder when due, under any of the other Credit Documents or in connection herewith or therewith; or

(b) Representations. Any representation, warranty or statement made or deemed to be made by the Borrower herein, in any of the other Credit Documents, or in any statement or certificate delivered or required to be delivered pursuant hereto or thereto shall prove untrue in any material respect on the date as of which it was deemed to have been made; or

(c) Covenants. The Borrower shall:

(i) default in the due performance or observance of any term, covenant or agreement contained in Sections 6.2, 6.4, 6.9, 6.11 or Article VII; or

(ii) default in the due performance or observance by it of any term, covenant or agreement (other than those referred to in subsections (a), (b) or (c)(i) of this Section 8.1) contained in this Credit Agreement or in any other Credit Document and such default shall continue unremedied for a period of at least 30 days after the earlier of a Responsible Officer of the Borrower becoming aware of such default or notice thereof by the Administrative Agent; or

(d) Other Credit Documents. Except as a result of or in connection with a merger, consolidation or dissolution of a Subsidiary permitted under Section 7.4, any Credit Document shall fail to be in full force and effect or to give the Administrative Agent and/or the Lenders the rights, powers and privileges purported to be created thereby, or the Borrower shall so state in writing; or

(e) Bankruptcy, etc. Any Bankruptcy Event shall occur with respect to the Borrower or Material Subsidiary; or

(f) Defaults under Other Agreements. With respect to any Indebtedness (other than Indebtedness outstanding under this Credit Agreement) in excess of \$150,000,000 in the aggregate for the Consolidated Parties taken as a whole, (A) the Borrower or any Material Subsidiary shall (1) default in any payment (beyond the applicable grace period with respect thereto, if any) with respect to any such Indebtedness, or (2) the occurrence and continuance of a default in the observance or performance relating to such Indebtedness or contained in any instrument or agreement evidencing, securing or relating thereto, or any other event or condition shall occur or condition exist, the effect of which default or other event or condition is to cause, or permit, the holder or holders of such Indebtedness (or trustee or agent on behalf of such holders) to cause (determined without regard to whether any notice or lapse of time is required), any such Indebtedness to become due prior to its stated maturity; or (B) any such Indebtedness shall be declared due and payable, or required to be prepaid other than by a regularly scheduled required prepayment, prior to the stated maturity thereof; or

(g) Judgments. One or more judgments or decrees shall be entered against one or more of the Consolidated Parties involving a liability of \$150,000,000 or more in the aggregate (to the extent not paid or fully covered by insurance provided by a carrier who has acknowledged coverage and has the ability to perform) and any such judgments or decrees shall not have been vacated, discharged or stayed or bonded pending appeal within 60 days from the entry thereof; or

(h) ERISA. Any of the following events or conditions, if such event or condition could have a Material Adverse Effect: (i) any Single Employer Plan shall be deemed to be in "at risk status" as defined in Section 430(i) of the Code or any Multiemployer Plan shall be deemed to be in "critical" or "endangered" status as defined in Section 431 of the Code; (ii) any lien shall arise on the assets of any Consolidated Party or any ERISA Affiliate in favor of the PBGC or a Single Employer Plan; (iii) an ERISA Event shall occur with respect to a Single Employer Plan, which is, in the reasonable opinion of the Administrative Agent, likely to result in the termination of such Single Employer Plan for purposes of Title IV of ERISA; (iv) an ERISA Event shall occur with respect to a Multiemployer Plan or Multiple Employer Plan, which is, in the reasonable opinion of the Administrative Agent, likely to result in (A) the termination of such Multiemployer Plan or Multiple Employer Plan for purposes of Title IV of ERISA, or

(B) any Consolidated Party or any ERISA Affiliate incurring any liability in connection with a withdrawal from, or insolvency or (within the meaning of Section 4245 of ERISA) such Multiemployer Plan or Multiple Employer Plan; or (v) any prohibited transaction (within the meaning of Section 406 of ERISA or Section 4975 of the Code) or breach of fiduciary responsibility shall occur which may subject any Consolidated Party or any ERISA Affiliate to any liability under Sections 406, 409, 502(i), or 502(l) of ERISA or Section 4975 of the Code, or under any agreement or other instrument pursuant to which any Consolidated Party or any ERISA Affiliate has agreed or is required to indemnify any Person against any such liability; or

(i) Invalidity of Credit Documents. Any material provision of any Credit Document, at any time after its execution and delivery and for any reason other than as expressly permitted hereunder or thereunder or satisfaction in full of all the Obligations, ceases to be in full force and effect; or the Borrower contests in any manner the validity or enforceability of any provision of any Credit Document; or the Borrower denies that it has any or further liability or obligation under any Credit Document, or purports to revoke, terminate, or rescind any provision of any Credit Document.

8.2 Acceleration; Remedies.

Upon the occurrence of an Event of Default, and at any time thereafter unless and until such Event of Default has been waived by the requisite Lenders (pursuant to the voting requirements of Section 10.6) or cured to the satisfaction of the requisite Lenders (pursuant to the voting procedures in Section 10.6), the Administrative Agent shall, upon the request and direction of the Required Lenders, by written notice to the Borrower, take any of the following actions:

(a) Termination of Commitments. Declare the Commitments terminated whereupon the Commitments shall be immediately terminated.

(b) Acceleration. Declare the unpaid principal of and any accrued interest in respect of all Loans, any reimbursement obligations arising from drawings under Letters of Credit and any and all other indebtedness or obligations of any and every kind owing by the Borrower to the Administrative Agent and/or any of the Lenders hereunder to be due whereupon the same shall be immediately due and payable without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the Borrower.

(c) Cash Collateral. Direct the Borrower to pay (and the Borrower agrees that upon receipt of such notice, or upon the occurrence of an Event of Default under Section 8.1(e), it will immediately pay) to the Administrative Agent additional cash, to be held by the Administrative Agent, for the benefit of the Lenders, in a cash collateral account as additional security for the LOC Obligations in respect of subsequent drawings under all then outstanding Letters of Credit in an amount equal to the maximum aggregate amount which may be drawn under all Letters of Credit then outstanding.

(d) Enforcement of Rights. Enforce any and all rights and interests created and existing under the Credit Documents including, without limitation, all rights of set-off.

Notwithstanding the foregoing, if an Event of Default specified in Section 8.1(e) shall occur with respect to the Borrower, then the Commitments shall automatically terminate and all Loans, all reimbursement obligations arising from drawings under Letters of Credit, all accrued interest in respect thereof, all accrued and unpaid Fees and other indebtedness or obligations owing to the Administrative Agent and/or any of the Lenders hereunder automatically shall immediately become due and payable without the giving of any notice or other action by the Administrative Agent or the Lenders.

8.3 Allocation of Payments After Acceleration.

Notwithstanding any other provisions of this Credit Agreement to the contrary, after the acceleration of the Obligations pursuant to Section 8.2, all amounts collected or received by the Administrative Agent or any Lender on account of the Obligations or any other amounts outstanding

under any of the Credit Documents or in respect of the Cash Collateral shall be paid over or delivered as follows:

FIRST, to the payment of all reasonable out-of-pocket costs and expenses (including without limitation reasonable attorneys' fees) of the Administrative Agent in connection with enforcing the rights of the Lenders under the Credit Documents;

SECOND, to payment of any fees owed to the Administrative Agent;

THIRD, to the payment of all reasonable out-of-pocket costs and expenses (including without limitation, reasonable attorneys' fees) of each of the Lenders in connection with enforcing its rights under the Credit Documents or otherwise with respect to the Obligations owing to such Lender;

FOURTH, to the payment of all of the Obligations consisting of accrued fees and interest;

FIFTH, to the payment of the outstanding principal amount of the Obligations (including the payment or cash collateralization of the outstanding LOC Obligations) and the Issuing Lenders in proportion to the respective amounts described in this clause "FIFTH" payable to them;

SIXTH, to all other Obligations and other obligations which shall have become due and payable under the Credit Documents or otherwise and not repaid pursuant to clauses "FIRST" through "FIFTH" above; and

SEVENTH, to the payment of the surplus, if any, to whoever may be lawfully entitled to receive such surplus.

In carrying out the foregoing, (i) amounts received shall be applied in the numerical order provided until exhausted prior to application to the next succeeding category; (ii) each of the Lenders shall receive an amount equal to its pro rata share (based on the proportion that the then outstanding Loans and LOC Obligations held by such Lender bears to the aggregate then outstanding Loans and LOC Obligations) of amounts available to be applied pursuant to clauses "THIRD", "FOURTH", "FIFTH" and "SIXTH" above; and (iii) to the extent that any amounts available for distribution pursuant to clause "FIFTH" above are attributable to the issued but undrawn amount of outstanding Letters of Credit, such amounts shall be held by the Administrative Agent in a cash collateral account and applied (A) first, to reimburse the Issuing Lenders from time to time for any drawings under such Letters of Credit and (B) then, following the expiration of all Letters of Credit, to all other obligations of the types described in clauses "FIFTH" and "SIXTH" above in the manner provided in this Section 8.3.

ARTICLE IX.

AGENCY PROVISIONS

9.1 Appointment and Authority.

(a) Each of the Lenders and each Issuing Lender hereby irrevocably appoints, designates and authorizes Wells Fargo to act on its behalf as the Administrative Agent hereunder and under the other Credit Documents and authorizes the Administrative Agent to take such actions on its behalf and to exercise such powers as are delegated to the Administrative Agent by the terms hereof or thereof, together with such actions and powers as are reasonably incidental thereto. Except as provided in Section 9.6, the provisions of this Article are solely for the benefit of the Administrative Agent, the Arrangers, the Lenders and the Issuing Lenders and their respective Related Parties, and neither the Borrower nor any Subsidiary thereof shall have rights as a third-party beneficiary of any of such provisions.

(b) It is understood and agreed that the use of the term “agent” herein or in any other Credit Documents (or any other similar term) with reference to the Administrative Agent is not intended to connote any fiduciary or other implied (or express) obligations arising under agency doctrine of any applicable law. Instead such term is used as a matter of market custom, and is intended to create or reflect only an administrative relationship between contracting parties.

9.2 Rights as a Lender.

The Person serving as the Administrative Agent hereunder shall have the same rights and powers in its capacity as a Lender as any other Lender and may exercise the same as though it were not the Administrative Agent and the term “Lender” or “Lenders” shall, unless otherwise expressly indicated or unless the context otherwise requires, include the Person serving as the Administrative Agent hereunder in its individual capacity. Such Person and its Affiliates may accept deposits from, lend money to, own securities of, act as the financial advisor or in any other advisory capacity for and generally engage in any kind of banking, trust, financial advisory, underwriting, capital markets or other business with the Borrower or any Subsidiary or other Affiliate thereof as if such Person were not the Administrative Agent hereunder and without any duty to account therefor to the Lenders or to provide notice to or consent of the Lenders with respect thereto.

9.3 Exculpatory Provisions.

(a) The Administrative Agent, the Arrangers and their respective Related Parties shall not have any duties or obligations except those expressly set forth herein and in the other Credit Documents, and their duties hereunder and thereunder shall be administrative in nature. Without limiting the generality of the foregoing, the Administrative Agent, the Arrangers and their respective Related Parties:

(i) shall not be subject to any agency, trust, fiduciary or other implied duties, regardless of whether a Default or Event of Default has occurred and is continuing;

(ii) shall not have any duty to take any discretionary action or exercise any discretionary powers, except discretionary rights and powers expressly contemplated hereby or by the other Credit Documents that the Administrative Agent is required to exercise as directed in writing by the Required Lenders (or such other number or percentage of the Lenders as shall be expressly provided for herein or in the other Credit Documents); provided that the Administrative Agent shall not be required to take any action that, in its opinion or the opinion of its counsel, may expose the Administrative Agent to liability or that is contrary to any Credit Document or applicable law, including for the avoidance of doubt any action that may be in violation of the automatic stay under any Debtor Relief Law or that may effect a forfeiture, modification or termination of property of a Defaulting Lender in violation of any Debtor Relief Law;

(iii) shall not, except as expressly set forth herein and in the other Credit Documents, have any duty to disclose, and shall not be liable for the failure to disclose to any Lender, any Issuing Lender or any other Person, any credit or other information relating to the business, prospects, operations, properties, assets, financial or other conditions or creditworthiness of the Borrower or any of its Subsidiaries or Affiliates that is communicated to, obtained by or otherwise in the possession of the Person serving as the Administrative Agent, the Arrangers or their respective Related Parties in any capacity; and

(iv) shall not be required to account to any Lender or any Issuing Lender for any sum or profit received by the Administrative Agent for its own account.

(b) The Administrative Agent, the Arrangers and their respective Related Parties shall not be liable for any action taken or not taken by it under or in connection with this Credit Agreement or any other Credit Document or the transactions contemplated hereby or thereby (i) with the consent or at the request of the Required Lenders (or such other number or percentage of the Lenders as shall be necessary, or as the Administrative Agent shall believe in good faith shall be necessary, under the circumstances as provided in Section 10.6 and Section 8.2) or (ii) in the absence of its own gross negligence or willful misconduct as determined by a court of competent jurisdiction by final non-appealable judgment. The

Administrative Agent shall be deemed not to have knowledge of any Default or Event of Default unless and until notice describing such Default or Event of Default and indicating that such notice is a "Notice of Default" is given to the Administrative Agent by the Borrower, a Lender or an Issuing Lender.

(c) The Administrative Agent, the Arrangers and their respective Related Parties shall not be responsible for or have any duty or obligations to any Lender or Participant or any other Person to ascertain or inquire into (i) any statement, warranty or representation made in or in connection with this Credit Agreement or any other Credit Document, (ii) the contents of any certificate, report or other document delivered hereunder or thereunder or in connection herewith or therewith, (iii) the performance or observance of any of the covenants, agreements or other terms or conditions set forth herein or therein or the occurrence of any Default or Event of Default, (iv) the validity, enforceability, effectiveness or genuineness of this Credit Agreement, any other Credit Document or any other agreement, instrument or document, (v) the satisfaction of any condition set forth in Article IV or elsewhere herein, other than to confirm receipt of items expressly required to be delivered to the Administrative Agent or (vi) the utilization of any Issuing Lender's commitment to issue Letters of Credit (it being understood and agreed that the Issuing Lenders shall monitor compliance with their own commitments to issue Letters of Credit without any further action by the Administrative Agent).

9.4 Reliance by Administrative Agent.

The Administrative Agent shall be entitled to rely upon, shall be fully protected in relying and shall not incur any liability for relying upon, any notice, request, certificate, consent, communication, statement, instrument, document or other writing (including any electronic message, Internet or intranet website posting or other distribution) believed by it to be genuine and to have been signed, sent or otherwise authenticated by the proper Person. The Administrative Agent also may rely upon any statement made to it orally or by telephone and believed by it to have been made by the proper Person, and shall be fully protected in relying and shall not incur any liability for relying thereon. In determining compliance with any condition hereunder to the making of a Loan, or the issuance, extension, renewal or increase of a Letter of Credit or Bankers' Acceptance, that by its terms must be fulfilled to the satisfaction of a Lender or an Issuing Lender, the Administrative Agent may presume that such condition is satisfactory to such Lender or such Issuing Lender unless the Administrative Agent shall have received notice to the contrary from such Lender or such Issuing Lender prior to the making of such Loan or the issuance of such Letter of Credit or Bankers' Acceptance. The Administrative Agent may consult with legal counsel (who may be counsel for the Borrower), independent accountants and other experts selected by it, and shall not be liable for any action taken or not taken by it in accordance with the advice of any such counsel, accountants or experts. Each Lender or Issuing Lender that has signed this Credit Agreement or a signature page to an Assignment and Assumption or any other Credit Document pursuant to which it is to become a Lender or Issuing Lender hereunder shall be deemed to have consented to, approved and accepted and shall be deemed satisfied with each document or other matter required thereunder to be consented to, approved or accepted by such Lender or Issuing Lender or that is to be acceptable or satisfactory to such Lender or Issuing Lender.

9.5 Delegation of Duties.

The Administrative Agent may perform any and all of its duties and exercise its rights and powers hereunder or under any other Credit Document by or through any one or more sub-agents appointed by the Administrative Agent. The Administrative Agent and any such sub-agent may perform any and all of its duties and exercise its rights and powers by or through their respective Related Parties. The exculpatory provisions of this Article shall apply to any such sub-agent and to the Related Parties of the Administrative Agent and any such sub-agent, and shall apply to their respective activities in connection with the syndication of the credit facilities hereunder as well as activities as Administrative Agent. The Administrative Agent shall not be responsible for the negligence or misconduct of any sub-agents except to the extent that a court of competent jurisdiction determines in a final and non-appealable judgment that the Administrative Agent acted with gross negligence or willful misconduct in the selection of such sub-agents.

9.6 Resignation of Administrative Agent.

(a) The Administrative Agent may at any time give notice of its resignation to the Lenders, the Issuing Lenders and the Borrower. Upon receipt of any such notice of resignation, the Required Lenders shall have the right, in consultation with the Borrower and subject to the consent (not to be unreasonably withheld or delayed) of the Borrower (provided no Event of Default has occurred and is continuing at the time of such resignation), to appoint a successor, which shall be a bank or financial institution reasonably experienced in serving as administrative agent on syndicated bank facilities with an office in the United States, or an Affiliate of any such bank or financial institution with an office in the United States. If no such successor shall have been so appointed by the Required Lenders and shall have accepted such appointment within 30 days after the retiring Administrative Agent gives notice of its resignation (or such earlier day as shall be agreed by the Required Lenders) (the “Resignation Effective Date”), then the retiring Administrative Agent may (but shall not be obligated to), on behalf of the Lenders and the Issuing Lenders, appoint a successor Administrative Agent meeting the qualifications set forth above; provided that in no event shall any such successor Administrative Agent be a Defaulting Lender. Whether or not a successor has been appointed, such resignation shall become effective in accordance with such notice on the Resignation Effective Date.

(b) If the Person serving as Administrative Agent is a Defaulting Lender pursuant to clause (d) of the definition thereof, the Required Lenders may, to the extent permitted by applicable law, by notice in writing to the Borrower and such Person, remove such Person as Administrative Agent and, in consultation with the Borrower, appoint a successor. If no such successor shall have been so appointed by the Required Lenders and shall have accepted such appointment within 30 days (or such earlier day as shall be agreed by the Required Lenders) (the “Removal Effective Date”), then such removal shall nonetheless become effective in accordance with such notice on the Removal Effective Date.

(c) With effect from the Resignation Effective Date or the Removal Effective Date (as applicable), (i) the retiring or removed Administrative Agent shall be discharged from its duties and obligations hereunder and under the other Credit Documents (except that in the case of any collateral security held by the Administrative Agent on behalf of the Lenders or any Issuing Lender under any of the Credit Documents, the retiring or removed Administrative Agent shall continue to hold such collateral security until such time as a successor Administrative Agent is appointed) and (ii) except for any indemnity payments owed to the retiring or removed Administrative Agent, all payments, communications and determinations provided to be made by, to or through the Administrative Agent shall instead be made by or to each Lender and each Issuing Lender directly, until such time, if any, as the Required Lenders appoint a successor Administrative Agent as provided for above. Upon the acceptance of a successor’s appointment as Administrative Agent hereunder, such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring or removed Administrative Agent (other than any rights to indemnity payments owed to the retiring or removed Administrative Agent), and the retiring or removed Administrative Agent shall be discharged from all of its duties and obligations hereunder or under the other Credit Documents. The fees payable by the Borrower to a successor Administrative Agent shall be the same as those payable to its predecessor unless otherwise agreed between the Borrower and such successor. After the retiring or removed Administrative Agent’s resignation or removal hereunder and under the other Credit Documents, the provisions of this Article and Section 10.5 shall continue in effect for the benefit of such retiring or removed Administrative Agent, its sub-agents and their respective Related Parties in respect of any actions taken or omitted to be taken by any of them while the retiring or removed Administrative Agent was acting as Administrative Agent or relating to its duties as Administrative Agent that are carried out following its retirement or removal.

(d) Any resignation by, or removal of, Wells Fargo as Administrative Agent pursuant to this Section shall also constitute its resignation as an Issuing Lender and Swingline Lender. Upon the acceptance of a successor’s appointment as Administrative Agent hereunder, (i) such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring Issuing Lender, if in its sole discretion it elects to, and Swingline Lender, (ii) the retiring Issuing Lender and Swingline Lender shall be discharged from all of their respective duties and obligations hereunder or under the other Credit Documents, and (iii) the successor Issuing Lender, if in its sole discretion it elects to, shall issue letters of credit or bankers’ acceptances in substitution for the Letters of Credit and Bankers’ Acceptances, if any, outstanding or issuable under any Acceptance Credits, outstanding at the time of such succession or make other arrangements satisfactory to the retiring Issuing Lender to

effectively assume the obligations of the retiring Issuing Lender with respect to such Letters of Credit or Bankers' Acceptances.

9.7 Non-Reliance by Administrative Agent and Other Lenders.

Each Lender and each Issuing Lender expressly acknowledges that none of the Administrative Agent, the Arrangers or any of their respective Related Parties has made any representations or warranties to it and that no act taken or failure to act by the Administrative Agent, the Arrangers or any of their respective Related Parties, including any consent to and acceptance of any assignment or review of the affairs of the Borrower and its Subsidiaries or Affiliates, shall be deemed to constitute a representation or warranty of the Administrative Agent, the Arrangers or any of their respective Related Parties to any Lender or any Issuing Lender as to any matter, including whether the Administrative Agent, the Arrangers or any of their respective Related Parties have disclosed material information in their (or their respective Related Parties') possession. Each Lender and each Issuing Lender expressly acknowledges, represents and warrants to the Administrative Agent and the Arrangers that (a) the Credit Documents set forth the terms of a commercial lending facility, (b) it is engaged in making, acquiring, purchasing or holding commercial loans in the ordinary course and is entering into this Credit Agreement and the other Credit Documents to which it is a party as a Lender for the purpose of making, acquiring, purchasing and/or holding the commercial loans set forth herein as may be applicable to it, and not for the purpose of making, acquiring, purchasing or holding any other type of financial instruments, (c) it is sophisticated with respect to decisions to make, acquire, purchase or hold the commercial loans applicable to it and either it or the Person exercising discretion in making its decision to make, acquire, purchase or hold such commercial loans is experienced in making, acquiring, purchasing or holding commercial loans, (d) it has, independently and without reliance upon the Administrative Agent, the Arrangers, any other Lender or any of their respective Related Parties and based on such documents and information as it has deemed appropriate, made its own credit analysis and appraisal of, and investigations into, the business, prospects, operations, property, assets, liabilities, financial and other condition and creditworthiness of the Borrower and its Subsidiaries, all applicable bank or other regulatory applicable law relating to the transactions contemplated by this Credit Agreement and the other Credit Documents and (e) it has made its own independent decision to enter into this Credit Agreement and the other Credit Documents to which it is a party and to extend credit hereunder and thereunder. Each Lender and each Issuing Lender also acknowledges that (i) it will, independently and without reliance upon the Administrative Agent, the Arrangers or any other Lender or any of their respective Related Parties (A) continue to make its own credit analysis, appraisals and decisions in taking or not taking action under or based upon this Credit Agreement, any other Credit Document or any related agreement or any document furnished hereunder or thereunder based on such documents and information as it shall from time to time deem appropriate and its own independent investigations and (B) continue to make such investigations and inquiries as it deems necessary to inform itself as to the Borrower and its Subsidiaries and (ii) it will not assert any claim in contravention of this Section 9.7.

9.8 No Other Duties, Etc.

Anything herein to the contrary notwithstanding, none of the bookrunners, arrangers, syndication agents, documentation agents or co-agents shall have any powers, duties or responsibilities under this Credit Agreement or any of the other Credit Documents, except in its capacity, as applicable, as the Administrative Agent, a Lender or an Issuing Lender hereunder, but each such Person shall have the benefit of the indemnities and exculpatory provisions hereof.

9.9 Administrative Agent May File Proofs of Claim.

In case of the pendency of any proceeding under any Debtor Relief Law or any other judicial proceeding relative to the Borrower, the Administrative Agent (irrespective of whether the principal of any Loan or LOC Obligation shall then be due and payable as herein expressed or by declaration or otherwise and irrespective of whether the Administrative Agent shall have made any demand on the Borrower) shall be entitled and empowered (but not obligated) by intervention in such proceeding or otherwise:

(a) to file and prove a claim for the whole amount of the principal and interest owing and unpaid in respect of the Loans, LOC Obligations and all other Obligations that are owing and unpaid and to file such other documents as may be necessary or advisable in order to have the claims of the Lenders, the Issuing Lenders and the Administrative Agent (including any claim for the reasonable compensation, expenses, disbursements and advances of the Lenders, the Issuing Lenders and the Administrative Agent and their respective agents and counsel and all other amounts due the Lenders, the Issuing Lenders and the Administrative Agent under Sections 3.5 and 10.5) allowed in such judicial proceeding; and

(b) to collect and receive any monies or other property payable or deliverable on any such claims and to distribute the same;

and any custodian, receiver, assignee, trustee, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized by each Lender and each Issuing Lender to make such payments to the Administrative Agent and, in the event that the Administrative Agent shall consent to the making of such payments directly to the Lenders and the Issuing Lenders, to pay to the Administrative Agent any amount due for the reasonable compensation, expenses, disbursements and advances of the Administrative Agent and its agents and counsel, and any other amounts due the Administrative Agent under Sections 3.5 and 10.5.

Nothing contained herein shall be deemed to authorize the Administrative Agent to authorize or consent to or accept or adopt on behalf of any Lender any plan of reorganization, arrangement, adjustment or composition affecting the Obligations or the rights of any Lender or to authorize the Administrative Agent to vote in respect of the claim of any Lender in any such proceeding.

9.10 Erroneous Payments.

(a) Each Lender, each Issuing Lender, and any other party hereto hereby severally agrees that if (i) the Administrative Agent notifies (which such notice shall be conclusive absent manifest error) such Lender or Issuing Lender or any other Person that has received funds from the Administrative Agent or any of its Affiliates, either for its own account or on behalf of a Lender or an Issuing Lender (each such recipient, a "Payment Recipient") that the Administrative Agent has determined in its sole discretion that any funds received by such Payment Recipient were erroneously transmitted to, or otherwise erroneously or mistakenly received by, such Payment Recipient (whether or not known to such Payment Recipient) or (ii) any Payment Recipient receives any payment from the Administrative Agent (or any of its Affiliates) (x) that is in a different amount than, or on a different date from, that specified in a notice of payment, prepayment or repayment sent by the Administrative Agent (or any of its Affiliates) with respect to such payment, prepayment or repayment, as applicable, (y) that was not preceded or accompanied by a notice of payment, prepayment or repayment sent by the Administrative Agent (or any of its Affiliates) with respect to such payment, prepayment or repayment, as applicable, or (z) that such Payment Recipient otherwise becomes aware was transmitted or received in error or by mistake (in whole or in part) then, in each case, an error in payment shall be presumed to have been made (any such amounts specified in clauses (i) or (ii) of this Section 9.10(a), whether received as a payment, prepayment or repayment of principal, interest, fees, distribution or otherwise; individually and collectively, an "Erroneous Payment"), then, in each case, such Payment Recipient is deemed to have knowledge of such error at the time of its receipt of such Erroneous Payment; provided that nothing in this Section shall require the Administrative Agent to provide any of the notices specified in clauses (i) or (ii) above. Each Payment Recipient agrees that it shall not assert any right or claim to any Erroneous Payment, and hereby waives any claim, counterclaim, defense or right of set-off or recoupment with respect to any demand, claim or counterclaim by the Administrative Agent for the return of any Erroneous Payments, including without limitation waiver of any defense based on "discharge for value" or any similar doctrine.

(b) Without limiting the immediately preceding clause (a), each Payment Recipient agrees that, in the case of clause (a)(ii) above, it shall promptly notify the Administrative Agent in writing of such occurrence.

(c) In the case of either clause (a)(i) or (a)(ii) above, such Erroneous Payment shall at all times remain the property of the Administrative Agent and shall be segregated by the Payment Recipient

and held in trust for the benefit of the Administrative Agent, and upon demand from the Administrative Agent such Payment Recipient shall (or, shall cause any Person who received any portion of an Erroneous Payment on its behalf to), promptly, but in all events no later than one Business Day thereafter, return to the Administrative Agent the amount of any such Erroneous Payment (or portion thereof) as to which such a demand was made in same day funds and in the currency so received, together with interest thereon in respect of each day from and including the date such Erroneous Payment (or portion thereof) was received by such Payment Recipient to the date such amount is repaid to the Administrative Agent at the greater of the Federal Funds Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation from time to time in effect.

(d) In the event that an Erroneous Payment (or portion thereof) is not recovered by the Administrative Agent for any reason, after demand therefor by the Administrative Agent in accordance with immediately preceding clause (c), from any Lender that is a Payment Recipient or an Affiliate of a Payment Recipient (such unrecovered amount as to such Lender, an “Erroneous Payment Return Deficiency”), then at the sole discretion of the Administrative Agent and upon the Administrative Agent’s written notice to such Lender (i) such Lender shall be deemed to have made a cashless assignment of the full face amount of the portion of its Loans (but not its Commitments) of the relevant class of Loans with respect to which such Erroneous Payment was made (the “Erroneous Payment Impacted Class”) to the Administrative Agent or, at the option of the Administrative Agent, the Administrative Agent’s applicable lending affiliate in an amount that is equal to the Erroneous Payment Return Deficiency (or such lesser amount as the Administrative Agent may specify) (such assignment of the Loans (but not Commitments) of the Erroneous Payment Impacted Class, the “Erroneous Payment Deficiency Assignment”) plus any accrued and unpaid interest on such assigned amount, without further consent or approval of any party hereto and without any payment by the Administrative Agent or its applicable lending affiliate as the assignee of such Erroneous Payment Deficiency Assignment. The parties hereto acknowledge and agree that (1) any assignment contemplated in this clause (d) shall be made without any requirement for any payment or other consideration paid by the applicable assignee or received by the assignor, (2) the provisions of this clause (d) shall govern in the event of any conflict with the terms and conditions of Section 10.3 and (3) the Administrative Agent may reflect such assignments in the Register without further consent or action by any other Person.

(e) Each party hereto hereby agrees that (x) in the event an Erroneous Payment (or portion thereof) is not recovered from any Payment Recipient that has received such Erroneous Payment (or portion thereof) for any reason, the Administrative Agent (1) shall be subrogated to all the rights of such Payment Recipient with respect to such amount and (2) is authorized to set off, net and apply any and all amounts at any time owing to such Payment Recipient under any Credit Document, or otherwise payable or distributable by the Administrative Agent to such Payment Recipient from any source, against any amount due to the Administrative Agent under this Section 9.10 or under the indemnification provisions of this Credit Agreement, (y) the receipt of an Erroneous Payment by a Payment Recipient shall not for the purpose of this Credit Agreement be treated as a payment, prepayment, repayment, discharge or other satisfaction of any Obligations owed by the Borrower and (z) to the extent that an Erroneous Payment was in any way or at any time credited as payment or satisfaction of any of the Obligations, the Obligations or any part thereof that were so credited, and all rights of the Payment Recipient, as the case may be, shall be reinstated and continue in full force and effect as if such payment or satisfaction had never been received, provided, that this Section 9.10 shall not be interpreted to increase (or accelerate the due date for) the Obligations of the Borrower relative to the amount (and/or timing for payment) of the Obligations that would have been payable had such Erroneous Payment not been made by the Administrative Agent; provided, further, that for the avoidance of doubt, this Section 9.10(e) shall not apply to the extent any such Erroneous Payment is, and solely with respect to the amount of such Erroneous Payment that is, comprised of funds received by the Administrative Agent from the Borrower for the purpose of making a payment on the Obligations.

(f) Each party’s obligations under this Section 9.10 shall survive the resignation or replacement of the Administrative Agent or any transfer of right or obligations by, or the replacement of, a Lender, the termination of the Commitments or the repayment, satisfaction or discharge of all Obligations (or any portion thereof) under any Credit Document.

(g) Nothing in this Section 9.10 shall constitute a waiver or release of any claim of the Administrative Agent hereunder arising from any Payment Recipient's receipt of an Erroneous Payment.

ARTICLE X.

MISCELLANEOUS

10.1 Notices; Effectiveness; Electronic Communications.

(a) Notices Generally. Except in the case of notices and other communications expressly permitted to be given by telephone (and except as provided in subsection (b) below), all notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by facsimile as follows, and all notices and other communications expressly permitted hereunder to be given by telephone shall be made to the applicable telephone number, as follows:

(i) if to the Borrower, the Administrative Agent, any Issuing Lender or the Swingline Lender, to the address, facsimile number, electronic mail address or telephone number specified for such Person on Schedule 10.1; and

(ii) if to any other Lender, to the address, facsimile number, electronic mail address or telephone number specified in its Administrative Questionnaire (including, as appropriate, notices delivered solely to the Person designated by a Lender on its Administrative Questionnaire then in effect for the delivery of notices that may contain material non-public information relating to the Borrower).

(iii) Notices and other communications sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received; notices and other communications sent by facsimile shall be deemed to have been given when sent (except that, if not given during normal business hours for the recipient, shall be deemed to have been given at the opening of business on the next business day for the recipient). Notices and other communications delivered through electronic communications to the extent provided in subsection (b) below, shall be effective as provided in such subsection (b).

(b) Electronic Communications. Notices and other communications to the Lenders and the Issuing Lenders hereunder may be delivered or furnished by electronic communication (including e-mail and Internet or intranet websites) pursuant to procedures approved by the Administrative Agent, provided that the foregoing shall not apply to notices to any Lender or any Issuing Lender pursuant to Article II, Section 3.3 and Section 3.13 if such Lender or such Issuing Lender has notified the Administrative Agent that it is incapable of receiving notices under such Sections by electronic communication. The Administrative Agent or the Borrower may, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by it, provided that approval of such procedures may be limited to particular notices or communications. Unless the Administrative Agent otherwise prescribes, (i) notices and other communications sent to an e-mail address shall be deemed received upon the sender's receipt of an acknowledgement from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgement); provided that if such notice or other communication is not sent during the normal business hours of the recipient, such notice or communication shall be deemed to have been sent at the opening of business on the next business day for the recipient, and (ii) notices or communications posted to an Internet or intranet website shall be deemed received upon the deemed receipt by the intended recipient at its e-mail address as described in the foregoing clause (i) of notification that such notice or communication is available and identifying the website address therefor.

(c) [Reserved].

(d) Reliance by Administrative Agent, Issuing Lenders and Lenders. The Administrative Agent, the Issuing Lenders and the Lenders shall be entitled to rely and act upon any notices (including telephonic Notices of Borrowing and Swingline Loan Requests) purportedly given by or on behalf of the

Borrower even if (i) such notices were not made in a manner specified herein, were incomplete or were not preceded or followed by any other form of notice specified herein, or (ii) the terms thereof, as understood by the recipient, varied from any confirmation thereof. The Borrower shall indemnify the Administrative Agent, each Issuing Lender, each Lender and the Related Parties of each of them from all losses, costs, expenses and liabilities resulting from the reliance by such Person on each notice purportedly given by or on behalf of the Borrower. All telephonic notices to and other telephonic communications with the Administrative Agent may be recorded by the Administrative Agent, and each of the parties hereto hereby consents to such recording.

(e) The Platform. THE PLATFORM IS PROVIDED “AS IS” AND “AS AVAILABLE.” THE AGENT PARTIES (AS DEFINED BELOW) DO NOT WARRANT THE ACCURACY OR COMPLETENESS OF THE BORROWER MATERIALS OR THE ADEQUACY OF THE PLATFORM, AND EXPRESSLY DISCLAIM LIABILITY FOR ERRORS IN OR OMISSIONS FROM THE BORROWER MATERIALS. NO WARRANTY OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY, INCLUDING ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OF THIRD-PARTY RIGHTS OR FREEDOM FROM VIRUSES OR OTHER CODE DEFECTS, IS MADE BY ANY AGENT PARTY IN CONNECTION WITH THE BORROWER MATERIALS OR THE PLATFORM. In no event shall the Administrative Agent or any of its Related Parties (collectively, the “Agent Parties”) have any liability to the Borrower, any Lender, any Issuing Lender or any other Person for losses, claims, damages, liabilities or expenses of any kind (whether in tort, contract or otherwise) arising out of the Borrower’s or the Administrative Agent’s transmission of Borrower Materials through the Internet, except to the extent that such losses, claims, damages, liabilities or expenses are determined by a court of competent jurisdiction by a final and nonappealable judgment to have resulted from the gross negligence or willful misconduct of such Agent Party; provided, however, that in no event shall any Agent Party have any liability to the Borrower, any Lender, any Issuing Lender or any other Person for indirect, special, incidental, consequential or punitive damages (as opposed to direct or actual damages).

(f) Change of Address, Etc. Each of the Borrower, the Administrative Agent, the Issuing Lenders and the Swingline Lender may change its address, facsimile or telephone number for notices and other communications hereunder by notice to the other parties hereto. Each other Lender may change its address, facsimile or telephone number for notices and other communications hereunder by notice to the Borrower, the Administrative Agent, the Issuing Lenders and the Swingline Lender. In addition, each Lender agrees to notify the Administrative Agent from time to time to ensure that the Administrative Agent has on record (i) an effective address, contact name, telephone number, facsimile number and electronic mail address to which notices and other communications may be sent and (ii) accurate wire instructions for such Lender. Furthermore, each Public Lender agrees to cause at least one individual at or on behalf of such Public Lender to at all times have selected the “Private Side Information” or similar designation on the content declaration screen of the Platform in order to enable such Public Lender or its delegate, in accordance with such Public Lender’s compliance procedures and applicable law, including United States Federal and state securities laws, to make reference to Borrower Materials that are not made available through the “Public Side Information” portion of the Platform and that may contain material non-public information with respect to the Borrower or its securities for purposes of United States Federal or state securities laws.

10.2 Right of Set-Off.

Upon the occurrence and during the continuance of any Event of Default, each Lender (and each of its Affiliates) is hereby authorized at any time and from time to time, to the fullest extent permitted by law, to set off and apply any and all deposits (general or special, time or demand, provisional or final) at any time held and other indebtedness at any time owing by such Lender (or any of its Affiliates) to or for the credit or the account of the Borrower against any and all of the obligations of such Person now or hereafter existing under this Credit Agreement, under the Notes, under any other Credit Document or otherwise, irrespective of whether such Lender shall have made any demand under hereunder or thereunder and although such obligations may be unmaturing. Each Lender agrees promptly to notify the Borrower after any such set-off and application made by such Lender; provided, however, that the failure to give such notice shall not affect the validity of such set-off and application. The rights of each Lender

under this Section 10.2 are in addition to other rights and remedies (including, without limitation, other rights of set-off) that such Lender may have.

10.3 Successors and Assigns.

(a) Successors and Assigns Generally. The provisions of this Credit Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby, except that the Borrower may not assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of the Administrative Agent and each Lender, and no Lender may assign or otherwise transfer any of its rights or obligations hereunder except (i) to an assignee in accordance with the provisions of Section 10.3(b), (ii) by way of participation in accordance with the provisions of Section 10.3(d), or (iii) by way of pledge or assignment of a security interest subject to the restrictions of Section 10.3(f) (and any other attempted assignment or transfer by any party hereto shall be null and void). Nothing in this Credit Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby, Participants to the extent provided in subsection (d) of this Section and, to the extent expressly contemplated hereby, the Related Parties of each of the Administrative Agent, the Issuing Lenders and the Lenders) any legal or equitable right, remedy or claim under or by reason of this Credit Agreement.

(b) Assignments by Lenders. Any Lender may at any time assign to one or more assignees all or a portion of its rights and obligations under this Credit Agreement (including all or a portion of its Commitment(s) and the Loans (including for purposes of this subsection (b), participations in LOC Obligations and in Swingline Loans) at the time owing to it); provided that any such assignment shall be subject to the following conditions:

(i) Minimum Amounts.

(A) in the case of an assignment of the entire remaining amount of the assigning Lender's Commitment and the related Loans at the time owing to it or in the case of an assignment to a Lender, an Affiliate of a Lender or an Approved Fund, no minimum amount need be assigned; and

(B) in any case not described in subsection (b)(i)(A) of this Section, the aggregate amount of the Commitment (which for this purpose includes Loans outstanding thereunder) or, if the Commitment is not then in effect, the principal outstanding balance of the Loans of the assigning Lender subject to each such assignment, determined as of the date the Assignment and Assumption with respect to such assignment is delivered to the Administrative Agent or, if "Trade Date" is specified in the Assignment and Assumption, as of the Trade Date, shall not be less than \$5,000,000 in the case of any assignment in respect of a Revolving Commitment (and the related Revolving Loans thereunder) and \$5,000,000 in the case of any assignment in respect of the Incremental Term Loans, unless each of the Administrative Agent and, so long as no Event of Default has occurred and is continuing, the Borrower otherwise consents (each such consent not to be unreasonably withheld or delayed); provided, however, that concurrent assignments to members of an Assignee Group and concurrent assignments from members of an Assignee Group to a single Eligible Assignee (or to an Eligible Assignee and members of its Assignee Group) will be treated as a single assignment for purposes of determining whether such minimum amount has been met;

(ii) Proportionate Amounts. Each partial assignment shall be made as an assignment of a proportionate part of all the assigning Lender's rights and obligations under this Credit Agreement with respect to the Loans or the Commitment assigned, except that this clause (ii) shall not (A) apply to the Swingline Lender's rights and obligations in respect of Swingline Loans or (B) prohibit any Lender from assigning all or a portion of its rights and obligations in respect of its Revolving Commitment (and the related Revolving Loans thereunder) and its outstanding Incremental Term Loans on a non-pro rata basis;

(iii) Required Consents. No consent shall be required for any assignment except to the extent required by subsection (b)(i) (B) of this Section and, in addition:

(A) the consent of the Borrower (such consent not to be unreasonably withheld or delayed) shall be required unless (1) an Event of Default has occurred and is continuing at the time of such assignment or (2) such assignment is to a Lender, an Affiliate of a Lender or an Approved Fund; provided that the Borrower shall be deemed to have given its consent five (5) Business Days after the date written notice thereof has been delivered by the assigning Lender (through the Administrative Agent) unless such consent is expressly refused by the Borrower prior to such fifth (5th) Business Day;

(B) the consent of the Administrative Agent (such consent not to be unreasonably withheld or delayed) shall be required for assignments in respect of (1) any unfunded Incremental Term Loan Commitment or any Revolving Commitment if such assignment is to a Person that is not a Lender with a Commitment in respect of the applicable facility subject to such assignment, an Affiliate of such Lender or an Approved Fund with respect to such Lender or (2) any Incremental Term Loan to a Person that is not a Lender, an Affiliate of a Lender or an Approved Fund;

(C) the consent of the Issuing Lenders (such consent not to be unreasonably withheld or delayed) shall be required for any assignment that increases the obligation of the Eligible Assignee to participate in exposure under one or more Letters of Credit (whether or not then outstanding); and

(D) the consent of the Swingline Lender (such consent not to be unreasonably withheld or delayed) shall be required for any assignment in respect of the Revolving Commitments.

(iv) Assignment and Assumption. The parties to each assignment shall execute and deliver to the Administrative Agent an Assignment and Assumption, together with a processing and recordation fee of \$3,500; provided, however, that the Administrative Agent may, in its sole discretion, elect to waive such processing and recordation fee in the case of any assignment. The assignee, if it is not a Lender, shall deliver to the Administrative Agent an Administrative Questionnaire.

(v) No Assignment to Certain Persons. No such assignment shall be made to (A) the Borrower or any of the Borrower's Affiliates or Subsidiaries, (B) any Defaulting Lender or any of its Subsidiaries, or any Person who, upon becoming a Lender hereunder, would constitute any of the foregoing Persons described in this clause (B), or (C) a natural person (or a holding company, investment vehicle or trust for, or owned and operated for the primary benefit of, a natural person).

(vi) Certain Additional Payments. In connection with any assignment of rights and obligations of any Defaulting Lender hereunder, no such assignment shall be effective unless and until, in addition to the other conditions thereto set forth herein, the parties to the assignment shall make such additional payments to the Administrative Agent in an aggregate amount sufficient, upon distribution thereof as appropriate (which may be outright payment, purchases by the assignee of participations or subparticipations, or other compensating actions, including funding, with the consent of the Borrower and the Administrative Agent, the applicable pro rata share of Loans previously requested but not funded by the Defaulting Lender, to each of which the applicable assignee and assignor hereby irrevocably consent), to (x) pay and satisfy in full all payment liabilities then owed by such Defaulting Lender to the Administrative Agent or any Lender hereunder (and interest accrued thereon) and (y) acquire (and fund as appropriate) its full pro rata share of all Loans and Participation Interests in Letters of Credit and Swingline Loans in accordance with its Applicable Percentage. Notwithstanding the foregoing, in the event that any assignment of rights and obligations of any Defaulting Lender hereunder shall become effective under applicable law without compliance with the provisions of this paragraph, then the assignee

of such interest shall be deemed to be a Defaulting Lender for all purposes of this Credit Agreement until such compliance occurs.

Subject to acceptance and recording thereof by the Administrative Agent pursuant to subsection (c) of this Section, from and after the effective date specified in each Assignment and Assumption, the assignee thereunder shall be a party to this Credit Agreement and, to the extent of the interest assigned by such Assignment and Assumption, have the rights and obligations of a Lender under this Credit Agreement, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Assumption, be released from its obligations under this Credit Agreement (and, in the case of an Assignment and Assumption covering all of the assigning Lender's rights and obligations under this Credit Agreement, such Lender shall cease to be a party hereto but shall continue to be entitled to the benefits of Sections 3.6, 3.11, 3.12 and 10.5 with respect to facts and circumstances occurring prior to the effective date of such assignment). Upon request, the Borrower (at its expense) shall execute and deliver a Note to the assignee Lender. Any assignment or transfer by a Lender of rights or obligations under this Credit Agreement that does not comply with this subsection shall be treated for purposes of this Credit Agreement as a sale by such Lender of a participation in such rights and obligations in accordance with Section 10.3(d).

(c) Register. The Administrative Agent, acting solely for this purpose as an agent of the Borrower (and such agency being solely for tax purposes), shall maintain at the Administrative Agent's office a copy of each Assignment and Assumption delivered to it and a register for the recordation of the names and addresses of the Lenders, and the Commitments of, and principal amounts of the Loans and LOC Obligations owing to, each Lender pursuant to the terms hereof from time to time (the "Register"). The entries in the Register shall be presumed correct (absent manifest error), and the Borrower, the Administrative Agent and the Lenders may treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Credit Agreement, notwithstanding notice to the contrary. In addition, the Administrative Agent shall maintain on the Register information regarding the designation, and revocation of designation, of any Lender as a Defaulting Lender. The Register shall be available for inspection by the Borrower and any Lender, at any reasonable time and from time to time upon reasonable prior notice.

(d) Participations. Any Lender may at any time, without the consent of, or notice to, the Borrower or the Administrative Agent, sell participations to any Person (other than a natural person (or a holding company, investment vehicle or trust for, or owned and operated for the primary benefit of, a natural person), a Defaulting Lender or the Borrower or any of the Borrower's Affiliates or Subsidiaries) (each, a "Participant") in all or a portion of such Lender's rights and/or obligations under this Credit Agreement (including all or a portion of its Commitment and/or the Loans (including such Lender's participations in LOC Obligations and/or Swingline Loans) owing to it); provided that (i) such Lender's obligations under this Credit Agreement shall remain unchanged, (ii) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations and (iii) the Borrower, the Administrative Agent, the Issuing Lenders and the other Lenders shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Credit Agreement. Any agreement or instrument pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Credit Agreement and to approve any amendment, modification or waiver of any provision of this Credit Agreement; provided that such agreement or instrument may provide that such Lender will not, without the consent of the Participant, agree to any amendment, waiver or other modification described in the first proviso to Section 10.6 that directly affects such Participant. Subject to subsection (e) of this Section, the Borrower agrees that each Participant shall be entitled to the benefits of Sections 3.6, 3.11 and 3.12 to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to Section 10.3(b). To the extent permitted by law, each Participant also shall be entitled to the benefits of Section 10.2 as though it were a Lender, provided such Participant agrees to be subject to Section 3.14 as though it were a Lender.

Each Lender that sells a participation shall, acting solely for this purpose as a non-fiduciary agent of the Borrower, maintain a register on which it enters the name and address of each Participant and the principal amounts of (and stated interest on) each Participant's interest in the Loans or other obligations under the Credit Documents (the "Participant Register"); provided that no Lender shall have any obligation to disclose all or any portion of the Participant Register (including the identity of any

Participant or any information relating to a Participant's interest in any commitments, loans, letters of credit or its other obligations under any Credit Document) to any Person except to the extent that such disclosure is necessary to establish that such commitment, loan, letter of credit or other obligation is in registered form under Section 5f.103-1(c) of the United States Treasury Regulations. The entries in the Participant Register shall be conclusive absent manifest error, and such Lender shall treat each Person whose name is recorded in the Participant Register as the owner of such participation for all purposes of this Credit Agreement notwithstanding any notice to the contrary. For the avoidance of doubt, the Administrative Agent (in its capacity as Administrative Agent) shall have no responsibility for maintaining a Participant Register.

(e) Limitations upon Participant Rights. A Participant shall not be entitled to receive any greater payment under Section 3.6 or 3.11 than the applicable Lender would have been entitled to receive with respect to the participation sold to such Participant, unless the sale of the participation to such Participant is made with the Borrower's prior written consent. A Participant that would be a Foreign Lender if it were a Lender shall not be entitled to the benefits of Section 3.11 unless the Borrower is notified of the participation sold to such Participant and such Participant agrees, for the benefit of the Borrower, to comply with Section 3.11(d) as though it were a Lender.

(f) Certain Pledges. Any Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Credit Agreement (including under its Note, if any) to secure obligations of such Lender, including any pledge or assignment to secure obligations to a Federal Reserve Bank; provided that no such pledge or assignment shall release such Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto.

(g) Resignation as an Issuing Lender or Swingline Lender after Assignment.

(i) Notwithstanding anything to the contrary contained herein, if at any time Wells Fargo assigns all of its Revolving Commitments and Revolving Loans pursuant to Section 10.3(b), Wells Fargo may, upon 30 days' notice to the Borrower, resign as Swingline Lender. In the event of any such resignation as Swingline Lender, the Borrower shall be entitled to appoint from among the Lenders a successor Swingline Lender hereunder; provided, however, that no failure by the Borrower to appoint any such successor shall affect the resignation of Wells Fargo as Swingline Lender. If Wells Fargo resigns as Swingline Lender, it shall retain all the rights of the Swingline Lender provided for hereunder with respect to Swingline Loans made by it and outstanding as of the effective date of such resignation, including the right to require the Lenders to make Base Rate Loans or fund Participation Interests in outstanding Swingline Loans pursuant to Section 2.3. Upon the appointment of a successor Swingline Lender, such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring Swingline Lender.

(ii) Notwithstanding anything to the contrary contained herein, if at any time any Issuing Lender assigns all of its Revolving Commitments and Revolving Loans pursuant to Section 10.3(b), such Issuing Lender may, upon 30 days' notice to the Borrower and the Lenders, resign as an Issuing Lender. In the event of any such resignation as an Issuing Lender, the Borrower shall be entitled to appoint from among the Lenders a successor Issuing Lender hereunder; provided, however, that no failure by the Borrower to appoint any such successor shall affect the resignation of such Issuing Lender. If any Issuing Lender resigns as an Issuing Lender, it shall retain all the rights, powers, privileges and duties of an Issuing Lender hereunder with respect to all Letters of Credit and Bankers' Acceptances outstanding and all Bankers' Acceptances issuable under any Acceptance Credits outstanding as of the effective date of its resignation as an Issuing Lender and all LOC Obligations with respect thereto (including the right to require the Lenders to make Base Rate Loans or fund Participation Interests in Unreimbursed Amounts pursuant to Section 2.2(c)). Upon the appointment of a successor Issuing Lender, (a) such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring Issuing Lender and (b) the successor Issuing Lender shall issue letters of credit and bankers' acceptances in substitution for the Letters of Credit and Bankers' Acceptances, if any, outstanding at the time of such succession or make other arrangements

satisfactory to the retiring Issuing Lender to effectively assume the obligations of the retiring Issuing Lender with respect to such Letters of Credit and Bankers' Acceptances.

10.4 No Waiver; Remedies Cumulative; Enforcement.

No failure by any Lender, any Issuing Lender or the Administrative Agent to exercise, and no delay by any such Person in exercising, any right, remedy, power or privilege hereunder shall operate as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder or under any other Credit Document (including the imposition of a default rate of interest) preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. The rights, remedies, powers and privileges herein provided, and provided under each other Credit Document are cumulative and not exclusive of any rights, remedies, powers and privileges provided by law.

Notwithstanding anything to the contrary contained herein or in any other Credit Document, the authority to enforce rights and remedies hereunder and under the other Credit Documents against the Borrower shall be vested exclusively in, and all actions and proceedings at law in connection with such enforcement shall be instituted and maintained exclusively by, the Administrative Agent in accordance with Section 8.2 for the benefit of all the Lenders and the Issuing Lenders; provided, however, that the foregoing shall not prohibit (a) the Administrative Agent from exercising on its own behalf the rights and remedies that inure to its benefit (solely in its capacity as Administrative Agent) hereunder and under the other Credit Documents, (b) the Issuing Lenders or the Swingline Lender from exercising the rights and remedies that inure to its benefit (solely in its capacity as an Issuing Lender or Swingline Lender, as the case may be) hereunder and under the other Credit Documents, (c) any Lender from exercising setoff rights in accordance with Section 10.2 (subject to the terms of Section 3.14), or (d) any Lender from filing proofs of claim or appearing and filing pleadings on its own behalf during the pendency of a proceeding relative to the Borrower under the Bankruptcy Code or any other Debtor Relief Law; and provided, further, that if at any time there is no Person acting as Administrative Agent hereunder and under the other Credit Documents, then (i) the Required Lenders shall have the rights otherwise ascribed to the Administrative Agent pursuant to Section 8.2 and (ii) in addition to the matters set forth in clauses (b), (c) and (d) of the preceding proviso and subject to Section 3.14, any Lender may, with the consent of the Required Lenders, enforce any rights and remedies available to it and as authorized by the Required Lenders.

10.5 Expenses; Indemnity; Damage Waiver.

(a) The Borrower agrees to pay on demand all reasonable and documented out-of-pocket costs and expenses of the Administrative Agent, the Issuing Lenders and their Affiliates in connection with the syndication, preparation, execution, delivery, administration, modification, and amendment of this Credit Agreement, the other Credit Documents, and the other documents to be delivered hereunder, including, without limitation, the reasonable fees and expenses of counsel with respect thereto and with respect to advising the Administrative Agent as to its rights and responsibilities under the Credit Documents. The Borrower further agrees to pay on demand all reasonable and documented out-of-pocket costs and expenses of the Administrative Agent, the Issuing Lenders and the Lenders, if any (including, without limitation, reasonable and documented attorneys' fees and expenses), in connection with the enforcement (whether through negotiations, legal proceedings, or otherwise) of the Credit Documents and the other documents to be delivered hereunder.

(b) The Borrower agrees to indemnify and hold harmless the Administrative Agent (and any sub-agent thereof), each Lender and each Issuing Lender, and each Related Party of any of the foregoing Persons (each, an "Indemnified Party") from and against any and all claims, penalties, damages, losses, liabilities, costs, and expenses (including, without limitation, reasonable attorneys' fees) that may be incurred by or asserted or awarded against any Indemnified Party, in each case arising out of or in connection with or by reason of (including, without limitation, in connection with any investigation, litigation, or proceeding or preparation of defense in connection therewith) the Credit Documents, any of the transactions contemplated herein or the actual or proposed use of the proceeds of the Loans (including any of the foregoing arising from the negligence of the Indemnified Party), except to the extent such claim, penalty, damage, loss, liability, cost, or expense is found in a final, non-appealable judgment by a court of competent jurisdiction to have resulted from (i) such Indemnified Party's gross negligence or

willful misconduct, (ii) a claim brought by the Borrower against an Indemnified Party for breach in bad faith of such Indemnified Party's obligations hereunder or under any other Credit Document or (iii) a material breach by such Indemnified Party of its obligations under the Credit Documents (or any employee of, or any other Person that is controlled by, such Indemnified Party). In the case of an investigation, litigation or other proceeding to which the indemnity in this Section 10.5 applies, such indemnity shall be effective whether or not such investigation, litigation or proceeding is brought by the Borrower, its directors, shareholders or creditors or an Indemnified Party or any other Person or any Indemnified Party is otherwise a party thereto and whether or not the transactions contemplated hereby are consummated. The Borrower agrees not to assert any claim against any Indemnified Party on any theory of liability, for special, indirect, consequential, or punitive damages arising out of or otherwise relating to the Credit Documents, any of the transactions contemplated herein or the actual or proposed use of the proceeds of the Loans. No Indemnified Party shall be liable for any damages arising from the use by unintended recipients of any information or other materials distributed to such unintended recipients by such Indemnified Party through telecommunications, electronic or other information transmission systems in connection with this Credit Agreement or the other Credit Documents or the transactions contemplated hereby or thereby other than for direct or actual damages resulting from the gross negligence or willful misconduct of such Indemnified Party as determined by a final and nonappealable judgment of a court of competent jurisdiction.

(c) Reimbursement by Lenders. To the extent that the Borrower for any reason fails to indefeasibly pay any amount required under subsection (a) or (b) of this Section to be paid by it to the Administrative Agent (or any sub-agent thereof), any Issuing Lender or any Related Party of any of the foregoing, each Lender severally agrees to pay to the Administrative Agent (or any such sub-agent), the applicable Issuing Lender or such Related Party, as the case may be, such Lender's Applicable Percentage (determined as of the time that the applicable unreimbursed expense or indemnity payment is sought) of such unpaid amount, provided that the unreimbursed expense or indemnified loss, claim, damage, liability or related expense, as the case may be, was incurred by or asserted against the Administrative Agent (or any such sub-agent) or such Issuing Lender in its capacity as such, or against any Related Party of any of the foregoing acting for the Administrative Agent (or any such sub-agent) or such Issuing Lender in connection with such capacity. The obligations of the Lenders under this subsection (c) are subject to the provisions of Section 3.13(b).

(d) Payments. All amounts due under this Section shall be payable not later than ten Business Days after demand therefor.

(e) Without prejudice to the survival of any other agreement of the Borrower hereunder, the agreements and obligations of the Borrower contained in this Section 10.5 shall survive the resignation of the Administrative Agent, any Issuing Lender and the Swingline Lender, the replacement of any Lender, the repayment of the Loans, LOC Obligations and other obligations under the Credit Documents and the termination of the Commitments hereunder.

10.6 Amendments, Waivers and Consents

Except as set forth in Sections 2.1(f)(iii) and 3.7(c), neither this Credit Agreement nor any other Credit Document nor any of the terms hereof or thereof may be amended, changed, waived, discharged or terminated unless such amendment, change, waiver, discharge or termination is in writing entered into by, or approved in writing by, the Required Lenders and the Borrower; provided, however,

(a) that neither this Credit Agreement nor any other Credit Document may be amended to:

(i) extend the final maturity of any Loan (except in accordance with Section 3.19) or of any reimbursement obligation, or any portion thereof, arising from drawings under Letters of Credit without the written consent of each Lender whose such final maturity is being extended or increased,

(ii) reduce the rate or extend the time of payment of principal or interest (other than as a result of waiving the applicability of any post-default increase in interest rates) thereon or Fees hereunder without the written consent of each Lender entitled to receive such payment,

(iii) reduce or waive the principal amount of any Loan or of any reimbursement obligation, or any portion thereof, arising from drawings under Letters of Credit without the written consent of each Lender entitled to receive such amount,

(iv) increase the Commitment of a Lender over the amount thereof in effect without the written consent of such Lender whose Commitment is being increased (it being understood and agreed that a waiver of any Default or Event of Default or mandatory reduction in the Commitments shall not constitute a change in the terms of any Commitment of any Lender),

(v) release the Borrower without the written consent of each Lender directly affected thereby,

(vi) amend, modify or waive any provision of this Section 10.6(a) without the written consent of each Lender directly affected thereby or amend, modify or waive any provision of Section 8.3, Section 3.13, or Section 3.14 in a manner that would have the effect of altering the ratable reduction of Commitments or the pro rata sharing of payments otherwise required hereunder without the written consent of each Lender directly affected thereby,

(vii) reduce any percentage specified in, or otherwise modify, the definition of Required Lenders without the written consent of each Lender directly affected thereby, or

(viii) consent to the assignment or transfer by the Borrower of any of its rights and obligations under (or in respect of) the Credit Documents except as permitted thereby without the written consent of each Lender directly affected thereby;

(b) unless also signed by the Administrative Agent, no amendment, waiver or consent shall affect the rights or duties of the Administrative Agent under this Credit Agreement or any other Credit Document;

(c) unless also signed by applicable Issuing Lender, no amendment, waiver or consent shall affect the rights or duties of such Issuing Lender under this Credit Agreement or any Letter of Credit Application or other document relating to any Letter of Credit or Bankers' Acceptance issued or to be issued by it; and

(d) unless also signed by the Swingline Lender, no amendment, waiver or consent shall affect the rights or duties of the Swingline Lender under this Credit Agreement.

Notwithstanding the fact that the consent of all the Lenders is required in certain circumstances as set forth above, (x) each Lender is entitled to vote as such Lender sees fit on any bankruptcy reorganization plan that affects the Loans, and each Lender acknowledges that the provisions of Section 1126(c) of the Bankruptcy Code supersedes the unanimous consent provisions set forth herein and (y) the Required Lenders may consent to allow the Borrower to use cash collateral in the context of a bankruptcy or insolvency proceeding.

Notwithstanding anything to the contrary herein, each Fee Letter may be amended, or rights or privileges thereunder waived, in a writing executed only by the parties thereto.

Notwithstanding anything to the contrary herein, no Defaulting Lender shall have any right to approve or disapprove any amendment, waiver or consent hereunder (and any amendment, waiver or consent which by its terms requires the consent of all Lenders or each affected Lender may be effected with the consent of the applicable Lenders other than Defaulting Lenders), except that (x) the Commitment of any Defaulting Lender may not be increased or extended without the consent of such Lender and (y) any waiver, amendment or modification requiring the consent of all Lenders or each affected Lender that by its terms affects any Defaulting Lender more adversely than other affected Lenders shall require the consent of such Defaulting Lender.

Notwithstanding any provision herein to the contrary the Administrative Agent and the Borrower may amend, modify or supplement this Credit Agreement or any other Credit Document to cure or correct administrative errors or omissions, any ambiguity, omission, defect or inconsistency or to effect administrative changes, and such amendment shall become effective without any further consent of any other party to such Credit Document so long as (i) such amendment, modification or supplement does not adversely affect the rights of any Lender or other holder of Obligations in any material respect and (ii) the Lenders shall have received at least five Business Days' prior written notice thereof and the Administrative Agent shall not have received, within five Business Days of the date of such notice to the Lenders, a written notice from the Required Lenders stating that the Required Lenders object to such amendment.

10.7 Counterparts.

This Credit Agreement may be executed in any number of counterparts (and by different parties hereto in different counterparts), each of which when so executed and delivered shall be an original, but all of which shall constitute one and the same instrument. It shall not be necessary in making proof of this Credit Agreement to produce or account for more than one such counterpart for each of the parties hereto. Delivery of an executed counterpart of a signature page of this Credit Agreement by facsimile or in electronic (i.e., "pdf" or "tif") format shall be effective as delivery of a manually executed counterpart of this Credit Agreement.

10.8 Headings.

The headings of the sections and subsections hereof are provided for convenience only and shall not in any way affect the meaning or construction of any provision of this Credit Agreement.

10.9 Survival of Representations and Warranties.

All indemnities set forth herein and all representations and warranties made hereunder and in any other Credit Document or other document delivered pursuant hereto or thereto or in connection herewith or therewith shall survive the execution and delivery of this Credit Agreement, the making of the Loans, the issuance of the Letters of Credit, the repayment of the Loans, LOC Obligations and other obligations and the termination of the Commitments hereunder. Such representations and warranties have been or will be relied upon by the Administrative Agent and each Lender, regardless of any investigation made by the Administrative Agent or any Lender or on their behalf and notwithstanding that the Administrative Agent or any Lender may have had notice or knowledge of any Default or Event of Default at the time of any extension of credit hereunder, and shall continue in full force and effect as long as any Loan or any other Obligation hereunder shall remain unpaid or unsatisfied or any Letter of Credit or Bankers' Acceptance shall remain outstanding.

10.10 Governing Law; Submission to Jurisdiction; Venue.

(a) THIS CREDIT AGREEMENT AND, UNLESS OTHERWISE EXPRESSLY PROVIDED THEREIN, THE OTHER CREDIT DOCUMENTS, ANY CLAIM, CONTROVERSY, DISPUTE OR CAUSE OF ACTION (WHETHER IN CONTRACT OR TORT OR OTHERWISE) BASED UPON, ARISING OUT OF OR RELATING TO THIS CREDIT AGREEMENT OR, UNLESS OTHERWISE EXPRESSLY PROVIDED THEREIN, ANY OTHER CREDIT DOCUMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER AND THEREUNDER SHALL BE GOVERNED BY AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK. The Borrower irrevocably and unconditionally agrees that it will not commence any action, litigation or proceeding of any kind or description, whether in law or equity, whether in contract or in tort or otherwise, against the Administrative Agent, any Lender, any Issuing Lender, the Swingline Lender, or any Related Party of the foregoing in any way relating to this Credit Agreement or any other Credit Document or the transactions relating hereto or thereto, in any forum other than the courts of the State of New York sitting in New York County, and of the United States District Court of the Southern District of New York, and any appellate court from any thereof, and each of the parties hereto irrevocably and unconditionally submits to the jurisdiction of such courts and agrees that all claims in respect of any such action, litigation or proceeding may be heard and determined in such New

York State court or, to the fullest extent permitted by applicable law, in such federal court. Each of the parties hereto agrees that a final judgment in any such action, litigation or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law. Nothing in this Credit Agreement or in any other Credit Document shall affect any right that the Administrative Agent, any Lender, any Issuing Lender or the Swingline Lender may otherwise have to bring any action or proceeding relating to this Credit Agreement or any other Credit Document against the Borrower or its properties in the courts of any jurisdiction. The Borrower further irrevocably consents to the service of process out of any of the aforementioned courts in any such action or proceeding by the mailing of copies thereof by registered or certified mail, postage prepaid, to it at the address set out for notices pursuant to Section 10.1, such service to become effective three (3) days after such mailing. Nothing herein shall affect the right of the Administrative Agent or any Lender to serve process in any other manner permitted by law or to commence legal proceedings or to otherwise proceed against the Borrower in any other jurisdiction.

(b) The Borrower hereby irrevocably and unconditionally waives, to the fullest extent permitted by applicable law, any objection which it may now or hereafter have to the laying of venue of any of the aforesaid actions or proceedings arising out of or in connection with this Credit Agreement or any other Credit Document brought in the courts referred to in subsection (a) above and hereby further irrevocably waives, to the fullest extent permitted by applicable law, and agrees not to plead or claim in any such court that any such action or proceeding brought in any such court has been brought in an inconvenient forum.

(c) EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS CREDIT AGREEMENT OR ANY OTHER CREDIT DOCUMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (I) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PERSON HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PERSON WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (II) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS CREDIT AGREEMENT AND THE OTHER CREDIT DOCUMENTS BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

10.11 Severability.

If any provision of any of the Credit Documents is determined to be illegal, invalid or unenforceable, such provision shall be fully severable and the remaining provisions shall remain in full force and effect and shall be construed without giving effect to the illegal, invalid or unenforceable provisions. Without limiting the foregoing provisions of this Section 10.11, if and to the extent that the enforceability of any provisions in this Credit Agreement relating to Defaulting Lenders shall be limited by bankruptcy or Debtor Relief Laws, as determined in good faith by the Administrative Agent, the Issuing Lenders or the Swingline Lender, as applicable, then such provisions shall be deemed to be in effect only to the extent not so limited.

10.12 Entirety.

This Credit Agreement together with the other Credit Documents represent the entire agreement of the parties hereto and thereto, and supersede all prior agreements and understandings, oral or written, if any, including any commitment letters or correspondence relating to the Credit Documents or the transactions contemplated herein and therein.

10.13 Binding Effect; Termination.

(a) This Credit Agreement shall become effective at such time when all of the conditions set forth in Section 4.1 have been satisfied or waived by the Lenders, it shall have been executed by the Administrative Agent and when the Administrative Agent shall have received counterparts hereof that,

when taken together, bear the signatures of each of the other parties hereto. Thereafter this Credit Agreement shall be binding upon and inure to the benefit of the Borrower, the Administrative Agent and each Lender and their respective successors and assigns.

(b) The term of this Credit Agreement shall be until no Loans, LOC Obligations or any other amounts payable hereunder or under any of the other Credit Documents shall remain outstanding, no Letters of Credit shall be outstanding, all of the Obligations have been irrevocably satisfied in full and all of the Commitments hereunder shall have expired or been terminated.

10.14 Treatment of Certain Information; Confidentiality.

Each of the Administrative Agent, the Lenders and the Issuing Lenders agrees to maintain the confidentiality of the Information (as defined below), except that Information may be disclosed (a) to its Affiliates and to its and its Affiliates' respective Related Parties in connection with this Credit Agreement, the transactions contemplated hereby or in connection with marketing of services by such Affiliate or Related Party to the Borrower or any of its Subsidiaries (it being understood that the Persons to whom such disclosure is made will be informed of the confidential nature of such Information and instructed to keep such Information confidential), (b) to the extent required or requested by, or required to be disclosed to, any regulatory or similar authority purporting to have jurisdiction over such Person or its Related Parties (including any self-regulatory authority, such as the National Association of Insurance Commissioners) or in accordance with the Administrative Agent's, any Issuing Lender's or any Lender's regulatory compliance policy if the Administrative Agent, such Issuing Lender or such Lender, as applicable, deems such disclosure to be necessary for the mitigation of claims by those authorities against the Administrative Agent, such Issuing Lender or such Lender, as applicable, or any of its Related Parties (in which case, the Administrative Agent, such Issuing Lender or such Lender, as applicable, shall use commercially reasonable efforts to, except with respect to any audit or examination conducted by bank accountants or any governmental bank regulatory authority exercising examination or regulatory authority, promptly notify the Borrower, in advance, to the extent practicable and otherwise permitted by applicable law), (c) as to the extent required by applicable laws or regulations or in any legal, judicial, administrative proceeding or other compulsory process, (d) to any other party hereto, (e) in connection with the exercise of any remedies under this Credit Agreement or under any other Credit Document, or any action or proceeding relating to this Credit Agreement or any other Credit Document, or the enforcement of rights hereunder or thereunder, (f) subject to an agreement containing provisions substantially the same as those of this Section, to (i) any assignee of or Participant in, or any prospective assignee of or Participant in, any of its rights and obligations under this Credit Agreement and, in each case, their respective financing sources, or (ii) any actual or prospective party (or its Related Parties) to any swap, derivative or other transaction under which payments are to be made by reference to the Borrower and its obligations, this Credit Agreement or payments hereunder, (g) on a confidential basis to (i) any rating agency in connection with rating the Borrower or its Subsidiaries or the credit facilities hereunder or (ii) the CUSIP Service Bureau or any similar agency in connection with the issuance and monitoring of CUSIP numbers with respect to the credit facilities hereunder, (h) with the written consent of the Borrower, (i) deal terms and other information customarily reported to Thomson Reuters, other bank market data collectors and similar service providers to the lending industry and service providers to the Administrative Agent and the Lenders in connection with the administration of the Credit Documents, (j) to the extent such Information (i) becomes publicly available other than as a result of a breach of this Section or (ii) becomes available to the Administrative Agent, any Lender, any Issuing Lender or any of their respective Affiliates from a third party that is not, to such Person's knowledge, subject to confidentiality obligations to the Borrower, or (k) to the extent that such information is independently developed by such Person.

For purposes of this Section, "Information" means all information received from the Borrower or any Subsidiary relating to the Borrower or any Subsidiary or any of their respective businesses, other than any such information that is available to the Administrative Agent, any Lender or any Issuing Lender on a nonconfidential basis prior to disclosure by the Borrower or any Subsidiary, provided that, in the case of information received from the Borrower or any Subsidiary after the date hereof, such information is clearly identified at the time of delivery as confidential. Any Person required to maintain the confidentiality of Information as provided in this Section shall be considered to have complied with its

obligation to do so if such Person has exercised the same degree of care to maintain the confidentiality of such Information as such Person would accord to its own confidential information.

Each of the Administrative Agent, the Lenders and the Issuing Lenders acknowledges that (a) the Information may include material non-public information concerning the Borrower or a Subsidiary, as the case may be, (b) it has developed compliance procedures regarding the use of material non-public information and (c) it will handle such material non-public information in accordance with applicable law, including United States federal and state securities laws.

10.15 Conflict.

To the extent that there is a conflict or inconsistency between any provision hereof, on the one hand, and any provision of any Credit Document, on the other hand, this Credit Agreement shall control.

10.16 USA PATRIOT Act Notice.

Each Lender that is subject to the Act (as hereinafter defined) and the Administrative Agent (for itself and not on behalf of any Lender) hereby notifies the Borrower that pursuant to the requirements of the USA PATRIOT Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)) (the “Act”), it is required to obtain, verify and record information that identifies the Borrower, which information includes the name and address of the Borrower and other information that will allow such Lender or the Administrative Agent, as applicable, to identify the Borrower in accordance with the Act. The Borrower shall, promptly following a request by the Administrative Agent or any Lender, provide all documentation and other information about the Borrower and its Subsidiaries that the Administrative Agent or such Lender reasonably requests in order to comply with its ongoing obligations under applicable “know your customer” and anti-money laundering rules and regulations, including the Act.

10.17 No Advisory or Fiduciary Responsibility.

In connection with all aspects of each transaction contemplated hereby (including in connection with any amendment, waiver or other modification hereof or of any other Credit Document), the Borrower acknowledges and agrees, and acknowledges its Affiliates’ understanding, that: (i) (A) the arranging and other services regarding this Credit Agreement provided by the Administrative Agent, the Arrangers and the Lenders are arm’s-length commercial transactions between the Borrower and its Affiliates, on the one hand, and the Administrative Agent, the Arrangers, and the Lenders, on the other hand, (B) the Borrower has consulted its own legal, accounting, regulatory and tax advisors to the extent it has deemed appropriate, and (C) the Borrower is capable of evaluating, and understands and accepts, the terms, risks and conditions of the transactions contemplated hereby and by the other Credit Documents; (ii) (A) the Administrative Agent, the Arrangers, and the Lenders each is and has been acting solely as a principal and, except as expressly agreed in writing by the relevant parties, has not been, is not, and will not be acting as an advisor, agent or fiduciary for the Borrower or any of its Affiliates, or any other Person and (B) neither the Administrative Agent, the Arrangers nor the Lenders have any obligation to the Borrower or any of its Affiliates with respect to the transactions contemplated hereby except those obligations expressly set forth herein and in the other Credit Documents; and (iii) the Administrative Agent, the Arrangers, the Lenders and their respective Affiliates may be engaged in a broad range of transactions that involve interests that differ from those of the Borrower and its Affiliates, and neither the Administrative Agent, the Arrangers nor the Lenders have any obligation to disclose any of such interests to the Borrower or any of its Affiliates. To the fullest extent permitted by law, the Borrower hereby waives and releases any claims that it may have against the Administrative Agent, the Arrangers, and the Lenders with respect to any breach or alleged breach of agency or fiduciary duty in connection with any aspect of any transaction contemplated hereby.

10.18 Replacement of Lenders.

If, from time to time, (i) any Lender requests compensation under Sections 3.6 and 3.9, (ii) any Lender gives notice pursuant to Section 3.8, (iii) the Borrower is required to pay any additional amount to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 3.11, (iv) a

Lender (a “Non-Consenting Lender”) does not consent to a proposed change, waiver, discharge or termination with respect to any Credit Document that has been approved by the Required Lenders as provided in Section 10.6 but requires unanimous consent of all Lenders or all Lenders directly affected thereby (as applicable), (v) subject to Section 3.19(c), any Lender is a Non-Extending Lender or (vi) any Lender or any Issuing Lender is a Defaulting Lender, then the Borrower shall have the right to replace such Lender (the “Replaced Lender”) with one or more additional banks or financial institutions (collectively, the “Replacement Lender”), upon notice to such Lender and the Administrative Agent (in accordance with and subject to the restrictions contained in, and consents required by, Section 10.3) and, in connection with such replacement, all of the Replaced Lender’s interests, rights and obligations under this Credit Agreement and the related Credit Documents shall be assigned and delegated to the Replacement Lender, provided that:

- (a) the Borrower shall have paid to the Administrative Agent the assignment fee specified in Section 10.3(b);
- (b) the Replaced Lender shall have received payment of an amount equal to the outstanding principal of its Loans and L/C Advances, accrued interest thereon, accrued fees and all other amounts payable to it hereunder and under the other Credit Documents (including any amounts under Section 3.12) from the Replacement Lender (to the extent of such outstanding principal and accrued interest and fees) or the Borrower (in the case of all other amounts);
- (c) in the case of any such assignment resulting from a claim for compensation under Sections 3.6 and 3.9, receipt of a notice pursuant to Section 3.8 or payments required to be made pursuant to Section 3.11, such assignment will result in a reduction in such compensation or payments thereafter or elimination of the need for such notice;
- (d) such assignment does not conflict with applicable Requirements of Law; and
- (e) in the case of any such assignment resulting from a Non-Consenting Lender’s failure to consent to a proposed change, waiver, discharge or termination with respect to any Credit Document, the Replacement Lender consents to the proposed change, waiver, discharge or termination;

provided that the failure by the Replaced Lender to execute and deliver an Assignment and Assumption shall not impair the validity of the removal of the Replaced Lender and the mandatory assignment of such Lender’s Commitments and outstanding Loans and participations in LOC Obligations and Swingline Loans pursuant to this Section 10.18 shall nevertheless be effective without the execution by the Replaced Lender of an Assignment and Assumption.

A Lender shall not be required to make any such assignment or delegation if, prior thereto, as a result of a waiver by such Lender or otherwise, the circumstances entitling the Borrower to require such assignment and delegation cease to apply.

If an Issuing Lender is a Defaulting Lender, then the Borrower may, at its sole expense and effort, upon notice to such Issuing Lender and the Administrative Agent, require such Issuing Lender to resign as an Issuing Lender; provided that (i) such resigning Issuing Lender shall retain all the rights, powers, privileges and duties of an Issuing Lender hereunder with respect to all Letters of Credit outstanding as of the effective date of its resignation as an Issuing Lender and all LOC Obligations with respect thereto (including the right to require the Lenders to make Base Rate Loans or fund Participation Interests in Unreimbursed Amounts pursuant to Section 2.2(c)) and (ii) a successor Issuing Lender shall have been appointed and such successor Issuing Lender shall have issued letters of credit in substitution for the Letters of Credit, if any, outstanding at the time of such resignation or make other arrangements satisfactory to the resigning Issuing Lender to effectively assume the obligations of such resigning Issuing Lender with respect to such Letters of Credit. Such Issuing Lender shall not be required to resign if, prior thereto, the circumstances entitling the Borrower to require such resignation cease to apply.

10.19 Interest Rate Limitation.

Notwithstanding anything to the contrary contained in any Credit Document, the interest paid or agreed to be paid under the Credit Documents shall not exceed the amount collectible at the maximum rate of non-usurious interest permitted by applicable law (the “Maximum Rate”). If the Administrative Agent or any Lender shall receive interest in an amount that exceeds the amount collectible at the Maximum Rate, the excess interest shall be applied to the principal of the Loans or, if it exceeds such unpaid principal, refunded to the Borrower. In determining whether the interest contracted for, charged, or received by the Administrative Agent or a Lender exceeds the amount collectible at the Maximum Rate, such Person may, to the extent permitted by applicable law, (a) characterize any payment that is not principal as an expense, fee, or premium rather than interest, (b) exclude voluntary prepayments and the effects thereof, and (c) amortize, prorate, allocate, and spread in equal or unequal parts the total amount of interest throughout the contemplated term of the Obligations hereunder.

10.20 Electronic Execution

The words “execute,” “execution,” “signed,” “signature,” “delivery” and words of like import in or related to this Credit Agreement, any other Credit Document or any document, amendment, approval, consent, waiver, modification, information, notice, certificate, report, statement, disclosure, or authorization to be signed or delivered in connection with this Credit Agreement or any other Credit Document or the transactions contemplated hereby shall be deemed to include Electronic Signatures or execution in the form of an Electronic Record, and contract formations on electronic platforms approved by the Administrative Agent, deliveries or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act. Each party hereto agrees that any Electronic Signature or execution in the form of an Electronic Record shall be valid and binding on itself and each of the other parties hereto to the same extent as a manual, original signature. For the avoidance of doubt, the authorization under this paragraph may include, without limitation, use or acceptance by the parties of a manually signed paper which has been converted into electronic form (such as scanned into PDF format), or an electronically signed paper converted into another format, for transmission, delivery and/or retention. Notwithstanding anything contained herein to the contrary, the Administrative Agent is under no obligation to accept an Electronic Signature in any form or in any format unless expressly agreed to by the Administrative Agent pursuant to procedures approved by it; provided that without limiting the foregoing, (i) to the extent the Administrative Agent has agreed to accept such Electronic Signature from any party hereto, the Administrative Agent and the other parties hereto shall be entitled to rely on any such Electronic Signature purportedly given by or on behalf of the executing party without further verification and (ii) upon the request of the Administrative Agent or any Lender, any Electronic Signature shall be promptly followed by an original manually executed counterpart thereof. Without limiting the generality of the foregoing, each party hereto hereby (A) agrees that, for all purposes, including without limitation, in connection with any workout, restructuring, enforcement of remedies, bankruptcy proceedings or litigation among the Administrative Agent, the Lenders and the Borrower, electronic images of this Credit Agreement or any other Credit Document (in each case, including with respect to any signature pages thereto) shall have the same legal effect, validity and enforceability as any paper original, and (B) waives any argument, defense or right to contest the validity or enforceability of the Credit Documents based solely on the lack of paper original copies of any Credit Documents, including with respect to any signature pages thereto.

10.21 Acknowledgement and Consent to Bail-In of Affected Financial Institutions

Solely to the extent any Lender or Issuing Lender that is an Affected Financial Institution is a party to this Credit Agreement and notwithstanding anything to the contrary in any Credit Document or in any other agreement, arrangement or understanding among any such parties, each party hereto acknowledges that any liability of any Lender or Issuing Lender that is an Affected Financial Institution arising under any Credit Document, to the extent such liability is unsecured, may be subject to the Write-Down and Conversion Powers of the applicable Resolution Authority and agrees and consents to, and acknowledges and agrees to be bound by:

(a) the application of any Write-Down and Conversion Powers by the applicable Resolution Authority to any such liabilities arising hereunder which may be payable to it by any Lender or Issuing Lender that is an Affected Financial Institution; and

(b) the effects of any Bail-In Action on any such liability, including, if applicable:

(i) a reduction in full or in part or cancellation of any such liability;

(ii) a conversion of all, or a portion of, such liability into shares or other instruments of ownership in such Affected Financial Institution, its parent undertaking, or a bridge institution that may be issued to it or otherwise conferred on it, and that such shares or other instruments of ownership will be accepted by it in lieu of any rights with respect to any such liability under this Credit Agreement or any other Credit Document; or

(iii) the variation of the terms of such liability in connection with the exercise of the Write-Down and Conversion Powers of the applicable Resolution Authority.

10.22 Certain ERISA Matters.

(a) Each Lender (x) represents and warrants, as of the date such Person became a Lender party hereto, and (y) covenants, from the date such Person became a Lender party hereto to the date such Person ceases being a Lender party hereto, for the benefit of, the Administrative Agent, the Arrangers and their respective Affiliates, and not, for the avoidance of doubt, to or for the benefit of the Borrower, that at least one of the following is and will be true:

(i) such Lender is not using “plan assets” (within the meaning of Section 3(42) of ERISA or otherwise for purposes of Title I of ERISA or Section 4975 of the Code) of one or more Benefit Plans with respect to such Lender’s entrance into, participation in, administration of and performance of the Loans, the Letters of Credit or the Commitments or this Credit Agreement;

(ii) the transaction exemption set forth in one or more PTEs, such as PTE 84-14 (a class exemption for certain transactions determined by independent qualified professional asset managers), PTE 95-60 (a class exemption for certain transactions involving insurance company general accounts), PTE 90-1 (a class exemption for certain transactions involving insurance company pooled separate accounts), PTE 91-38 (a class exemption for certain transactions involving bank collective investment funds) or PTE 96-23 (a class exemption for certain transactions determined by in-house asset managers), is applicable so as to exempt from the prohibitions of Section 406 of ERISA and Section 4975 of the Code such Lender’s entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments and this Credit Agreement;

(iii) (A) such Lender is an investment fund managed by a “Qualified Professional Asset Manager” (within the meaning of Part VI of PTE 84-14), (B) such Qualified Professional Asset Manager made the investment decision on behalf of such Lender to enter into, participate in, administer and perform the Loans, the Letters of Credit, the Commitments and this Credit Agreement, (C) the entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments and this Credit Agreement satisfies the requirements of sub-sections (b) through (g) of Part I of PTE 84-14 and (D) to the best knowledge of such Lender, the requirements of subsection (a) of Part I of PTE 84-14 are satisfied with respect to such Lender’s entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments and this Credit Agreement; or

(iv) such other representation, warranty and covenant as may be agreed in writing between the Administrative Agent, in its sole discretion, and such Lender.

(b) In addition, unless either (1) sub-clause (i) in the immediately preceding clause (a) is true with respect to a Lender or (2) a Lender has provided another representation, warranty and covenant in accordance with sub-clause (iv) in the immediately preceding clause (a), such Lender further (x) represents and warrants, as of the date such Person became a Lender party hereto, to, and (y) covenants, from the date such Person became a Lender party hereto to the date such Person ceases being a Lender party hereto, for the benefit of, the Administrative Agent, the Arrangers and their respective Affiliates, and not, for the avoidance of doubt, to or for the benefit of the Borrower, that none of the Administrative Agent, any Arranger nor any of their respective Affiliates is a fiduciary with respect to the assets of such Lender involved in such Lender's entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments and this Credit Agreement (including in connection with the reservation or exercise of any rights by the Administrative Agent under this Credit Agreement, any Credit Document or any documents related hereto or thereto).

10.23 Acknowledgement Regarding Any Supported QFCs.

To the extent that the Credit Documents provide support, through a guarantee or otherwise, for Hedging Agreements or any other agreement or instrument that is a QFC (such support, "QFC Credit Support" and, each such QFC, a "Supported QFC"), the parties acknowledge and agree as follows with respect to the resolution power of the FDIC under the Federal Deposit Insurance Act and Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act (together with the regulations promulgated thereunder, the "U.S. Special Resolution Regimes") in respect of such Supported QFC and QFC Credit Support (with the provisions below applicable notwithstanding that the Credit Documents and any Supported QFC may in fact be stated to be governed by the laws of the State of New York and/or of the United States or any other state of the United States):

(a) In the event a Covered Entity that is party to a Supported QFC (each, a "Covered Party") becomes subject to a proceeding under a U.S. Special Resolution Regime, the transfer of such Supported QFC and the benefit of such QFC Credit Support (and any interest and obligation in or under such Supported QFC and such QFC Credit Support, and any rights in property securing such Supported QFC or such QFC Credit Support) from such Covered Party will be effective to the same extent as the transfer would be effective under the U.S. Special Resolution Regime if the Supported QFC and such QFC Credit Support (and any such interest, obligation and rights in property) were governed by the laws of the United States or a state of the United States. In the event a Covered Party or a BHC Act Affiliate of a Covered Party becomes subject to a proceeding under a U.S. Special Resolution Regime, Default Rights under the Credit Documents that might otherwise apply to such Supported QFC or any QFC Credit Support that may be exercised against such Covered Party are permitted to be exercised to no greater extent than such Default Rights could be exercised under the U.S. Special Resolution Regime if the Supported QFC and the Credit Documents were governed by the laws of the United States or a state of the United States. Without limitation of the foregoing, it is understood and agreed that rights and remedies of the parties with respect to a Defaulting Lender shall in no event affect the rights of any Covered Party with respect to a Supported QFC or any QFC Credit Support.

(b) As used in this Section 10.23, the following terms have the following meanings:

(i) "BHC Act Affiliate" of a party means an "affiliate" (as such term is defined under, and interpreted in accordance with, 12 U.S.C. 1841(k)) of such party.

(ii) "Covered Entity" means any of the following: a "covered entity" as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 252.82(b); a "covered bank" as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 47.3(b); or a "covered FSI" as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 382.2(b).

(iii) "Default Right" has the meaning assigned to that term in, and shall be interpreted in accordance with, 12 C.F.R. §§ 252.81, 47.2 or 382.1, as applicable.

(iv) "QFC" has the meaning assigned to the term "qualified financial contract" in, and shall be interpreted in accordance with, 12 U.S.C. 5390(c)(8)(D).

[Signature Page to Follow]

IN WITNESS WHEREOF, each of the parties hereto has caused a counterpart of this Credit Agreement to be duly executed and delivered as of the date first above written.

BORROWER: TRACTOR SUPPLY COMPANY,
 a Delaware corporation

By: _____
Name: Kurt D. Barton
Title: Executive Vice President and Chief Financial Officer

[Signatures continue.]

AGENTS AND LENDERS:

WELLS FARGO BANK, NATIONAL ASSOCIATION,
as Administrative Agent, Swingline Lender, Issuing Lender and a Lender

By:
Name:
Title:

[Signatures continue.]

REGIONS BANK,
as a Lender

By: _____
Name:
Title:

[Signatures continue.]

FIFTH THIRD BANK, NATIONAL ASSOCIATION,
as a Lender

By: _____
Name:
Title:

[Signatures continue.]

FOURTH AMENDMENT
TO
NOTE PURCHASE AND PRIVATE SHELF AGREEMENT

This Fourth Amendment to Note Purchase and Private Shelf Agreement (this “***Amendment***”), is made and entered into as of November 2, 2022, by and among Tractor Supply Company, a Delaware corporation (the “***Company***”), PGIM, Inc. (“***Prudential***”) and the other holders of Notes (as defined in the Note Agreement defined below) that are signatories hereto (together with their successors and assigns, the “***Noteholders***”).

W I T N E S S E T H:

WHEREAS, the Company, Prudential and the Noteholders are parties to a certain Note Purchase and Private Shelf Agreement, dated as of August 14, 2017 (as amended, restated, supplemented or otherwise modified prior to the date hereof, including as amended by the First Amendment to Note Purchase and Private Shelf Agreement, dated as of October 16, 2020, as further amended by the Second Amendment to Note Purchase and Private Shelf Agreement, dated as of November 4, 2020, as further amended by the Third Amendment to Note Purchase and Private Shelf Agreement, dated as of September 30, 2022, the “***Note Agreement***”; capitalized terms used herein and not otherwise defined shall have the meanings assigned to such terms in the Note Agreement), pursuant to which the Noteholders have purchased Notes from the Company;

WHEREAS, the Company has requested that Prudential and the Noteholders extend the Issuance Period, and subject to the terms and conditions hereof, Prudential and the Noteholders are willing to do so;

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. **Amendment**. Paragraph 2(B)(2) of the Note Agreement is hereby amended by replacing such paragraph in its entirety with the following:

2B(2). **Issuance Period**. Shelf Notes may be issued and sold pursuant to this Agreement until the earlier of (i) November 1, 2025 and (ii) the thirtieth day after Prudential shall have given to the Company, or the Company shall have given to Prudential, written notice stating that it elects to terminate the issuance and sale of Shelf Notes pursuant to this Agreement (or if such thirtieth day is not a Business Day, the Business Day next preceding such thirtieth day). The period during which Shelf Notes may be issued and sold pursuant to this Agreement is herein called the “**Issuance Period**”.

2. **Conditions to Effectiveness of this Amendment**. Notwithstanding any other provision of this Amendment and without affecting in any manner the rights of the holders of the Notes hereunder, it is understood and agreed that this Amendment shall not become effective, and the Company shall have no rights under this Amendment, until Prudential and the Noteholders shall have received (i) the shelf renewal fee contemplated by that certain letter agreement, dated as of the date hereof, executed by the parties to this Amendment (the “***Fee Letter***”), (ii) reimbursement or payment of its out of pocket costs and expenses incurred in connection with this Amendment or the Note Agreement (including reasonable fees, charges and disbursements of King & Spalding LLP, counsel to Prudential and the Noteholders) and (iii) executed counterparts to this Amendment from the Company, Prudential and the Noteholders.

3. **Representations and Warranties.** To induce Prudential and the Noteholders to enter into this Amendment, the Company hereby represents and warrants to Prudential and the Noteholders as follows:

(a) The Company has the corporate or other necessary power and authority, to make, deliver and perform this Amendment and has taken all necessary corporate action to authorize the execution, delivery and performance of this Amendment.

(b) No consent or authorization of, filing with, notice to or other similar act by or in respect of, any Governmental Authority or any other Person is required to be obtained or made by or on behalf of the Company in connection with the execution, delivery, performance, validity or enforceability of this Amendment.

(c) This Amendment has been duly executed and delivered on behalf of the Company.

(d) This Amendment constitutes a legal, valid and binding obligation of the Company enforceable against the Company in accordance with its terms, except as enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforcement of creditors' rights generally and by general equitable principles (whether enforcement is sought by proceedings in equity or at law).

(e) Neither the execution and delivery of this Amendment, nor the consummation of the transactions contemplated herein, nor performance of and compliance with the terms and provisions hereof by the Company will (a) violate or conflict with any provision of its certificate of incorporation or bylaws of the Company, (b) violate, contravene or materially conflict with any material Requirement of Law or any other material law, regulation (including, without limitation, Regulation U or Regulation X), order, writ, judgment, injunction, decree or permit applicable to it, (c) violate, contravene or conflict with contractual provisions of, or cause an event of default under, any indenture, loan agreement, mortgage, deed of trust, contract or other agreement or instrument to which it is a party or by which it may be bound, the violation of which (except as to the Existing Credit Agreement) could reasonably be expected to have a Material Adverse Effect, or (d) result in or require the creation of any Lien upon or with respect to its properties.

(f) After giving effect to this Amendment, the representations and warranties contained in the Note Agreement and the other Note Documents are true in all material respects (except to the extent such representations and warranties expressly relate to an earlier date, then such representations and warranties were true in all material respects as of such date), and no Default or Event of Default has occurred and is continuing as of the date hereof.

4. **Ratification of the Note Agreement and the Notes.** The Company acknowledges and consents to the terms set forth herein and agrees that this Amendment does not impair, reduce or limit any of its obligations under the Note Agreement, as amended hereby, and the Notes.

5. **Effect of Amendment.** Except as set forth expressly herein, the Note Agreement, as amended hereby, and the other Note Documents, shall be and remain in full force and effect and shall constitute the legal, valid, binding and enforceable obligations of the Company to all holders of the Notes. The execution, delivery and effectiveness of this Amendment shall not operate as a waiver of any right, power or remedy of the holders of the Notes under the Note Agreement, nor constitute a waiver of any provision of the Note Agreement, except as expressly provided herein. From and after the date hereof, all references to the Note Agreement shall mean

the Note Agreement as modified by this Amendment. This Amendment shall constitute a Note Document for all purposes of the Note Agreement.

6. **Governing Law.** THIS AMENDMENT SHALL BE CONSTRUED AND ENFORCED IN ACCORDANCE WITH, AND THE RIGHTS OF THE PARTIES SHALL BE GOVERNED BY, THE LAW OF THE STATE OF NEW YORK IN ACCORDANCE WITH THE PROVISIONS OF §5-1401 OF THE NEW YORK GENERAL OBLIGATIONS LAW.

8. **No Novation.** This Amendment is not intended by the parties to be, and shall not be construed to be, a novation of the Note Agreement or an accord and satisfaction in regard thereto.

9. **Costs and Expenses.** The Company agrees to pay on demand all reasonable out of pocket costs and expenses of the Noteholders in connection with the preparation, execution and delivery of this Amendment, including, without limitation, the reasonable fees and out-of-pocket expenses of counsel for the Noteholders with respect thereto.

10. **Counterparts.** This Amendment may be executed by one or more of the parties hereto in any number of separate counterparts, each of which shall be deemed an original and all of which, taken together, shall be deemed to constitute one and the same instrument. Delivery of an executed counterpart of this Amendment by facsimile transmission or by electronic mail in PDF form shall be as effective as delivery of a manually executed counterpart hereof.

11. **Estoppel.** To induce the Noteholders to enter into this Amendment, the Company hereby acknowledges and agrees that, as of the date hereof, there exists no right of offset, defense or counterclaim in favor of the Company against any holder of the Notes with respect to the obligations of the Company to any such holder, either with or without giving effect to this Amendment.

12. **Binding Nature.** This Amendment shall be binding upon and inure to the benefit of the parties hereto, any other holders of Notes from time to time and their respective successors, successors-in-titles, and assigns.

13. **Entire Understanding.** This Amendment sets forth the entire understanding of the parties with respect to the matters set forth herein, and shall supersede any prior negotiations or agreements, whether written or oral, with respect thereto.

[Signature pages follow.]

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be executed by their respective officers thereunto duly authorized, as of the date first above written.

COMPANY:

TRACTOR SUPPLY COMPANY

By: _____
Name: _____
Title: _____

[Signature Page to Fourth Amendment to Note Purchase and Private Shelf Agreement]

NOTEHOLDERS:

PGIM, INC.

By: _____
Vice President

FARMERS INSURANCE EXCHANGE

By: PGIM Private Placement Investors,
L.P. (as Investment Advisor)

By: PGIM Private Placement Investors, Inc.
(as its General Partner)

By: _____
Vice President

MID CENTURY INSURANCE COMPANY

By: PGIM Private Placement Investors,
L.P. (as Investment Advisor)

By: PGIM Private Placement Investors, Inc.
(as its General Partner)

By: _____
Vice President

PRUDENTIAL ANNUITIES LIFE ASSURANCE CORPORATION

By: Pruco Life Insurance Company (as Grantor)

By: PGIM, Inc. (as Investment Manager)

By: _____
Vice President

[Signature Page to Fourth Amendment to Note Purchase and Private Shelf Agreement]

THE GIBRALTAR LIFE INSURANCE CO., LTD.

By: PGIM Japan Co., Ltd., as Investment Manager

By: PGIM, Inc., as Sub-Adviser

By: _____
Vice President

THE PRUDENTIAL INSURANCE COMPANY OF AMERICA

By: PGIM, Inc., as investment manager

By: _____
Vice President

WILLIAM PENN LIFE INSURANCE COMPANY OF NEW YORK

By: PGIM Private Placement Investors,
L.P. (as Investment Advisor)

By: PGIM Private Placement Investors, Inc.
(as its General Partner)

By: _____
Vice President

ZURICH AMERICAN INSURANCE COMPANY

By: PGIM Private Placement Investors,
L.P. (as Investment Advisor)

By: PGIM Private Placement Investors, Inc.
(as its General Partner)

By: _____
Vice President

PENSIONSKASSE DES BUNDES PUBLICA

By: PGIM Private Capital Limited,
as Investment Manager

[Signature Page to Fourth Amendment to Note Purchase and Private Shelf Agreement]

By: _____
Director

[Signature Page to Fourth Amendment to Note Purchase and Private Shelf Agreement]

FORM OF
OMNIBUS AMENDMENT TO
NON-QUALIFIED STOCK OPTION GRANT AGREEMENT

November 2, 2022

THIS OMNIBUS AMENDMENT TO OPTION GRANT AGREEMENTS (the “Amendment”) is made by and between TRACTOR SUPPLY COMPANY, a Delaware corporation (the “Company”), and certain “Participants” to the Company’s 2009 Stock Incentive Plan (effective May 2009 and as amended, supplemented or otherwise modified prior to the date hereof, the “Plan”), as of the date set forth above. Any capitalized terms not otherwise defined in this Agreement shall have the definitions set forth in the Plan.

WHEREAS, the Company has adopted the Plan, pursuant to which Awards of Options may be granted from time to time;

WHEREAS, certain Participants were previously granted Awards of Options under the Plan pursuant to a Nonqualified Option Grant Agreement (such agreement as amended, supplemented or otherwise modified prior to the date hereof, the “Existing Agreement”) and either maintain vested Options or Options which may vest in the future pursuant to such Existing Agreement as of the date hereof, including those Participants listed on Annex A (such Participants, “Affected Participants”);

WHEREAS, the Existing Agreements provide that they shall immediately terminate if an Existing Participant quits their employment with the Company; and

WHEREAS, the Company has determined that it is in the best interests of the Company and its shareholders to amend each Existing Agreement of each Affected Participant to allow each Affected Participant additional time to exercise any vested Options they may hold following the not-for-cause termination of their Employment or Service until the Expiration Date set forth in such Affected Participant’s Existing Agreement (the “Exercise Amendments”), as provided for herein; and

WHEREAS, the Amendment does not require any Affected Participant’s consent pursuant to the terms of the Plan.

NOW, THEREFORE, the parties hereto, for themselves, their successors and assigns, hereby agree as follows:

1. Amendment to Existing Agreement.

Section 4 of each Existing Agreement (or equivalent section relating to the not-for-cause termination of an Affected Participant’s Employment or Service) is hereby amended and restated to read as follows:

“SECTION 4. Termination of Employment or Service.

(a) General Rule. The non-vested portion of any option shall terminate and expire upon the Optionee’s termination of employment or service for any reason except that upon termination of Optionee’s employment or service as a result of (1) death or (2) Disability (as defined below), any unvested portion of the option granted hereunder shall vest in full as of the date of such termination. The vested portion of any option shall remain exercisable following termination of employment or service only under the circumstances and to the extent provided in this Section 4.

(b) Termination for Cause. If the Optionee’s employment or service is terminated for Cause, whether or not Optionee is a party to a written contract, the option granted hereunder shall immediately terminate and become void and of no effect on the day the Optionee’s employment or service terminates.

(c) Regular Termination; Leaves of Absence. If the Optionee's employment or service terminates for reasons other than as provided in subsection (b) above or subsections (d) or (e) below, the vested portion of the option granted hereunder may be exercised until the earlier of (i) three months after the day Optionee's employment or service terminates and (ii) the date on which the option otherwise terminates or expires in accordance with the applicable provisions of the Plan and this Agreement; provided that the Committee may determine, in its sole discretion, such longer or shorter period for exercise (not to exceed the remaining term of the option) in the case of an individual whose employment or service terminates for reasons as provided herein in this subsection (c), or solely because Optionee's employer ceases to be an Affiliate or Optionee transfers Optionee's employment or service with the Company's consent to a purchaser of a business disposed of by the Company. Subject to Section 4(e) below, the Committee may, in its discretion, determine (A) whether any leave of absence (including short-term or long-term disability or medical leave) constitutes a termination of employment or service within the meaning of the Plan and (B) the impact, if any, of any such leave on awards under the Plan theretofore made to an Optionee who takes any such leave.

(d) Death. In the event that the Optionee's employment or service terminates by reason of death, or if the Optionee's employment or service shall terminate as described in subsection (c) above and he dies within the period for exercise provided for therein, the vested portion of the option shall be exercisable by the person to whom the option has passed under the Optionee's will (or if applicable, pursuant to the laws of descent and distribution) until the earlier of (i) one year after the Optionee's death and (ii) the date on which the option otherwise terminates or expires in accordance with the applicable provisions of the Plan and this Agreement.

(e) Disability. In the event that Optionee's employment or service terminates by reason of Disability (as defined below), the vested portion of the option granted hereunder shall be exercisable by Optionee until the earlier of (i) three years following the date of such termination of employment or service, and (ii) the date on which the option granted hereunder otherwise terminates or expires in accordance with the applicable provisions of the Plan and this Agreement. For purposes of this Agreement, "Disability" means a disability that would qualify as a total and permanent disability under the Company's then current long-term disability plan.

(f) Change in Control. Notwithstanding anything to the contrary contained herein, unless otherwise provided in another contractual agreement between the Company and Optionee, if within one year following a Change in Control, the Optionee's employment with the Company (or its successor) is terminated by reason of (i) Retirement or Early Retirement, (ii) for Good Reason by the Optionee or (iii) involuntary termination by the Company for any reason other than for Cause, all Options granted hereunder shall vest in full as of the date of such termination. Notwithstanding the foregoing, in connection with a Change in Control, the Committee may, in its discretion, by resolution adopted prior to the occurrence of the Change in Control, provide that this Option shall, upon the occurrence of such Change in Control, be cancelled in exchange for a payment per share in an amount based on Fair Market Value of the shares of Common Stock with reference to the Change in Control less the Exercise Price, which amount may be zero (0) if applicable. For purposes of clarity, if the Fair Market Value is less than the Exercise Price at the time of such cancellation, the Grantee shall receive \$0, and no consideration shall be given to the time value of the options granted hereunder.

(g) Right of Discharge Reserved. Nothing in the Plan or this Agreement shall confer upon the Optionee or any other person the right to continue in the employment or service of the Company or any Affiliate or affect any right which the Company or any Affiliate may have to terminate the employment or service of the Optionee or any other person."

2. Miscellaneous.

- (a) Exclusions. This Amendment shall not apply to the Existing Agreements of current or former Section 16 Officers.

(b) Entire Agreement. The applicable Existing Agreements, this Amendment and the Plan contain the entire agreement and understanding of the parties hereto with respect to the subject matter contained herein and supersede all prior communications, representations and negotiations in respect thereto. In the event that any terms or provisions of an Existing Agreement or the Plan conflict or are inconsistent with the terms and provisions of this Amendment, the terms of this Amendment shall govern and control. Except as amended hereby, the Existing Agreements remain unmodified and in full force and effect.

(c) Effectiveness. This Amendment shall be deemed effective as of November 2, 2022, as if executed on such date.

(d) Severability. The invalidity or unenforceability of any provision of this Amendment, an Existing Agreement or the Plan shall not affect the validity or enforceability of any other provision of this Amendment, an Existing Agreement or the Plan, and each provision of this Amendment, an Existing Agreement and the Plan shall be severable and enforceable to the extent permitted by law.

(e) Governing Law. This Amendment shall be governed by and construed and enforced in accordance with the laws of the State of Tennessee without regard to the provisions governing conflict of laws.

CERTIFICATIONS

I, Harry A. Lawton III, certify that:

1. I have reviewed this quarterly report on Form 10-Q of Tractor Supply Company;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations, and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
 - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize, and report financial information; and
 - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: November 3, 2022

/s/ Harry A. Lawton III

Harry A. Lawton III

President and Chief Executive Officer

CERTIFICATIONS

I, Kurt D. Barton, certify that:

1. I have reviewed this quarterly report on Form 10-Q of Tractor Supply Company;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations, and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
 - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize, and report financial information; and
 - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: November 3, 2022

/s/ Kurt D. Barton

Kurt D. Barton

Executive Vice President - Chief Financial Officer and Treasurer

CERTIFICATION PURSUANT TO SECTION 906
OF THE SARBANES-OXLEY ACT OF 2002 (18 U.S.C. SECTION 1350)

In connection with the Quarterly Report ("Report") of Tractor Supply Company (the "Company") on Form 10-Q for the fiscal quarter ended September 24, 2022, as filed with the Securities and Exchange Commission on the date hereof, we, Harry A. Lawton III, Chief Executive Officer, and Kurt D. Barton, Chief Financial Officer, of the Company, certify, pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 (18 U.S.C. section 1350), that:

- (1) The Report fully complies with the requirements of section 13(a) and 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a) or 78o(d)); and
- (2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Dated: November 3, 2022

/s/ Harry A. Lawton III

Harry A. Lawton III
President and Chief Executive Officer

/s/ Kurt D. Barton

Kurt D. Barton
Executive Vice President - Chief Financial Officer and Treasurer