

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION**

Washington, D.C. 20549

FORM 8-K

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

Date of report (Date of earliest event reported): August 3, 2021 (August 2, 2021)

Victoria's Secret & Co.

(Exact name of registrant as specified in charter)

Delaware
(State or Other Jurisdiction
of Incorporation)

001-40515
(Commission
File Number)

86-3167653
(IRS Employer
Identification No.)

**4 Limited Parkway East
Reynoldsburg, OH 43068**
(Address of principal executive offices)

(614) 577-7000
(Registrant's telephone number, including area code)

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

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

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

Title of each class	Trading symbol(s)	Name of each exchange on which registered
Common Stock, \$0.01 Par Value	VSCO	The New York Stock Exchange

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

Emerging growth company

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

Item 1.01. Entry into a Material Definitive Agreement

Completion of Separation of Victoria's Secret from Bath & Body Works

On August 2, 2021 (the "Distribution Date"), after the New York Stock Exchange market closing, the previously-announced separation (the "Separation") of Victoria's Secret & Co. ("Victoria's Secret") from Bath & Body Works, Inc. (formerly known as L Brands, Inc.) ("Bath & Body Works") was completed. The separation of Victoria's Secret, which comprises Victoria's Secret Lingerie, PINK and Victoria's Secret Beauty (the "Spin Business"), was achieved through Bath & Body Works' distribution (the "Distribution") of 100% of the shares of Victoria's Secret common stock to holders of Bath & Body Works common stock as of the close of business on the record date of July 22, 2021 (the "Record Date"). Bath & Body Works stockholders of record received one share of Victoria's Secret common stock for every three shares of Bath & Body Works common stock. Following the Distribution, Victoria's Secret became an independent, publicly-traded company with its common stock listed under the symbol "VSCO" on the New York Stock Exchange, and Bath & Body Works retains no ownership interest in Victoria's Secret.

In connection with the Separation, Victoria's Secret entered into several agreements with Bath & Body Works on August 2, 2021 that, among other things, effect the Separation and provide a framework for its relationship with Bath & Body Works after the Separation, including the following agreements:

- A Separation and Distribution Agreement;
- A Tax Matters Agreement;
- An L Brands to VS Transition Services Agreement;
- A VS to L Brands Transition Services Agreement;
- An Employee Matters Agreement; and
- A Domestic Transportation Services Agreement.

Separation and Distribution Agreement

The Separation and Distribution Agreement governs the overall terms of the Separation. Generally, the Separation and Distribution Agreement includes Bath & Body Works' and Victoria's Secret's agreements relating to the restructuring steps taken to complete the Separation, including the assets and rights transferred, liabilities assumed and related matters.

The Separation and Distribution Agreement provides for Bath & Body Works and Victoria's Secret to transfer specified assets between the companies that operate the Spin Business after the Distribution, on the one hand, and Bath & Body Works' remaining businesses, on the other hand. The Separation and Distribution Agreement requires Bath & Body Works and Victoria's Secret to use commercially reasonable efforts to obtain consents, approvals and amendments required to assign the assets and liabilities transferred pursuant to the Separation and Distribution Agreement.

Unless otherwise provided in the Separation and Distribution Agreement or any of the related ancillary agreements, all assets were transferred on an "as is, where is" basis. Generally, if the transfer of any assets or any claim or right or benefit arising thereunder required a consent that was not obtained before the Distribution, or if the transfer or assignment of any such asset or such claim or right or benefit arising thereunder was ineffective, adversely affected the rights of the transferor thereunder or was in violation of any applicable law, the party retaining any asset that otherwise would have been transferred shall hold such asset in trust for the use and benefit of the party entitled thereto and retain such liability for the account of the party by whom such liability is to be assumed, and take such other action in order to place such party, insofar as reasonably possible, in the same position as would have existed had such asset or liability been transferred prior to the Distribution.

In addition, Victoria's Secret also grants and receives licenses under certain intellectual property in connection with the Separation and Distribution Agreement, which generally provides Victoria's Secret and Bath & Body Works the freedom to continue operating their respective businesses following the Distribution, including as follows:

- Victoria's Secret grants Bath & Body Works a non-exclusive, worldwide, perpetual, irrevocable, fully paid-up and royalty-free license to certain intellectual property transferred to Victoria's Secret in connection with the Separation but used by Bath & Body Works in its business as of the Distribution in order for Bath & Body Works to continue operating its business.
- Victoria's Secret receives from Bath & Body Works a non-exclusive, worldwide, perpetual, irrevocable, fully paid-up and royalty-free license to certain intellectual property retained by Bath & Body Works but used in the Spin Business as of the Distribution in order for Victoria's Secret to continue operating the Spin Business.

In addition, the Separation and Distribution Agreement governs the treatment of indemnification, insurance and litigation responsibility and management. Generally, the Separation and Distribution Agreement provides for uncapped cross-indemnities principally designed to place financial responsibility for the obligations and liabilities of the Spin Business with Victoria's Secret and financial responsibility for the obligations and liabilities of Bath & Body Works' retained businesses with Bath & Body Works. The Separation and Distribution Agreement also establishes procedures for handling claims subject to indemnification and related matters.

Tax Matters Agreement

The Tax Matters Agreement governs the parties' respective rights, responsibilities and obligations with respect to taxes, including taxes arising in the ordinary course of business, and taxes, if any, incurred as a result of the failure of the Distribution (and certain related transactions) to qualify for tax-free treatment for U.S. federal income tax purposes. The Tax Matters Agreement also sets forth the respective obligations of the parties with respect to the filing of tax returns, the administration of tax contests and assistance and cooperation on tax matters.

In general, the Tax Matters Agreement governs the rights and obligations that Victoria's Secret and Bath & Body Works have after the Separation with respect to taxes for both pre- and post-closing periods. Under the Tax Matters Agreement, Bath & Body Works is generally responsible for all of Victoria's Secret's pre-closing taxes that are reported on combined tax returns with Bath & Body Works or any of its affiliates, all of Victoria's Secret's pre-closing income taxes that are reported on tax returns that include only Victoria's Secret and/or Victoria's Secret subsidiaries ("separate tax returns") for taxable years that end before the Separation and all of Victoria's Secret pre-closing non-income taxes that are reported on separate tax returns. Victoria's Secret is generally responsible for all other taxes that are reported on separate tax returns.

In the Tax Matters Agreement, Victoria's Secret also agreed to certain covenants that contain restrictions intended to preserve the tax-free treatment of the Distribution. Victoria's Secret may take certain actions prohibited by these covenants only if Victoria's Secret obtains and provides to Bath & Body Works a ruling from the Internal Revenue Service or an opinion from a tax adviser acceptable to Bath & Body Works in its sole discretion, in each case, to the effect that such action will not jeopardize the tax-free treatment of these transactions, or if Victoria's Secret obtains prior written consent of Bath & Body Works, in its sole and absolute discretion, waiving such requirement. Victoria's Secret will be barred from taking any action, or failing to take any action, where such action or failure to act adversely affects or could reasonably be expected to adversely affect the tax-free treatment of the Distribution, for all relevant time periods. In addition, these covenants will include specific restrictions on Victoria's Secret:

- Discontinuing the active conduct of Victoria's Secret's trade or business;
 - Issuance or sale of stock or other securities (including securities convertible into Victoria's Secret stock but excluding certain compensatory arrangements);
 - Amending Victoria's Secret's certificate of incorporation (or other organizational documents) or take any other action, whether through a stockholder vote or otherwise, affecting the voting rights of Victoria's Secret's common stock; and
 - Entering into certain corporate transactions that could jeopardize the tax-free treatment of the Distribution.
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Victoria's Secret generally agreed to indemnify Bath & Body Works against any and all tax-related liabilities incurred by them relating to the Distribution to the extent caused by any action undertaken by Victoria's Secret. The indemnification will apply even if Bath & Body Works has permitted Victoria's Secret to take an action that would otherwise have been prohibited under the tax-related covenants described above.

L Brands to VS Transition Services Agreement

The L Brands to VS Transition Services Agreement sets forth the terms on which Bath & Body Works provides to Victoria's Secret, on a transitional basis, certain services or functions that the companies historically have shared. The transition services include various services or functions, many of which currently use a shared technology platform, including human resources, payroll, certain logistics functions and information technology services, generally for a period of up to two years following the Distribution for all such services other than information technology services, which will be provided for a period of up to three years following the Distribution, but may be extended for a maximum of two additional one-year periods subject to increased administrative charges. Compensation for the transition services will be determined using several billing methodologies which are described in the agreement, including customary billing, pass-through billing, percent of sales billing or fixed fee billing. The L Brands to VS Transition Services Agreement provides that Victoria's Secret may, subject to certain conditions, terminate any or all of the services, or any part of a service, upon 60 days' prior written notice to Bath & Body Works. Bath & Body Works may, subject to certain conditions, terminate a service if the performance of such service subjects Bath & Body Works to a reasonable risk of violating applicable law or would reasonably be expected to materially and adversely affect Bath & Body Works' business, in each case upon providing Victoria's Secret with reasonable prior written notice. Victoria's Secret indemnifies Bath & Body Works from liabilities for claims arising from the L Brands to VS Transition Services Agreement, including Bath & Body Works' provision of the services, Victoria's Secret's use of the services or breach of the agreement, or from Victoria's Secret's gross negligence, fraud or willful misconduct. Bath & Body Works indemnifies Victoria's Secret from liabilities for claims arising from Bath & Body Works' breach of the agreement or from Bath & Body Works' gross negligence, fraud or willful misconduct. Subject to certain customary exceptions, Bath & Body Works' maximum aggregate liability under the L Brands to VS Transition Services Agreement is limited to the fees actually received by Bath & Body Works under the agreement, provided that, for liabilities related to data privacy, cybersecurity or similar matters, if Bath & Body Works is able to recover a greater amount from its third-party service providers, it will pass through such excess recovery to Victoria's Secret on a pro-rata basis.

VS to L Brands Transition Services Agreement

The VS to L Brands Transition Services Agreement sets forth the terms on which Victoria's Secret provides to Bath & Body Works, on a transitional basis, certain services or functions transferred to Victoria's Secret in connection with the Separation that the companies have historically shared. The transition services include various services or functions, including information technology, certain logistics functions, customer marketing and customer call center services, generally for a period of up to two years following the Distribution for all such services other than information technology and internal audit services, which will be provided for a period of up to three years following the Distribution, but, in the case of information technology services, may be extended for a maximum of two additional one-year periods subject to increased administrative charges. Compensation for the transition services will be determined using several billing methodologies which are described in the agreement, including customary billing, pass-through billing, percent of sales billing or fixed fee billing. The VS to L Brands Transition Services Agreement provides that Bath & Body Works may, subject to certain conditions, terminate any or all of the services, or any part of a service, upon 60 days' prior written notice to Victoria's Secret. Victoria's Secret may, subject to certain conditions, terminate a service if the performance of such service subjects Victoria's Secret to a reasonable risk of violating applicable law or would reasonably be expected to materially and adversely affect the Spin Business, in each case upon providing Bath & Body Works with reasonable prior written notice. Bath & Body Works indemnifies Victoria's Secret from liabilities for claims arising from the VS to L Brands Transition Services Agreement, including Victoria's Secret's provision of the services, Bath & Body Works' use of the services or breach of the agreement, or from Bath & Body Works' gross negligence, fraud or willful misconduct. Victoria's Secret indemnifies Bath & Body Works from liabilities for claims arising from Victoria's Secret's breach of the agreement or from Victoria's Secret's gross negligence, fraud or willful misconduct. Subject to certain customary exceptions, Victoria's Secret's maximum aggregate liability under the VS to L Brands Transition Services Agreement is limited to the fees actually received by Victoria's Secret under the agreement, provided that, for liabilities related to data privacy, cybersecurity or similar matters, if Victoria's Secret is able to recover a greater amount from its third-party service providers, it will pass through such excess recovery to Bath & Body Works on a pro-rata basis.

Employee Matters Agreement

The Employee Matters Agreement governs each company's respective compensation and benefit obligations with respect to current and former employees, directors and consultants. The Employee Matters Agreement sets forth general principles relating to employee matters in connection with the Separation, such as the assignment of employees, the assumption and retention of liabilities and related assets, expense reimbursements, workers' compensation, leaves of absence, the provision of comparable benefits, employee service credit, the sharing of employee information and duplication or acceleration of benefits.

The Employee Matters Agreement generally allocates liabilities and responsibilities relating to employment, compensation and benefits-related matters, with (i) Bath & Body Works generally retaining liabilities (both pre- and post-Distribution) and responsibilities with respect to (a) Bath & Body Works employees and participants who will remain with (or who will otherwise transfer to) Bath & Body Works and former employees who were last actively employed by Bath & Body Works primarily in its business and (b) benefit plans and programs sponsored by Bath & Body Works and (ii) Victoria's Secret generally assuming liabilities (both pre- and post-Distribution) and responsibilities with respect to (a) employees and participants who will transfer with Victoria's Secret in connection with the Separation and former employees who were last actively employed primarily in the Spin Business and (b) benefit plans and programs sponsored by Victoria's Secret. The Employee Matters Agreement provides that, following the Distribution, Victoria's Secret active employees generally will no longer participate in benefit plans sponsored or maintained by Bath & Body Works and will commence participation in Victoria's Secret benefit plans, subject to the terms of the L Brands to VS Transition Services Agreement.

In addition, during the 24-month period following the Separation (or, for employees providing transition services under the L Brands to VS Transition Services Agreement or the VS to L Brands Transition Services Agreement, as applicable, through the date on which the applicable transition service period ends, if later), each of Bath & Body Works and Victoria's Secret will be subject to mutual nonsolicit and no-hire restrictions, subject to certain exceptions set forth in the Employee Matters Agreement.

Effective on or prior to the Distribution, except as otherwise expressly provided in the Employee Matters Agreement, the L Brands to VS Transition Services Agreement or otherwise agreed between Bath & Body Works and Victoria's Secret, to the extent not already employed by Victoria's Secret or one of its applicable subsidiaries, the employment of each Victoria's Secret employee has been transferred to Victoria's Secret or one of its applicable subsidiaries, and Victoria's Secret or one of its subsidiaries will generally assume responsibility for any individual employment, retention, severance or similar agreements applicable to such Victoria's Secret employee. Any employees who transfer to Victoria's Secret following the Distribution Date (including in connection with any transition services) will be deemed a Victoria's Secret employee as of the date of such transfer, and any employees who transfer from Victoria's Secret to Bath & Body Works following the Distribution (including in connection with any transition services) will be deemed a Bath & Body Works employee as of the date of such transfer.

Each Victoria's Secret employee participating in a cash bonus plan maintained by Bath & Body Works in respect of the spring 2021 performance period will remain eligible to receive such cash bonus award, subject to the terms of the applicable bonus plan and actual achievement of applicable performance goals determined as of the end of the performance period. The actual spring 2021 cash bonuses payable to Victoria's Secret employees will be paid by Victoria's Secret in accordance with the terms of the applicable Bath & Body Works cash bonus plan, and Bath & Body Works will reimburse Victoria's Secret for the aggregate cost of the Spring 2021 bonuses paid by Victoria's Secret to Victoria's Secret employees.

The Employee Matters Agreement also sets forth the treatment of any outstanding equity awards. Specifically, in connection with the Separation, (i) outstanding Bath & Body Works' equity awards held by individuals who will continue to be employed by or provide services to Bath & Body Works' as well as former Victoria's Secret employees will be equitably adjusted to reflect the difference in the value of Bath & Body Works' common stock before and after the Distribution in a manner that is intended to preserve the overall intrinsic value of the awards by taking into account the relative value of Bath & Body Works' common stock before and after the Distribution, and (ii) outstanding Bath & Body Works' equity awards held by individuals who are then-currently employed by or otherwise providing services to Victoria's Secret, or whose employment or engagement will be transferred to Victoria's Secret in connection with and prior to the Separation, will be converted into equity awards that will be settled in shares of Victoria's Secret common stock in a manner intended to equitably preserve the overall intrinsic value of the converted equity awards by taking into account the relative value of Bath & Body Works' common stock before the Distribution and the value of Victoria's Secret common stock after the Distribution.

In addition, any Bath & Body Works' equity awards held by employees who are intended to transfer to Victoria's Secret following the Distribution Date (including in connection with any transition services) will be treated in the same manner as other Bath & Body Works' employees on the Distribution Date, as described above. Upon the transfer of their employment to Victoria's Secret following the Distribution Date, Victoria's Secret will be required to grant such employees Victoria's Secret equity awards to replace any Bath & Body Works' equity awards forfeited by such employees in connection with the transfer of their employment. These replacement Victoria's Secret equity awards will have a value intended to equal the intrinsic value of the applicable forfeited Bath & Body Works' equity awards, determined in the manner set forth in the Employee Matters Agreement. Any Victoria's Secret equity awards held by employees who are intended to transfer to Bath & Body Works following the Distribution Date (including in connection with any transition services) will be forfeited. Upon the transfer of their employment to Bath & Body Works following the Distribution Date, Bath & Body Works will be required to grant such employees Bath & Body Works equity awards to replace any Victoria's Secret equity awards forfeited by such employees in connection with the transfer of their employment. These replacement Bath & Body Works' equity awards will have a value intended to equal the intrinsic value of the applicable forfeited Victoria's Secret equity awards, determined in the manner set forth in the Employee Matters Agreement.

The Employee Matters Agreement also provides that (i) the Distribution does not constitute a change in control under Bath & Body Works' or Victoria's Secret's plans, programs, agreements or arrangements and (ii) the Distribution and the assignment, transfer or continuation of the employment of employees with another entity will not constitute a severance event under applicable plans, programs, agreements or arrangements.

Domestic Transportation Services Agreement

The Domestic Transportation Services Agreement provides that Bath & Body Works' subsidiary will continue to provide transportation services for certain personal care and apparel merchandise of the Spin Business in the United States and Canada for an initial term of three years following the Distribution, which term will thereafter continuously renew unless and until Victoria's Secret or Bath & Body Works' subsidiary elect to terminate the arrangement upon 18 or 36 months' prior written notice, respectively. Compensation for the transportation services will be determined using customary billing and fixed fee billing methodologies, which are described in the agreement, and will be subject to an administrative charge. Bath & Body Works' subsidiary indemnifies Victoria's Secret from liabilities for claims arising from such subsidiary's breach of the agreement, such subsidiary's violation of applicable law or such subsidiary's gross negligence, fraud or willful misconduct. Victoria's Secret indemnifies Bath & Body Works' subsidiary from liabilities for claims arising from Victoria's Secret's use of the services or breach of the agreement, the merchandise of the Spin Business subject to the agreement, Victoria's Secret's violation of applicable law or Victoria's Secret's gross negligence, fraud or willful misconduct. Subject to certain customary exceptions, the maximum aggregate liability of each of Victoria's Secret and Bath & Body Works' subsidiary under the Domestic Transportation Services Agreement in any calendar year is limited to \$7,500,000. Bath & Body Works' subsidiary's maximum liability for lost, damaged, destroyed or stolen Victoria's Secret products under the agreement is \$250,000 per occurrence, provided that if Bath & Body Works' subsidiary recovers a greater amount under its third-party service provider contracts, it will pass through such excess recovery to Victoria's Secret, or \$5,000,000 per calendar year.

Other Agreements

Victoria's Secret also entered into certain other commercial arrangements with Bath & Body Works in connection with the Separation. These commercial arrangements include a campus security and emergency operations services agreement pursuant to which Victoria's Secret or a subsidiary thereof continues to provide campus security and emergency operations services for Bath & Body Works for an initial term of three years following the Distribution, which term will thereafter continuously renew unless and until Victoria's Secret or Bath & Body Works elect to terminate the arrangement upon 12 months' prior notice. In addition, Victoria's Secret and Bath & Body Works entered into agreements relating to the ownership, management, maintenance, support and use of certain shared aircraft, pursuant to which Bath & Body Works operates the aircraft and allocates to the Spin Business its share of the operating costs. Victoria's Secret and Bath & Body Works also entered into an agreement pursuant to which Bath & Body Works leases to Victoria's Secret a portion of one of Bath & Body Works' distribution centers and an agreement pursuant to which Bath & Body Works grants Victoria's Secret a limited, non-exclusive, royalty-bearing license to use certain Bath & Body Works formulas relating to certain candle bases in certain Victoria's Secret candle products for up to two years following the Distribution. These agreements modify historical intercompany arrangements, and Victoria's Secret does not believe such commercial arrangements are material.

Credit Agreements

In connection with the Separation, Victoria's Secret has entered into a term loan B credit agreement for the Term Loan B Facility (as defined below) and an asset-backed revolving credit agreement for the ABL Facility (as defined below).

Term Loan B Facility

On August 2, 2021, Victoria's Secret entered into a term loan B credit facility in an aggregate principal amount of \$400,000,000 (the "Term Loan B Facility"), which will mature seven years from the closing date thereof. Interest on the loans under the Term Loan B Facility will be calculated by reference to the LIBOR or an alternative base rate, plus an interest rate margin equal to (x) in the case of LIBOR loans, 3.25% and (y) in the case of alternate base rate loans, 2.25%. The LIBOR rate applicable to the Term Loan B Facility will be subject to a floor of 0.50%.

The Term Loan B Facility provides that Victoria's Secret has the right at any time, subject to customary conditions, to request incremental term loans in an aggregate principal amount of (i) up to the greater of (x) \$1,000 million and (y) 100% of Consolidated EBITDA for the preceding four fiscal quarters of Victoria's Secret and (ii) an amount such that Victoria's Secret's senior first lien net leverage ratio would not exceed 1.50:1.00. The lenders under the Term Loan B Facility are not under any obligation to provide any such incremental loans or commitments.

The Term Loan B Facility contains customary mandatory prepayments, including with a portion of its excess cash flow, a portion of the proceeds of certain asset sales and proceeds of certain incurrences of indebtedness. Victoria's Secret may voluntarily repay outstanding loans under the Term Loan B Facility at any time without premium or penalty, other than customary breakage costs with respect to LIBOR loans; provided, however, that a 1.00% premium shall be payable in connection with any repricing transaction in respect of the Term Loan B Facility occurring on or prior to the six-month anniversary of the closing of the Term Loan B Facility.

The Term Loan B Facility will amortize in equal quarterly installments in an aggregate annual amount equal to 1.00% of the original principal amount thereof, with the balance being payable on the date that is seven years after the closing of the Term Loan B Facility.

Victoria's Secret's obligations under the Term Loan B Facility (collectively, "Term Loan Obligations") are guaranteed (the "Term Loan Guarantees") by Victoria's Secret's existing and future wholly-owned domestic material subsidiaries, subject to customary exceptions (in such capacity, the "Term Loan Guarantors"). The Term Loan Obligations are secured by first priority liens on the Non-ABL Priority Collateral (as defined below) and second-priority liens on the ABL Priority Collateral (as defined below), other than real estate. The Term Loan Guarantees and security interests in the assets of a Term Loan Guarantor may be released where such Term Loan Guarantor ceases to be a restricted subsidiary of Victoria's Secret pursuant to a transaction permitted under the Term Loan B Facility. The Term Loan B Facility contains various covenants, including those that restrict Victoria's Secret's ability and the ability of its restricted subsidiaries to incur certain indebtedness or to grant certain liens on their respective property or assets.

ABL Facility

On August 2, 2021, Victoria's Secret entered into a senior secured asset-based revolving credit facility (the "ABL Facility" and, together with the Term Loan B Facility, the "Credit Facilities"). Borrowings under the ABL Facility will mature, and lending commitments thereunder will terminate, five years after the closing date of the ABL Facility. The ABL Facility allows Victoria's Secret to borrow and obtain, subject to a letter of credit sublimit, letters of credit in U.S. dollars or Canadian dollars in amounts available to be drawn from time to time equal to the lesser of (i) the borrowing base, which equals the sum of 95.0% of eligible credit card receivables, 85.0% of eligible accounts receivable, 90.0% of the net orderly liquidation value of eligible inventory and 50.0% of eligible real property (up to the lesser of (x) \$150 million and (y) 25.0% of the borrowing base), subject, in each case, to customary eligibility criteria and reserves established by the collateral agent under the ABL Facility from time to time, and (ii) the aggregate revolving credit commitments, which were \$750,000,000 as of the closing date. Interest on the loans under the ABL Facility will be calculated by reference to (x) LIBOR or an alternative base rate and (y) in the case of loans denominated in Canadian dollars, Canadian Dollar Offered Rate ("CDOR") or a Canadian base rate, plus an interest rate margin based on average daily excess availability ranging from (i) in the case of LIBOR and CDOR loans, 1.50% to 2.00% and (ii) in the case of alternate base rate loans and Canadian base rate loans, 0.50% to 1.00%. Unused commitments under the ABL Facility will accrue an unused commitment fee ranging from 0.25% to 0.30%.

Victoria's Secret's obligations under the ABL Facility (as well as any obligation of Victoria's Secret or any ABL Guarantor (as defined below) in respect of hedging arrangements, cash management arrangements, open account agreements (subject to a cap) and certain separate letters of credit (subject to a cap), in each case, with any of the lenders thereunder or their respective affiliates) (collectively, the "ABL Obligations") are guaranteed (the "ABL Guarantees") by Victoria's Secret's existing and future domestic and Canadian wholly-owned material consolidated subsidiaries, subject to customary exceptions (the "ABL Guarantors"). The ABL Obligations are secured by first priority liens on, among other things, credit card receivables, accounts receivable, deposit accounts, inventory and, at Victoria's Secret's election, real property (collectively, the "ABL Priority Collateral"), and second-priority liens on substantially all other assets of Victoria's Secret and the ABL Guarantors, including intellectual property, but subject to customary exceptions (collectively, the "Non-ABL Priority Collateral"). The ABL Guarantees and security interests in the assets of an ABL Guarantor may be released where such ABL Guarantor ceases to be a consolidated subsidiary of Victoria's Secret pursuant to a transaction permitted under the ABL Facility.

The ABL Facility contains various covenants, including those that restrict Victoria's Secret's ability and the ability of its consolidated subsidiaries to incur certain indebtedness or to grant certain liens on their respective property or assets. The ABL Facility includes a financial maintenance covenant that requires Victoria's Secret to maintain a 1.00:1.00 consolidated EBITDAR to consolidated fixed charges ratio that is tested during the continuation of any specified event of default or any period (i) commencing on any day when specified excess availability is less than the greater of (x) \$70 million and (y) 10.0% of the maximum borrowing amount and (ii) ending after specified excess availability has been greater than the amount set forth in clause (i) above for 30 consecutive calendar days.

The ABL Facility was undrawn at the Separation. As of July 3, 2021, on an as adjusted basis to give effect to (i) the Separation, (ii) the issuance of the 4.625% senior notes due 2029, (iii) the establishment of the Credit Facilities and the incurrence of \$400 million in new indebtedness under the Term Loan B Facility and (iv) the LB Cash Payment, Victoria's Secret estimates that it would have had a borrowing base of approximately \$488 million and availability under the ABL Facility of \$449 million, after considering letters of credit of \$39 million.

The foregoing descriptions are summaries of the material terms of these agreements and are not complete and are subject to, and qualified in their entirety by, the complete text of these agreements which are filed with this Current Report on Form 8-K as Exhibits 2.1, 10.1, 10.2, 10.3, 10.4, 10.5, 10.6 and 10.7, each of which is incorporated by reference in this Item 1.01.

Item 2.01. Completion of Acquisition or Disposition of Assets.

On the Distribution Date, Bath & Body Works completed the previously-announced separation of Victoria's Secret. Effective as of 11:59 p.m. Eastern Time on the Distribution Date, the common stock of Victoria's Secret was distributed, on a pro rata basis, to Bath & Body Works' stockholders of record as of the close of business on the Record Date. On the Distribution Date, each of the stockholders of Bath & Body Works received one share of Victoria's Secret common stock for every three shares of Bath & Body Works' common stock held by such stockholder on the Record Date. Fractional shares of Victoria's Secret common stock were not delivered in the Distribution. Any fractional share of Victoria's Secret common stock otherwise issuable to a Bath & Body Works stockholder was sold in the open market on such stockholder's behalf, and such stockholder will receive a cash payment for the fractional share based on the stockholder's pro rata portion of the net cash proceeds from sales of all fractional shares.

The Separation was completed pursuant to the Separation and Distribution Agreement. The description of the Separation included under Item 1.01 of this Current Report on Form 8-K and the Separation and Distribution Agreement attached as Exhibit 2.1 to this Current Report on Form 8-K are incorporated by reference in this Item 2.01.

Item 2.03. Creation of a Direct Financial Obligation or an Obligation under an Off-Balance Sheet Arrangement of a Registrant.

The information set forth under Item 1.01 of this Current Report on Form 8-K related to the Credit Agreements, including the information set forth under the subheading "Credit Agreements," is incorporated by reference in this Item 2.03.

In July 2021, Victoria's Secret completed the previously announced issuance and sale of \$600 million aggregate principal amount of its 4.625% senior notes due 2025 (the "Notes") pursuant to an Indenture dated July 15, 2021 (the "Indenture") between Victoria's Secret and U.S. Bank National Association, as trustee (the "Trustee"). The proceeds of the Notes were deposited at issuance into escrow for the benefit of the holders of the Notes. In connection with the completion of the Separation, on August 2, 2021, Victoria's Secret, certain subsidiaries of Victoria's Secret (the "Guarantors") and the Trustee entered into a supplemental indenture (the "Supplemental Indenture"), which amended and supplemented the Indenture to add the Guarantors as guarantors of the Notes, and the proceeds were released from escrow to Victoria's Secret. The foregoing description is not complete and is subject to, and qualified in its entirety by reference to the complete text of the Indenture, attached as Exhibit 4.1 hereto, and the Supplemental Indenture, attached as Exhibit 4.2 hereto, each of which is incorporated by reference in this Item 2.03. Victoria's Secret used the net proceeds from the Notes together with the net proceeds from the Term Loan B Facility to fund a cash payment to Bath & Body Works in connection with the Separation and to pay offering fees and expenses.

Item 5.01. Changes in Control of Registrant.

Victoria's Secret was a wholly-owned subsidiary of Bath & Body Works immediately prior to the Distribution. On August 2, 2021, Bath & Body Works completed the Distribution of 100% of the outstanding capital stock of Victoria's Secret to holders of Bath & Body Works common stock on the Record Date. Bath & Body Works holders of record received one share of Victoria's Secret common stock for every three shares of Bath & Body Works common stock. Following completion of the Distribution, Victoria's Secret became an independent, publicly-traded company, and Bath & Body Works retains no ownership interest in Victoria's Secret. The description of the Separation included under Item 1.01 of this Current Report on Form 8-K is incorporated herein by reference.

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

Resignation of Directors

Effective as of 11:59 p.m. Eastern Time on August 2, 2021, Timothy Faber and Michael Wu (collectively, the “Resigning Directors”) resigned from the Board of Directors (the “Board”) of Victoria’s Secret. The Resigning Directors’ resignation from the Board was not due to any disagreement with Victoria’s Secret relating to the operations, practices or policies of Victoria’s Secret.

Appointment of Directors and Officers

Effective as of 11:59 p.m. Eastern Time on August 2, 2021, Martin Waters, Irene Chang Britt, Jacqueline Hernandez, Donna A. James, Lauren B. Peters and Anne Sheehan were appointed as directors of Victoria’s Secret. Donna A. James was appointed Chair of the Board effective as of 11:59 p.m. Eastern Time on August 2, 2021. Sarah Davis, who had been appointed to the Board effective July 16, 2021, continues to serve as a director of Victoria’s Secret following the Distribution.

The Information Statement of Victoria’s Secret & Co. included as an exhibit to the Registration Statement on Form 10 filed with the Securities and Exchange Commission on July 9, 2021 (the “Information Statement”) under the section entitled “Management” contains the biographical information about and compensation information for the newly appointed directors. Such information is incorporated by reference in this Item 5.02. There are no arrangements or understandings between any of the directors named above and any other person pursuant to which such director was appointed to the Board. There are no other relationships between the directors named above and Victoria’s Secret that would require disclosure pursuant to Item 404(a) of Regulation S-K.

In connection with their joining the Board, in addition to Ms. Davis who had previously already been appointed as a member and the Chair of the Audit Committee, certain other directors of Victoria’s Secret were appointed to the Audit, Human Capital and Compensation, and Nominating and Governance Committees of the Board (the “Committees”) effective as of 11:59 p.m. Eastern Time on August 2, 2021. The current composition of the Committees is as follows:

- the Audit Committee consists of Donna A. James, Irene Chang Britt, Sarah Davis and Lauren B. Peters, with Ms. Davis serving as the Chair of the Audit Committee;
- the Human Capital and Compensation Committee consists of Irene Chang Britt, Jacqueline Hernandez, Lauren B. Peters and Anne Sheehan, with Ms. Britt serving as Chair of the Human Capital and Compensation Committee; and
- the Nominating and Governance Committee consists of Donna A. James, Sarah Davis, Jacqueline Hernandez and Anne Sheehan, with Ms. Sheehan serving as Chair of the Nominating and Governance Committee.

In addition, effective as of 11:59 p.m. Eastern Time on August 2, 2021, Amy Hauk was appointed to serve as the Chief Executive Officer of PINK, Gregory Unis was appointed to serve as the Chief Executive Officer of Victoria’s Secret Beauty and Dein Boyle was appointed to serve as the Chief Operating Officer of Victoria’s Secret. Martin Waters, Chief Executive Officer of Victoria’s Secret, and Timothy Johnson, Chief Financial Officer of Victoria’s Secret, who had been appointed to their respective positions effective July 16, 2021, continue to serve as Chief Executive Officer and Chief Financial Officer, respectively, of Victoria’s Secret following the Distribution.

The Information Statement under the sections entitled “Management” and “Compensation Discussion and Analysis” contains the biographical information about and compensation information for the newly appointed officers, respectively. Such information is incorporated by reference in this Item 5.02.

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

In connection with the completion of the Separation, on August 2, 2021, Victoria’s Secret’s Amended and Restated Certificate of Incorporation and Amended and Restated Bylaws became effective. A summary of the Amended and Restated Certificate of Incorporation and Amended and Restated Bylaws is included in the Information Statement under the heading “Description of Capital Stock,” which is incorporated by reference in this Item 5.03.

The foregoing descriptions of the Amended and Restated Certificate of Incorporation and Amended and Restated Bylaws are summaries of their material terms and are not complete and are subject to, and qualified in their entirety by, the complete text of the Amended and Restated Certificate of Incorporation and Amended and Restated Bylaws which are filed with this Current Report on Form 8-K as Exhibits 3.1 and 3.2, each of which is incorporated by reference in this Item 5.03.

Item 8.01. Other Events.

On August 3, 2021, Victoria's Secret issued a press release announcing the completion of the Separation. The full text of the press release is filed as Exhibit 99.1 to this Current Report on Form 8-K and is incorporated by reference in this Item 8.01.

Item 9.01. Financial Statements and Exhibits.

(d) Exhibits.

Exhibit No.	Description
2.1	Separation and Distribution Agreement between L Brands, Inc. and Victoria's Secret & Co., dated August 2, 2021.
3.1	Amended and Restated Certificate of Incorporation of Victoria's Secret & Co.
3.2	Amended and Restated Bylaws of Victoria's Secret & Co.
4.1	Indenture, dated July 15, 2021, among Victoria's Secret, the guarantors named therein and U.S. Bank National Association, as trustee.
4.2	Supplemental Indenture, dated August 2, 2021, among Victoria's Secret, the guarantors named therein and U.S. Bank National Association, as trustee.
10.1	L Brands to VS Transition Services Agreement between L Brands, Inc. and Victoria's Secret & Co., dated August 2, 2021.
10.2	VS to L Brands Transition Services Agreement between L Brands, Inc. and Victoria's Secret & Co., dated August 2, 2021.
10.3	Tax Matters Agreement between L Brands, Inc. and Victoria's Secret & Co., dated August 2, 2021.
10.4	Employee Matters Agreement between L Brands, Inc. and Victoria's Secret & Co., dated August 2, 2021.
10.5	Domestic Transportation Services Agreement between Mast Logistics Services, LLC and Victoria's Secret & Co., dated August 2, 2021.
10.6	First Lien Credit Agreement by and among Victoria's Secret & Co. and the Lenders named therein and JP Morgan Chase Bank, N.A., dated August 2, 2021.
10.7	Revolving Credit Agreement by and among Victoria's Secret & Co. and the Lenders named therein and JPMorgan Chase Bank, N.A., dated August 2, 2021.
10.8	Victoria's Secret & Co. 2021 Cash Incentive Compensation Performance Plan.
99.1	Press release issued by Victoria's Secret & Co. dated August 3, 2021, announcing the completion of the Separation.

SIGNATURES

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 hereunto duly authorized.

VICTORIA'S SECRET & CO.

Date: August 3, 2021

By: /s/ Tim Johnson
Name: Tim Johnson
Title: Chief Financial Officer

SEPARATION AND DISTRIBUTION AGREEMENT

by and between

L BRANDS, INC.

and

VICTORIA'S SECRET & CO.

Dated as of August 2, 2021

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SEPARATION AND DISTRIBUTION AGREEMENT

SEPARATION AND DISTRIBUTION AGREEMENT dated as of August 2, 2021 (as the same may be amended from time to time in accordance with its terms and together with the schedules and exhibits hereto, this “**Agreement**”) between L Brands, Inc., a Delaware corporation (“**L Brands**”), and Victoria’s Secret & Co., a Delaware corporation (“**VS**”) (each, a “**Party**” and together, the “**Parties**”).

WITNESSETH:

WHEREAS, the Board of Directors of L Brands has determined that it is in the best interests of L Brands and its stockholders to separate the VS Business from the L Brands Business;

WHEREAS, VS is a wholly owned Subsidiary of L Brands that has been incorporated for the sole purpose of, and has not engaged in activities except in preparation for, the Distribution and the transactions contemplated by this Agreement;

WHEREAS, in furtherance of the foregoing, the Board of Directors of L Brands has determined that it is in the best interests of L Brands and its stockholders to distribute to the holders of the issued and outstanding shares of common stock, par value \$0.50 per share, of L Brands (the “**L Brands Common Stock**”) as of the Record Date, by means of a *pro rata* dividend, 100% of the issued and outstanding shares of common stock, par value \$0.01 per share, of VS (the “**VS Common Stock**”), on the basis of one (1) share of VS Common Stock for every three (3) then issued and outstanding shares of L Brands Common Stock (the “**Distribution**”);

WHEREAS, L Brands and VS have prepared, and VS has filed with the Commission, the Form 10, which includes the Information Statement, and which sets forth appropriate disclosure concerning VS and the Distribution, and the Form 10 has become effective under the Exchange Act;

WHEREAS, the Distribution will be preceded by, among other things, (i) the Restructuring, pursuant to which, among other things, all of the equity interests of the VS First-Tier Subsidiaries will be contributed to VS (the “**Contribution**”), (ii) the entry by VS into the VS Financing Arrangements and (iii) the payment of the Special Cash Payment;

WHEREAS, for United States federal and state income tax purposes, it is intended that (i) the Contribution, the Special Cash Payment and the Distribution, taken together, will qualify as a “reorganization” within the meaning of Section 368(a)(1)(D) of the Internal Revenue Code of 1986, as amended (the “**Code**”) and each of L Brands and VS will be a “party to the reorganization” within the meaning of Section 368(b) of the Code, (ii) the Distribution will qualify as a tax-free transaction under Sections 355(a) and 361(c) of the Code, and (iii) the L Brands Cash Distribution should qualify as money distributed to L Brands creditors or stockholders in connection with the reorganization for purposes of Section 361(b) of the Code (in each case, qualifying for such treatment under the corresponding provisions of state law), and it is a condition to the Distribution that L Brands will have obtained the Tax Opinion to such effect as contemplated by Section 3.01(a)(ix);

WHEREAS, this Agreement, together with the Ancillary Agreements and other documents implementing the Contribution and the Distribution, is intended to be, and is hereby adopted as, a “plan of reorganization” within the meaning of Treas. Reg. Section 1.368-2(g);

WHEREAS, the Parties have determined to set forth the principal actions required to effect the Distribution and to set forth certain agreements that will govern the relationship between the Parties following the Distribution; and

WHEREAS, the Parties acknowledge that this Agreement and the Ancillary Agreements represent the integrated agreement of L Brands and VS relating to the Distribution, are being entered into together, and would not have been entered into independently.

ACCORDINGLY, in consideration of the mutual covenants contained in this Agreement, the Parties hereby agree as follows:

ARTICLE 1

DEFINITIONS

Section 1.01. Definitions. (a) As used in this Agreement, the following terms have the following meanings:

“**Action**” means any demand, claim, suit, action, arbitration, inquiry, investigation or other proceeding by or before any Governmental Authority or any arbitration or mediation tribunal.

“**Affiliate**” means, with respect to any Person, any other Person directly or indirectly controlling, controlled by, or under common control with, such other Person. For the purposes of this definition, “**control**” means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by Contract or otherwise, and the terms “**controlling**” and “**controlled**” have meanings correlative to the foregoing. Notwithstanding any provision of this Agreement to the contrary (except where the relevant provision states explicitly to the contrary), no member of the L Brands Group, on the one hand, and no member of the VS Group, on the other hand, shall be deemed to be an Affiliate of the other.

“Ancillary Agreement” means each of the Aviation Agreements, the Campus Security and Emergency Operations Services Agreement, the DC2 Lease, the Domestic Transportation Services Agreement, the Employee Matters Agreement, the L Brands to VS Transition Services Agreement, the Restructuring Agreements, the Tax Matters Agreement, the VS to L Brands Transition Services Agreement, the Letter Agreement and any other agreements, instruments, or certificates related thereto or to the transactions contemplated by this Agreement (in each case, together with the schedules, exhibits, annexes and other attachments thereto).

“Applicable Law” means, with respect to any Person, any federal, state, local or foreign law (statutory, common or otherwise), constitution, treaty, convention, ordinance, code, rule, regulation, order, injunction, judgment, decree, ruling, directive, guidance, instruction, direction, permission, waiver, notice, condition, limitation, restriction or prohibition or other similar requirement enacted, adopted, promulgated, imposed, issued or applied by a Governmental Authority that is binding upon or applicable to such Person, its properties or assets or its business or operations.

“Aviation Agreements” means, collectively, the Aviation Agreements dated as of the date hereof between the parties thereto substantially in the forms of Exhibit A-1 and Exhibit A-2, as such agreements may be amended from time to time in accordance with their terms.

“Business” means, with respect to the L Brands Group, the L Brands Business and, with respect to the VS Group, the VS Business.

“Business Day” means any day, other than Saturday, Sunday or other day on which commercial banks in New York, New York are authorized or required by Applicable Law to close.

“Campus Security and Emergency Operations Services Agreement” means the Campus Security and Emergency Operations Services Agreement dated as of the date hereof between L Brands and VS substantially in the form of Exhibit B, as such agreement may be amended from time to time in accordance with its terms.

“Cash and Cash Equivalents” of any Person means all cash (including cash in store registers and store bank accounts of stores owned or leased by such Person), cash equivalents, certificates of deposit, time deposits, marketable securities, negotiable instruments, short-term investments and credit card receivables of such Person.

“Commercial Data” means any and all data and information relating to an identified or identifiable Person (whether the information is accurate or not), alone or in combination with other information, which Person is or was an actual or prospective customer of, or consumer of products offered by, the VS Business or L Brands Business, as applicable.

“**Commission**” means the Securities and Exchange Commission.

“**Confidential Information**” means, with respect to a Group, (i) any proprietary information that is competitively sensitive, material or otherwise of value to the members of such Group and not generally known to the public, including product planning information, marketing strategies, financial information, information regarding operations, consumer and customer relationships, consumer and customer profiles, sales estimates, business plans and internal performance results relating to the past, present or future business activities of the members of such Group and the consumers, customers, clients and suppliers of the members of such Group, (ii) any proprietary scientific or technical information, design, invention, process, procedure, formula, or improvement that is commercially valuable and secret in the sense that its confidentiality affords any member of such Group a competitive advantage over its competitors and (iii) all confidential or proprietary concepts, documentation, reports, data, specifications, computer software, source code, object code, flow charts, databases, inventions, information, and trade secrets, in the case of each of clauses (i), (ii) and (iii) of this definition, that are related primarily to such Group’s Business; *provided* that to the extent both the L Brands Business and the VS Business use or rely upon any of the information described in any of the foregoing clauses (i), (ii) or (iii), subject to Section 4.07, such information shall be deemed the Confidential Information of both the L Brands Group and the VS Group.

“**Contract**” means any written or oral commitment, contract, subcontract, agreement, lease, sublease, license, sublicense, understanding, sales order, purchase order, instrument, indenture, note or any other legally binding commitment or undertaking.

“**DC2 Lease**” means the DC2 Lease dated as of the date hereof between the parties thereto substantially in the form of Exhibit C, as such agreement may be amended from time to time in accordance with its terms.

“**Distribution Agent**” means American Stock Transfer & Trust Company, LLC.

“**Distribution Date**” means August 2, 2021.

“**Distribution Documents**” means this Agreement and the Ancillary Agreements.

“**Distribution Time**” means the time at which the Distribution is effective on the Distribution Date, which shall be deemed to be 11:59 pm Eastern Time, on the Distribution Date.

“Domestic Transportation Services Agreement” means the Domestic Transportation Services Agreement dated as of the date hereof between Mast Logistics Services, LLC and VS substantially in the form of Exhibit D, as such agreement may be amended from time to time in accordance with its terms.

“Employee Matters Agreement” means the Employee Matters Agreement dated as of the date hereof between L Brands and VS substantially in the form of Exhibit E, as such agreement may be amended from time to time in accordance with its terms.

“Environmental Law” means any Applicable Law relating to (i) human or occupational health and safety; (ii) pollution or protection of the environment (including ambient air, indoor air, water vapor, surface water, groundwater, wetlands, drinking water supply, land surface or subsurface strata, biota and other natural resources); or (iii) Hazardous Materials including any Applicable Law relating to exposure to, or use, generation, manufacture, processing, management, treatment, recycling, storage, disposal, emission, discharge, transport, distribution, labeling, presence, possession, handling, Release or threatened Release of, any Hazardous Material and any Applicable Law relating to recordkeeping, notification, disclosure, registration and reporting requirements respecting Hazardous Materials.

“Environmental Liabilities” means all Liabilities (including all removal, remediation, reclamation, cleanup or monitoring costs, investigatory costs, response costs, natural resources damages, property damages, personal injury damages, costs of compliance with any settlement, judgment or other determination of Liability and indemnity, contribution or similar obligations and all costs and expenses, interest, fines, penalties or other monetary sanctions in connection therewith) relating to, arising out of or resulting from any (i) (A) Environmental Law, (B) actual or alleged generation, use, storage, manufacture, processing, recycling, labeling, handling, possession, management, treatment, transportation, distribution, emission, discharge or disposal, or arrangement for the transportation or disposal, of any Hazardous Material, or (C) actual or alleged presence of, Release or threatened Release of, or exposure to, any Hazardous Material (including to the extent relating to the actual or alleged exposure to Hazardous Material, any claims that arise under, or are covered by, workers’ compensation laws or workers’ compensation, disability or other insurance providing medical care or compensation to injured workers) or (ii) Contract or other consensual arrangement pursuant to which Liability is assumed or imposed with respect to any of the foregoing, and all costs and expenses, interest, fines, penalties or other monetary sanctions in connection therewith.

“Equity Compensation Registration Statement” means the Registration Statement on Form S-8 or such other form or forms as may be appropriate, as amended and supplemented, including all documents incorporated by reference therein, to effect the registration under the Securities Act of VS Common Stock subject to certain equity awards granted to current and former officers, employees, directors and consultants of the L Brands Group to be assumed or replaced by VS pursuant to the Employee Matters Agreement.

“Escheat Payment” means any payment required to be made to a Governmental Authority pursuant to an abandoned property, escheat or similar law.

“Exchange Act” means the Securities Exchange Act of 1934.

“Form 10” means the registration statement on Form 10 filed by VS with the Commission to effect the registration of VS Common Stock pursuant to the Exchange Act in connection with the Distribution, as such registration statement may be amended or supplemented from time to time.

“Governmental Authority” means any multinational, foreign, federal, state, local or other governmental, statutory or administrative authority, regulatory body or commission or any court, tribunal or judicial or arbitral authority which has any jurisdiction or control over either Party (or any of their Affiliates).

“Group” means, as the context requires, the VS Group, the L Brands Group or either or both of them.

“Hazardous Material” means (i) any petroleum or petroleum products, radioactive materials, toxic mold, radon, asbestos or asbestos-containing materials in any form, lead-based paint, urea formaldehyde foam insulation, Per- and Polyfluoroalkyl Substances (PFAs) or polychlorinated biphenyls (PCBs); and (ii) any chemicals, materials, substances, compounds, mixtures, products or byproducts, biological agents, or living or genetically modified materials, pollutants, contaminants or wastes that are now or hereafter become defined or characterized as or included in the definition of “hazardous substances,” “hazardous wastes,” “hazardous materials,” “extremely hazardous wastes,” “restricted hazardous wastes,” “special waste,” “toxic substances,” “pollutants,” “contaminants,” “toxic,” “dangerous,” “corrosive,” “flammable,” “reactive,” “radioactive,” or words of similar import, under any Applicable Law pertaining to the environment.

“Indebtedness” of any Person means (i) indebtedness of such Person for borrowed money, (ii) indebtedness of such Person evidenced by notes, debentures, bonds or other similar instruments, (iii) indebtedness of such Person evidenced by letters of credit, banker’s acceptances, bank guarantees, performance and surety bonds or similar credit instruments, (iv) all capitalized lease obligations, and (v) the obligations of such Person for the deferred purchase price of businesses, properties, securities, goods or services (including any “earn-outs”).

“Indemnitees” means, as the context requires, the L Brands Indemnitees or the VS Indemnitees.

“Information Statement” means the Information Statement to be sent to each holder of L Brands Common Stock in connection with the Distribution.

“Intellectual Property Right” means any Trademark, mask work, invention, patent, copyright, work of authorship, trade secret and know-how (such as formulas, manufacturing or production processes and techniques, methods, schematics, technical data and designs, customer and supplier lists, financial and marketing plans, pricing and cost information) or rights in software, data, databases, and any other similar or other type of proprietary or intellectual property right worldwide, including any registrations or applications for registration of any of the foregoing, any right to sue or recover or retain damages and costs and attorneys’ fees for the past, present or future infringement, misappropriation or other violation of any of the foregoing and any right to claim priority with respect to the foregoing.

“IT Assets” means information technology equipment and hardware, including desktop computers, desktop phones, printers, servers, workstations, routers, hubs, switches, data communications lines, personal laptops, personal mobile devices, cellular phones, tablets and end-user special use technology and all associated documentation owned, used, licensed or leased by L Brands or any of its Subsidiaries (excluding any public networks). For clarity, “IT Assets” do not include software.

“L Brands Assets” means all assets, properties and businesses, of whatever sort, nature or description, of L Brands or any of its Subsidiaries (including any member of the VS Group), or that are used or held for use in the L Brands Business, other than the VS Assets, including, for the avoidance of doubt:

- (a) all of the interests in any capital stock or other equity securities or interest of or in any Person, other than the VS Equity Interests;
- (b) except as set forth in clause (c) of the definition of “VS Assets,” all Cash and Cash Equivalents of L Brands and its Subsidiaries as of the Distribution Time;
- (c) all distribution centers (and offices therein) of L Brands and its Subsidiaries and all leases of, and other interest in, real property, in each case together with all buildings, fixtures and improvements erected thereon, other than the VS Real Property;
- (d) all insurance policies of L Brands and its Subsidiaries;
- (e) the L Brands Records;
- (f) the L Brands Commercial Data;

(g) all rights of L Brands arising under this Agreement or any of the Ancillary Agreements or any of the transactions contemplated hereby or thereby;

(h) the Intellectual Property Rights owned by L Brands or any of its Subsidiaries that are not included in the VS IP, including all L Brands Names and Marks;

(i) all furniture and equipment (excluding IT Assets) located on any real property not included in the VS Assets;

(j) all IT Assets (other than VS IT Assets), including, for the avoidance of doubt, the Specified L Brands IT Assets;

(k) all accounts receivable other than those described in clause (h) of the definition of “VS Assets”;

(l) all recovery, rights, causes of action and awards, in each case, with respect to any Actions and claims that are or relate to L Brands Liabilities;

(m) all right, title and interest in, to or under the aircraft set forth on Schedule 1.01(a) other than the right, title and interest described in clause (i) of the definition of “VS Assets”;

(n) all Contracts other than the VS Contracts, those set forth in clause (l)(i) of the definition of “VS Assets” and those included in the VS IP; and

(o) the assets, properties and businesses set forth on Schedule 1.01(b);

provided that, notwithstanding the foregoing, the allocation of assets relating to Taxes shall be governed by the Tax Matters Agreement.

If any asset, property or business is identified as both an L Brands Asset and a VS Asset, it will be treated as an L Brands Asset and not a VS Asset.

“**L Brands Business**” means all of the businesses conducted by L Brands and its Subsidiaries from time to time, whether before, on or after the Distribution, other than the VS Business. For the avoidance of doubt, the VS Assets will not be considered part of the L Brands Business.

“**L Brands Commercial Data**” means any and all Commercial Data owned, used or held for use by L Brands or any of its Subsidiaries that is not included in the VS Commercial Data.

“**L Brands Group**” means L Brands and its Subsidiaries (other than any member of the VS Group).

“**L Brands Liabilities**” means (without duplication) all of the following (as determined by L Brands in its reasonable discretion):

- (a) all Liabilities of L Brands and its Subsidiaries that are not VS Liabilities and all such other Liabilities set forth on Schedule 1.01(c); and
- (b) all Liabilities that are expressly contemplated by this Agreement or any other Ancillary Agreement as Liabilities to be retained or assumed by L Brands or any other member of the L Brands Group, and all agreements, obligations and other Liabilities of L Brands or any member of the L Brands Group under this Agreement or any of the other Ancillary Agreements;

provided that, notwithstanding the foregoing, (i) the allocation of Liabilities relating to Taxes shall be governed by the Tax Matters Agreement and (ii) the allocation of Liabilities relating to the employment, employee benefits and employee compensation matters expressly covered by the Employee Matters Agreement shall be governed by the Employee Matters Agreement.

“**L Brands Names and Marks**” means any and all Trademarks and other source or business identifiers incorporating any Trademark owned by L Brands and its Subsidiaries that are not included in the VS Trademarks, along with any variations or derivatives thereof and any name, marks, logos or other identifiers similar to any of the foregoing.

“**L Brands Records**” means all books, records, files and papers, whether in hard copy or computer format, prepared in connection with this Agreement or the transactions contemplated hereby, all books, records, files and papers of the VS Business to the extent required to be retained by L Brands or any of its Subsidiaries under Applicable Law, and all minute books and corporate records of L Brands and its Subsidiaries.

“**L Brands to VS Transition Services Agreement**” means the L Brands to VS Transition Services Agreement dated as of the date hereof between L Brands and VS substantially in the form of Exhibit E, as such agreement may be amended from time to time in accordance with its terms.

“**Letter Agreement**” means the Letter Agreement dated as of the date hereof between L Brands and VS substantially in the form of Exhibit G, as such agreement may be amended from time to time in accordance with its terms.

“**Liabilities**” means any and all claims, debts, liabilities, damages and obligations (including any Escheat Payment) of any kind, character or description, whether absolute or contingent, matured or not matured, liquidated or unliquidated, accrued or unaccrued, known or unknown, whenever arising, including all costs and expenses (including attorneys’ fees and expenses and associated investigation costs) relating thereto, and including those claims, debts, liabilities, damages and obligations arising under this Agreement, any Applicable Law, any Action or threatened Action, any order or consent decree of any Governmental Authority or any award of any arbitrator of any kind, and those arising under any agreement, commitment or undertaking, including in connection with the enforcement of rights hereunder or thereunder.

“**NYSE**” means the New York Stock Exchange.

“**Permit**” means any license, permit, approval, consent, certification, franchise, registration or authorization which has been issued by or obtained from any Governmental Authority.

“**Person**” means an individual, corporation, partnership, limited liability company, association, trust or other entity or organization, including a Governmental Authority.

“**Personal Information**” means “personal information,” “personally identifiable information,” “personal data” or any term of similar intent, in each case as defined under Applicable Law pertaining to data privacy.

“**Record Date**” means the close of business on July 22, 2021.

“**Release**” means any release, spill, emission, leaking, dumping, pumping, injection, pouring, deposit, disposal, discharge, dispersal, leaching or migration into, onto, within or through the indoor or outdoor environment (including ambient air, surface water, groundwater, land surface or subsurface strata, soil and sediments) or into, through, or within any property, building, structure, fixture or equipment.

“**Restructuring**” means the reorganization of certain businesses, assets and liabilities of the L Brands Group and the VS Group to be completed before the Distribution Time in accordance with the Restructuring Plan.

“**Restructuring Plan**” means that certain L Brands, Inc. Project 2021 (Spin) Step Plan, attached hereto as Annex A.

“**Securities Act**” means the Securities Act of 1933.

“**Special Cash Payment**” means a cash payment from VS in an amount of \$975,992,197.25, payable to L Brands prior to the Distribution.

“**Specified L Brands IT Assets**” means the IT Assets set forth on Schedule 1.01(d).

“**Specified VS IT Assets**” means the IT Assets set forth on Schedule 1.01(e).

“**Subsidiary**” means, with respect to any Person, any other entity of which (i) a majority of the voting securities or (ii) securities or other ownership interests having ordinary voting power to elect a majority of the board of directors or other persons performing similar functions, are at the time directly or indirectly owned by such Person.

“**Tax**” or “**Taxes**” has the meaning set forth in the Tax Matters Agreement.

“**Tax Benefit**” has the meaning set forth in the Tax Matters Agreement.

“**Tax Matters Agreement**” means the Tax Matters Agreement dated as of the date hereof between L Brands and VS substantially in the form of Exhibit H, as such agreement may be amended from time to time in accordance with its terms.

“**Tax Opinion**” has the meaning set forth in the Tax Matters Agreement.

“**Third Party**” means any Person that is not a member or an Affiliate of the VS Group or the L Brands Group.

“**Trademark**” means trademarks, service marks, trade names, service names, domain names, social media identifiers and accounts, trade dress, logos, slogans and other identifiers of same, including all goodwill associated therewith, and all common law rights, and registrations and applications for registration thereof, all rights therein provided by international treaties or conventions, and all reissues, extensions and renewals of any of the foregoing.

“**VS Active Employee**” has the meaning set forth in the Employee Matters Agreement.

“**VS Assets**” means, except as expressly otherwise contemplated in this Agreement or any Ancillary Agreement, the following assets of L Brands and its Subsidiaries (as determined by L Brands in its reasonable discretion):

(a) all of L Brands’ and its Subsidiaries’ right, title and interest in, to and under the VS Equity Interests;

(b) (i) all Trademarks owned by L Brands or any of its Subsidiaries and used or held for use, in each case, exclusively in the conduct of the VS Business by L Brands and its Subsidiaries as the same shall exist on the Distribution Date and (ii) the Trademarks set forth on Schedule 1.01(f), in each case, together with all corresponding rights that may be secured throughout the world with respect to any of the foregoing (clauses (i) and (ii) collectively, the “**VS Trademarks**”);

(c) Cash and Cash Equivalents of each member of the VS Group as of the Distribution Time;

(d) all of L Brands' and its Subsidiaries' right, title and interest in and to the fee or leasehold interests, as the case may be, in, to and under the VS Distribution Centers, together with all buildings, fixtures and improvements erected thereon, and all L Brands' and its Subsidiaries' right, title and interest in and to any furniture and equipment (excluding IT Assets) located at the VS Distribution Centers;

(e) all Intellectual Property Rights (excluding all (A) Trademarks and (B) Commercial Data) that are owned by L Brands and its Subsidiaries and used or held for use, in each case, exclusively in the conduct of the VS Business by L Brands and its Subsidiaries as the same shall exist on the Distribution Date and (ii) the Intellectual Property Rights set forth on Schedule 1.01(g), in each case, together with all corresponding rights that may be secured throughout the world with respect to any of the foregoing;

(f) to the extent not prohibited under Applicable Law or any privacy policies of L Brands and its Subsidiaries, all of L Brands' and its Subsidiaries' right, title and interest in and to the VS Commercial Data;

(g) all of L Brands' and its Subsidiaries' rights to any recovery, rights, causes of action and awards, in each case, with respect to the Actions and claims that are VS Liabilities;

(h) accounts receivable of each member of the VS Group;

(i) the percentage of L Brands' and its Subsidiaries' right, title and interest in the aircraft in each case as set forth on Schedule 1.01(a);

(j) all of L Brands' and its Subsidiaries' right, title and interest in, to and under the VS Contracts;

(k) (i) all IT Assets located in any VS Real Property (other than the Specified L Brands IT Assets) and (ii) the Specified VS IT Assets (collectively, the "**VS IT Assets**"); and

(l) all right, title and interest of L Brands and its Subsidiaries in, to and under the following assets, properties, rights and businesses (other than such right, title and interest in any equity interests in any Person, Intellectual Property Rights, Commercial Data, Cash and Cash Equivalents, distribution centers (and offices located therein), IT Assets, Actions, accounts receivable and aircraft) of L Brands and its Subsidiaries to the extent owned, held or used in each case primarily in the conduct of the VS Business by L Brands and its Subsidiaries as the same shall exist on the Distribution Date:

(i) all leases of, and other interest in, real property, in each case together with all buildings, fixtures and improvements erected thereon and all furniture and equipment located thereon, including the leases set forth on Schedule 1.01(h);

- (ii) all raw materials, work-in-process, finished goods, supplies and other inventories;
- (iii) all prepaid expenses, including *ad valorem* taxes, leases and rentals;
- (iv) all transferable Permits;
- (v) all books, records, files and papers, including Personal Information, other than the L Brands Records; and
- (vi) all rights under warranties, indemnities, guarantees, refunds and similar rights of L Brands and its Subsidiaries against Third Parties;

provided that, notwithstanding the foregoing, the allocation of assets relating to Taxes shall be governed by the Tax Matters Agreement (other than the allocation of prepaid *ad valorem* Taxes, which shall be governed by clause (l)(iii) above).

“VS Business” means the specialty retail business of L Brands and its Subsidiaries with respect to women’s intimate and other apparel, accessories, beauty care products and fragrances that is conducted under the Victoria’s Secret or PINK brands.

“VS Commercial Data” means any and all Commercial Data used or held for use, in each case, exclusively in the conduct of the VS Business by L Brands and its Subsidiaries as the same shall exist on the Distribution Date.

“VS Contracts” means the Contracts (i) used or held for use, in each case, exclusively in the conduct of the VS Business by L Brands and its Subsidiaries as the same shall exist on the Distribution Date or (ii) set forth on Schedule 1.01(i).

“VS Distribution Centers” means the following distribution centers and offices of L Brands and its Subsidiaries: (i) Distribution Center 4 located at Four Limited Parkway, Reynoldsburg, Ohio, 43068, (ii) Distribution Center 5 located at Five Limited Parkway, Reynoldsburg, Ohio 43068 and (iii) the real property commonly known as DC6, located at 3425 Morse Crossing, Columbus, Ohio, 43219.

“VS Equity Interests” means (i) the equity interests of each member of the VS Group and (ii) the equity interests of the entities set forth on Schedule 1.01(j).

“VS Financing Arrangements” means (i) the First Lien Credit Agreement among VS, the Lenders (as defined therein) from time to time party thereto and JP Morgan Chase Bank, N.A., as administrative agent and collateral agent, (ii) the Indenture between VS and U.S. Bank National Association as trustee, pursuant to which senior unsecured notes will be issued, and (iii) the Revolving Credit Agreement among VS, the Borrowing Subsidiaries (as defined therein) party thereto, the Lenders (as defined therein) thereto and JPMorgan Chase Bank, N.A., as administrative agent and collateral agent, pursuant to which revolving credit commitments in an aggregate amount equal to \$750,000,000 will be extended.

“VS First-Tier Subsidiaries” means the entities set forth on Schedule 1.01(n).

“VS Group” means VS and its Subsidiaries set forth on Schedule 1.01(k).

“VS IP” means all Intellectual Property Rights owned by L Brands and its Subsidiaries and included in the VS Assets.

“VS IT Assets” has the meaning set forth in the definition of “VS Assets.”

“VS Liabilities” means, as determined by L Brands in its reasonable discretion, all Liabilities (including Environmental Liabilities) to the extent arising out of the VS Assets or to the extent relating to or to the extent arising out of the conduct of the VS Business, as currently or formerly operated (including as conducted or operated by any predecessor of any member of the L Brands Group or the VS Group), in each case, whether incurred, accruing or arising on, prior to or after the Distribution, including:

- (a) all Indebtedness of each member of the VS Group;
- (b) all Liabilities relating to, arising out of or in connection with or resulting from the VS Financing Arrangements;
- (c) all Liabilities of L Brands and its Subsidiaries arising under the VS Contracts and the Contracts set forth in clause (l)(i) of the definition of “VS Assets”;
- (d) all Liabilities relating to any products manufactured or sold by the VS Business;
- (e) the Actions set forth on Schedule 1.01(l);
- (f) all Liabilities that are expressly contemplated by this Agreement or any other Ancillary Agreement as Liabilities to be retained or assumed by VS or any other member of the VS Group, and all agreements, obligations and other Liabilities of VS or any member of the VS Group under this Agreement or any of the other Ancillary Agreements; and

(g) all Liabilities set forth on Schedule 1.01(m);

provided that, notwithstanding the foregoing, (i) the allocation of Liabilities relating to Taxes shall be governed by the Tax Matters Agreement and (ii) the allocation of Liabilities relating to the employment, employee benefits and employee compensation matters expressly covered by the Employee Matters Agreement shall be governed by the Employee Matters Agreement.

“**VS Real Property**” means all (i) VS Distribution Centers and (ii) other real property (other than distribution centers and offices therein) to the extent included in the VS Assets.

“**VS to L Brands Transition Services Agreement**” means the VS to L Brands Transition Services Agreement dated as of the date hereof between L Brands and VS substantially in the form of Exhibit I, as such agreement may be amended from time to time in accordance with its terms.

“**VS Trademarks**” has the meaning set forth in the definition of “VS Assets.”

(a) Each of the following terms is defined in the Section set forth opposite such term:

<u>Term</u>	<u>Section</u>
Agreement	Preamble
Amended and Restated Bylaws	2.02(c)
Amended and Restated Certificate of Incorporation	2.02(c)
Arbitration Association	6.09(c)
Claim	5.04(a)
Code	Recitals
Contribution	Recitals
Disposing Party	4.05
Dispute	6.09(a)
Distribution	Recitals
Guarantee	2.09
Indemnified Party	5.04(a)
Indemnifying Party	5.04(a)
Intercompany Accounts	2.06
L Brands	Preamble
L Brands Cash Distribution	2.02(b)
L Brands Common Stock	Recitals
L Brands Designee	2.03(a)
L Brands Indemnitees	5.02(a)
L Brands Insurance Claims	4.10(b)
L Brands Insurance Policies	4.10(a)
L Brands Temporary Facilities	4.14
Mediation Notice	6.09(b)

<u>Term</u>	<u>Section</u>
Mediation Period	6.09(c)
Party	Preamble
Pre-Distribution Occurrences	4.10(b)
Prior Company Counsel	4.07(e)
Privilege	4.07(a)
Privileged Information	4.07(a)
Receiving Party	4.05
Released Parties	5.01(a)
Representatives	4.06
Restructuring Agreements	2.04
Segregated Account	2.02(b)
Shared Contract	2.05
Specified Guarantee	2.10(b)
Temporary Facilities	4.14
Third Party Claim	5.04(b)
VS	Preamble
VS Common Stock	Recitals
VS Designee	2.03(a)
VS Financing Transactions	2.02(b)
VS Indemnitees	5.03
VS Temporary Facilities	4.14

Section 1.02. *Interpretation.* In this Agreement, unless the context clearly indicates otherwise:

- (a) words used in the singular include the plural and words used in the plural include the singular;
- (b) references to any Person include such Person’s successors and assigns but, if applicable, only if such successors and assigns are permitted by this Agreement;
- (c) except as otherwise clearly indicated, reference to any gender includes the other gender;
- (d) the words “include,” “includes” and “including” shall be deemed to be followed by the words “without limitation”;
- (e) reference to any Article, Section, Exhibit or Schedule means such Article or Section of, or such Exhibit or Schedule to, this Agreement, as the case may be, and references in any Section or definition to any clause means such clause of such Section or definition;

- (f) the words “herein,” “hereunder,” “hereof,” “hereto” and words of similar import shall be deemed references to this Agreement as a whole and not to any particular Section or other provision hereof;
- (g) reference to any agreement, instrument or other document means such agreement, instrument or other document as amended, supplemented and modified from time to time to the extent permitted by the provisions thereof and by this Agreement;
- (h) reference to any law (including statutes and ordinances) means such law (including all rules and regulations promulgated thereunder) as amended, modified, codified or reenacted, in whole or in part, and in effect at the time of determining compliance or applicability;
- (i) relative to the determination of any period of time, “from” means “from and including,” “to” means “to and including” and “through” means “through and including”;
- (j) the titles to Articles and headings of Sections contained in this Agreement have been inserted for convenience of reference only and shall not be deemed to be a part of or to affect the meaning or interpretation of this Agreement;
- (k) unless otherwise specified in this Agreement, all references to dollar amounts herein shall be in respect of lawful currency of the United States;
- (l) any capitalized term used in an Exhibit or Schedule but not otherwise defined therein shall have the meaning set forth in this Agreement; and
- (m) the word “or” means “and/or” unless the context requires otherwise.

ARTICLE 2
PRIOR TO THE DISTRIBUTION

Section 2.01. *Information Statement; Listing.* Prior to the Distribution Time, L Brands shall mail (or shall have mailed) the Information Statement to the holders of L Brands Common Stock as of the Record Date. At or prior to the Distribution Time, L Brands and VS shall take (or shall have taken), all such actions as may be necessary or appropriate under the securities or blue sky laws of states or other political subdivisions of the United States and shall use commercially reasonable efforts to comply with all applicable foreign securities laws in connection with the transactions contemplated by this Agreement and the Ancillary Agreements. Prior to the Distribution Time, VS shall prepare, file and pursue (or shall have prepared, filed and pursued) an application to permit listing of the VS Common Stock on the NYSE and shall give the NYSE advance notice of the Record Date in compliance with Rule 10b-17 under the Exchange Act.

Section 2.02. Restructuring and Other Actions prior to the Distribution Time.

(a) Restructuring. The Restructuring shall have been consummated on or prior to the Distribution Time.

(b) VS Financing Arrangements and Payments. Between the date of this Agreement and the Distribution, VS shall enter into (or shall have entered into) the VS Financing Arrangements and related financing transactions described in the Information Statement as occurring prior to the Distribution Date (the “**VS Financing Transactions**”), and receive the proceeds thereof. Immediately thereafter and prior to the Distribution, L Brands shall effect the Contribution. As consideration for the Contribution, VS shall (i) issue to L Brands 88,303,261 shares of VS Common Stock and (ii) pay to L Brands the Special Cash Payment in immediately available funds to one or more accounts designated in writing by L Brands. L Brands will maintain the funds received from the Special Cash Payment in a non-interest bearing segregated bank account (a “**Segregated Account**”) and will take into account for Tax purposes all items of income, gain, deduction or loss associated with the funds while maintained in this segregated account. Within six (6) months following the Distribution, L Brands will distribute the cash held in the Segregated Account to (i) L Brands’ creditors in retirement of outstanding L Brands indebtedness or (ii) to L Brands’ stockholders in repurchase of, or distribution with respect to, shares of L Brands common stock (together, the “**L Brands Cash Distribution**”).

(c) Amended and Restated Certificate of Incorporation and Amended and Restated Bylaws. At or prior to the Distribution Time, (i) L Brands and VS shall each take (or shall have taken) all necessary action that may be required to provide for the adoption by VS of an amended and restated certificate of incorporation of VS, substantially in the form of Exhibit J (the “**Amended and Restated Certificate of Incorporation**”), and amended and restated bylaws of VS, substantially in the form of Exhibit K (the “**Amended and Restated Bylaws**”), and (ii) VS shall file (or shall have filed) the Amended and Restated Certificate of Incorporation of VS with the Secretary of State of the State of Delaware.

(d) The Distribution Agent. At or prior to the Distribution Time, L Brands shall enter (or shall have entered) into a distribution agent agreement with the Distribution Agent or otherwise provide instructions to the Distribution Agent regarding the Distribution.

(e) Directors and Officers. L Brands and VS shall take all necessary actions so that as of the Distribution Time: (i) the directors and executive officers of VS shall be those set forth in the Information Statement made available to the holders of L Brands Common Stock as of the Record Date prior to the Distribution Date, unless otherwise agreed by the Parties; (ii) each individual referred to in clause (i) shall have resigned from his or her position, if any, as a member of the Board of Directors of L Brands or as an executive officer of L Brands; and (iii) VS shall have such other officers as VS shall appoint.

(f) Satisfying Conditions to the Distribution. L Brands and VS shall cooperate (or shall have cooperated) to cause the conditions to the Distribution set forth in Section 3.01 to be satisfied (or waived by L Brands) and to effect the Distribution at the Distribution Time upon such satisfaction (or waiver by L Brands).

Section 2.03. Transfers of Certain Other Assets and Liabilities. Unless otherwise provided in this Agreement or in any Ancillary Agreement and to the extent not previously effected pursuant to Section 2.02(a), effective as of the Distribution Time:

(a) L Brands hereby agrees, and hereby causes the relevant member of the L Brands Group, to assign, contribute, convey, transfer and deliver (or shall have assigned, contributed, conveyed, transferred and delivered) to VS or any member of the VS Group as of the Distribution Time designated by VS (a “**VS Designee**”) all of the right, title and interest of L Brands or such member of the L Brands Group in and to all of the VS Assets, if any, held by any member of the L Brands Group, and L Brands and VS hereby agree, and hereby cause the relevant member of the VS Group, to assign, contribute, convey, transfer and deliver to L Brands or any member of the L Brands Group as of the Distribution Time designated by L Brands (a “**L Brands Designee**”) all of the right, title and interest of VS or such member of the VS Group in and to all of the L Brands Assets, if any, held by any member of the VS Group; and

(b) L Brands hereby agrees, and hereby causes the relevant member of the L Brands Group, to assign, contribute, convey, transfer and deliver (or shall have assigned, contributed, conveyed, transferred and delivered) to VS, and VS, on behalf of itself or such VS Designee, hereby accepts, assumes and agrees to perform, discharge and fulfill, all of the VS Liabilities, if any, and L Brands and VS hereby agree, and hereby cause the relevant member of the VS Group, to assign, contribute, convey, transfer and deliver (or shall have assigned, contributed, conveyed, transferred and delivered) to L Brands, and L Brands, on behalf of itself or such L Brands Designee, hereby accepts, assumes and agrees to perform, discharge and fulfill, all of the L Brands Liabilities, if any.

(c) To the extent any assignment, contribution, conveyance, transfer, delivery or assumption of any asset or Liability of either Group as of the Distribution Time is not effected in accordance with this Section 2.03 as of the Distribution Time for any reason (including as a result of the failure of the Parties to identify it as being required to be transferred pursuant to this Section 2.03, but subject to Section 2.04 and Section 2.06), the relevant Party shall transfer such asset or Liability as promptly thereafter as practicable.

Section 2.04. Restructuring Agreements. The transfers of the various entities and the contribution, assignment, transfer, conveyance and delivery of the assets and the acceptance and assumption of the Liabilities contemplated by Section 2.03 and the Restructuring Plan will be effected, in certain cases, pursuant to one or more asset transfer agreements, share transfer agreements, business transfer agreements, certificates of demerger and merger and other agreements and instruments (the “**Restructuring Agreements**”); *provided* that, in each case, it is intended that the Restructuring Agreements shall serve purely to effect (i) the legal transfer of the VS Assets or L Brands Assets to the VS Group or the L Brands Group, as applicable, in accordance with the Restructuring Plan or as contemplated pursuant to Section 2.03 and (ii) the acceptance and assumption of the VS Liabilities or the L Brands Liabilities by a member of the VS Group or the L Brands Group, as applicable, in each case, in accordance with the Restructuring Plan or as contemplated pursuant to Section 2.03. Notwithstanding anything in any Restructuring Agreement to the contrary, neither L Brands nor any member of the L Brands Group, on the one hand, nor VS nor any member of the VS Group, on the other hand, shall commence, bring or otherwise initiate any Action under any Restructuring Agreement challenging the legal sufficiency of such Restructuring Agreement.

Section 2.05. Shared Contracts. (a) Any Contract to be assigned, contributed, conveyed, transferred and delivered to VS in accordance with the Restructuring Plan or as contemplated pursuant to Section 2.03 that does not exclusively relate to the VS Business (each, a “**Shared Contract**”) shall be assigned, contributed, conveyed, transferred and delivered only with respect to (and preserving the meaning of) those parts that relate to the VS Business, to a member of the VS Group, if so assignable, conveyable or transferrable, or appropriately amended (including by entering into a new agreement) prior to, on or after the Distribution Date, so that a member of the VS Group shall be entitled to the rights and benefit of those parts of such Shared Contract that relate to the VS Business and shall assume the related Liabilities with respect to such Shared Contract, as contemplated by Section 2.03; *provided* that (i) in no event shall any Person be required to assign, contribute, convey, transfer or deliver (or so amend), either in whole or in part, any Shared Contract that is not assignable (or cannot be amended) by its terms without the consent or approval of any other Person and (ii) if any Shared Contract cannot be so partially assigned by its terms or otherwise, or cannot be so amended, without such consent or approval, until such time that such consent or approval is obtained, L Brands will cooperate with VS to establish an agency type or other similar arrangement reasonably satisfactory to L Brands and VS intended to both (A) provide a member of the VS Group, to the fullest extent practicable under such Shared Contract, the claims, rights and benefits of those parts that relate to the VS Business and (B) cause such member of the VS Group to bear the related Liabilities thereunder from and after the Distribution in accordance with this Agreement (including by means of any subcontracting, sublicensing or subleasing arrangement) and in furtherance of the foregoing, VS shall, or shall cause another member of the VS Group to, promptly pay, perform or discharge when due any such Liability arising after the Distribution Time, which shall constitute VS Liabilities for purposes of this Agreement. Nothing in this Section 2.05 shall require any member of the L Brands Group or the VS Group to incur any non-*de minimis* obligation or grant any non-*de minimis* concession in order to effect any transaction contemplated by this Section 2.05.

(b) For so long as any member of the L Brands Group is party to any Shared Contract and provides any member of the VS Group any claims, rights and benefits of any such Shared Contract pursuant to an arrangement described in Section 2.05(a), such member of the VS Group shall indemnify the L Brands Indemnitees against and shall hold each of them harmless from any and all Liabilities incurred or suffered by any of the L Brands Indemnitees arising out of or in connection with such member of the L Brands Group's post-Distribution direct or indirect ownership, management or operation of any such Shared Contract (to the extent that such Liabilities relate to the VS Business).

Section 2.06. *Agreement Relating To Consents Necessary To Transfer Assets and Liabilities.* Notwithstanding any provision of this Agreement to the contrary, this Agreement shall not constitute an agreement to transfer or assign any asset (including any Contract) or any claim or right or any benefit arising thereunder or resulting therefrom, or to assume any Liability, if such transfer, assignment, or assumption without the consent of a Third Party or a Governmental Authority, would result in a breach, or constitute a default (or an event which, with the giving of notice or lapse of time, or both, would become a default), under any Contract, would otherwise adversely affect the rights of a member of the L Brands Group or the VS Group thereunder or would violate any Applicable Law. L Brands and VS will use their respective commercially reasonable efforts to obtain the consent of any Third Party (including any Governmental Authority), if any, required in connection with the transfer, assignment or assumption pursuant to Section 2.03 of any such asset or any such claim or right or benefit arising thereunder or to the assumption of any Liability; *provided* that in no event shall any member of a Group have any Liability whatsoever to any member of the other Group for any failure to obtain any such consent. If and when such consent is obtained, such transfer, assignment and assumption shall be effected in accordance with the terms of this Agreement and the applicable Ancillary Agreement. During the period in which any transfer, assignment or assumption is delayed pursuant to this Section 2.06 as a result of the absence of a required consent, the Party (or relevant member in its Group) retaining such asset, claim or right shall thereafter hold (or shall cause such member in its Group to hold) such asset, claim or right for the use and benefit of the Party (or relevant member in its Group) entitled thereto (at the expense of the Person entitled thereto) and the Party intended to assume such Liability shall, or shall cause the applicable member of its Group to, pay, hold harmless or reimburse the Party (or the relevant member of its Group) retaining such Liability for all amounts paid, incurred in connection with or arising out of the retention of such Liability. In addition, the Party retaining such asset, claim or right, or such Liability (or relevant member of its Group) shall (or shall cause such member in its Group to), insofar as reasonably possible and to the extent permitted by Applicable Law, take such actions as may be reasonably requested by the Party to which such asset, claim or right, or such Liability, is to be transferred or assumed in order to place such Party, insofar as reasonably possible, in the same position as if such asset, claim or right, or such Liability, had been transferred or assumed on or prior to the Distribution Time as contemplated hereby and so that all the benefits and burdens relating to such asset, claim or right, or such Liability, including possession, use, risk of loss, potential for gain, and dominion, control and command over such asset, claim or right, or such Liability, are to inure from and after the Distribution Time to the relevant member of the L Brands Group or the VS Group, as the case may be, entitled to the receipt of such asset, claim or right, or required to assume such Liability. Nothing in this Section 2.06 shall require any member of the L Brands Group or the VS Group to incur any non-*de minimis* obligation or grant any non-*de minimis* concession in order to effect any transaction contemplated by this Section 2.06.

Section 2.07. *Intercompany Accounts.* The Parties shall settle or extinguish on or prior to the Distribution Date all intercompany receivables, payables and other balances, in each case, that arise prior to the Distribution Time between members of the L Brands Group, on the one hand, and members of the VS Group, on the other hand (“**Intercompany Accounts**”), in each case without any further Liability of any member of the L Brands Group to any member of the VS Group thereunder, or any further Liability of any member of the VS Group to any member of the L Brands Group thereunder.

Section 2.08. *Intercompany Agreements.* (a) Except as set forth in Section 2.08(b), all Contracts between members of the L Brands Group, on the one hand, and members of the VS Group, on the other hand, in effect immediately prior to the Distribution are hereby agreed by L Brands (on behalf of itself and each member of the L Brands Group) and by VS (on behalf of itself and each member of the VS Group) to be terminated, cancelled and of no further force and effect from and after the Distribution Time (including any provision thereof that purports to survive termination) without any further Liability to any party thereto. Each Party shall, at the reasonable request of the other Party, take, or cause to be taken, such other actions as may be necessary to effect the foregoing.

(a) The provisions of Section 2.08(a) shall not apply to any of the following Contracts: (i) this Agreement and the Ancillary Agreements (and each other Contract expressly contemplated by this Agreement or any Ancillary Agreement (A) to be entered into by any of the Parties or any of the members of their respective Groups or (B) to survive after the Distribution Time); (ii) any Contract to which any Person, other than solely the Parties and the members of their respective Groups is a party; (iii) the Contracts set forth on Schedule 2.08(b); (iv) any Shared Contracts; and (v) the Intercompany Accounts, which shall be settled in the manner contemplated by Section 2.07.

Section 2.09. Bank Accounts; Cash Balances.

(a) L Brands and VS shall, and shall cause the members of their respective Groups to, use reasonable best efforts such that, on or prior to the Distribution Time, the L Brands Group and the VS Group maintain separate bank accounts and separate cash management processes. Without limiting the generality of the foregoing, L Brands and VS shall use reasonable best efforts to, and shall cause the members of their respective Groups to use reasonable best efforts to, effective prior to the Distribution Time, (i) remove and replace the signatories of any bank or brokerage account owned by VS or any other member of the VS Group as of the Distribution Time with individuals designated by VS and (ii) if requested by L Brands, remove and replace the signatories of any bank or brokerage account owned by L Brands or any other member of the L Brands Group as of the Distribution Time with individuals designated by L Brands.

(b) With respect to any outstanding checks issued or payments initiated by L Brands, VS, or any of their respective Subsidiaries prior to the Distribution Time, such outstanding checks and payments shall be honored following the Distribution by the Person or Group owning the account from which the payment was initiated, and such Person or Group owning such account shall not have any claim with respect to such check or payment from the members of the other Group.

(c) As between L Brands and VS (and the members of their respective Groups) all payments received after the Distribution Time by either Party (or member of its Group) that relate to a business, asset or Liability of the other Party (or member of its Group), shall be held by such Party for the use and benefit and at the expense of the Party entitled thereto. Each Party shall maintain an accounting of any such payments, and the Parties shall have a monthly reconciliation, whereby all such payments received by each Party are calculated and the net amount owed to L Brands or VS, as applicable, shall be paid over with a mutual right of set-off. If at any time the net amount owed to either Party exceeds \$500,000, an interim payment of such net amount owed shall be made to the Party entitled thereto within five (5) Business Days of such amount exceeding \$500,000. Notwithstanding the foregoing, neither L Brands nor VS shall act as collection agent for the other Party, nor shall either Party act as surety or endorser with respect to non-sufficient funds checks or funds to be returned in a bankruptcy or fraudulent conveyance action.

Section 2.10. Replacement of Guarantees. (a) L Brands and VS shall each use commercially reasonable efforts to, and shall cause the members of their respective Groups to use commercially reasonable efforts to, effective as of the Distribution Time, terminate or cause a member of the VS Group to be substituted in all respects for a member of the L Brands Group with respect to, and for the members of the L Brands Group, as applicable, to be otherwise removed or released from, all obligations under the agreements set forth on Schedule 2.10(a) and under any guarantee, customs, workers compensation, performance or surety bond, letter of credit, letter of comfort or similar credit or performance support arrangement (each of the foregoing agreements, guarantees, bonds, letters and arrangements, a “**Guarantee**”), given or obtained by any member of the L Brands Group for the benefit of any member of the VS Group or the VS Business. To the extent required to obtain such a substitution, release or removal, VS shall execute a guarantee or other agreement in the form of the existing Guarantee or such other form as is agreed to by the relevant parties to such guarantee or other agreement, which agreement shall include the removal of any security interest on or in any asset of L Brands that may serve as collateral or security for any VS Liability. If L Brands and VS have been unable to effect any such substitution, removal, release and termination with respect to any such Guarantee as of the Distribution Time, then, following the Distribution Time, (i) the Parties shall cooperate to effect such substitution, removal, release and termination as soon as reasonably practicable after the Distribution Time, (ii) VS shall and shall cause the members of the VS Group to, from and after the Distribution Time, indemnify against, hold harmless and promptly reimburse the members of the L Brands Group for any payments made by members of the L Brands Group and for any and all Liabilities of the members of the L Brands Group arising out of, or in performing, in whole or in part, any obligation under any such Guarantee, and (iii) without the prior written consent of L Brands, no member of the VS Group may renew, extend the term of, increase any obligations under, or transfer to a Third Party, any Liability for which any member of the L Brands Group is or might be liable pursuant to an applicable Guarantee unless such Guarantee, and all applicable obligations of the members of the L Brands Group with respect thereto, are thereupon terminated pursuant to documentation in form and substance reasonably acceptable to L Brands.

(b) With respect to the obligations of any member of the L Brands Group under the guarantee identified as the “Specified Guarantee” set forth on Schedule 2.10(b) (the “**Specified Guarantee**”), and without limiting VS’s obligations under Section 2.10(a), (i) VS shall cause the members of the VS Group not to (A) amend or modify the agreement (as amended) that is the subject of the Specified Guarantee in a manner that would adversely affect the release of the Specified Guarantee or (B) cause or create any breach or default under such agreement during the thirty (30)-day period from and after the Distribution Time, and (ii) VS shall cause the members of the VS Group to take all actions reasonably requested by L Brands to cause the conditions for the release of the Specified Guarantee to be satisfied, and will not take any action from and after the Distribution Time that may reasonably be expected to cause the conditions for the release of the Specified Guarantee not to be satisfied, or that would reasonably be expected to cause the release of the Specified Guarantee to be invalid after the Distribution Time.

Section 2.11. Further Assurances and Consents. In addition to the actions specifically provided for elsewhere in this Agreement, each of the Parties shall use its reasonable best efforts to take, or cause to be taken, all actions, and to do, or cause to be done, all things, reasonably necessary, proper or advisable under Applicable Law or applicable agreements or otherwise to consummate and make effective any transfers of assets, assignments and assumptions of Liabilities and any other transactions contemplated hereby, including using its reasonable best efforts to obtain any consents and approvals and to make any filings and applications necessary or desirable in order to consummate the transactions contemplated by this Agreement; *provided* that in no event shall any member of a Group have any Liability whatsoever to any member of the other Group for any failure to obtain any such consent or approval. Nothing in this Section 2.11 shall require any member of the L Brands Group or the VS Group to incur any non-*de minimis* obligation or grant any non-*de minimis* concession in order to effect any transaction contemplated by this Section 2.11.

ARTICLE 3
DISTRIBUTION

Section 3.01. Conditions Precedent to Distribution. (a) In no event shall the Distribution occur unless each of the following conditions shall have been satisfied (or waived by L Brands in its sole discretion):

- (i) the Restructuring, including the Contribution and the Special Cash Payment, shall have been completed;
- (ii) the VS Financing Transactions shall have been consummated and L Brands shall be satisfied in its sole and absolute discretion that, as of the Distribution Time, it shall have no Liability whatsoever under the VS Financing Transactions;
- (iii) the Board of Directors of L Brands shall have approved the Distribution and shall not have abandoned the Distribution or terminated this Agreement at any time prior to the Distribution;
- (iv) the Form 10 shall have been filed with the Commission and declared effective by the Commission, no stop order suspending the effectiveness of the Form 10 shall be in effect, no proceedings for such purpose shall be pending before or threatened by the Commission, and the Information Statement, or a notice of Internet availability thereof, shall have been mailed to holders of the L Brands Common Stock as of the Record Date;
- (v) all actions and filings necessary or appropriate under applicable federal, state or foreign securities or “blue sky” laws and the rules and regulations thereunder shall have been taken or made and, where applicable, become effective or been accepted;

(vi) the VS Common Stock to be delivered in the Distribution shall have been approved for listing on the NYSE, subject to official notice of issuance;

(vii) the Board of Directors of VS, as named in the Information Statement, shall have been duly elected, and the Amended and Restated Certificate of Incorporation and the Amended and Restated Bylaws, each in substantially the form filed as an exhibit to the Form 10, shall be in effect;

(viii) each of the Ancillary Agreements shall have been duly executed and delivered by the parties thereto;

(ix) L Brands shall have received the Tax Opinion (which shall not have been revoked or modified in any material respect) that is reasonably satisfactory to L Brands confirming that (A) the Contribution, the Special Cash Payment and the Distribution, taken together, will qualify as a “reorganization” within the meaning of Section 368(a)(1)(D) of the Code, (B) the Distribution will qualify as a tax-free transaction under Sections 355(a) and 361(c) of the Code and (C) the L Brands Cash Distribution should qualify as money distributed to L Brands creditors or stockholders in connection with the reorganization for purposes of Section 361(b) of the Code;

(x) an independent nationally recognized valuation advisory firm acceptable to L Brands shall have delivered one or more opinions to the Board of Directors of L Brands concerning the solvency and capital adequacy matters relating to each of (A) L Brands and its Group prior to the consummation of the Distribution and (B) L Brands and its Group and VS and its Group after consummation of the Distribution, and such opinions shall be acceptable in form and substance to the Board of Directors of L Brands in its sole and absolute discretion and such opinions shall not have been withdrawn or rescinded;

(xi) no Applicable Law shall have been adopted, promulgated or issued, and be in effect, that prohibits the consummation of the Distribution or any of the other transactions contemplated hereby or in an Ancillary Agreement;

(xii) any material governmental approvals and consents and any material permits, registrations and consents from Third Parties, in each case, necessary to effect the Distribution shall have been obtained; and

(xiii) no event or development shall have occurred or exist that, in the judgment of the Board of Directors of L Brands, in its sole discretion, makes it inadvisable to effect the Distribution or the other transactions contemplated hereby or in an Ancillary Agreement.

(b) Each of the conditions set forth in Section 3.01(a) is for the sole benefit of L Brands and shall not give rise to or create any duty on the part of L Brands or its Board of Directors to waive or not to waive any such condition or to effect the Distribution, or in any way limit L Brands' rights of termination as set forth in Section 6.12 or alter the consequences of any termination from those specified in Section 6.12. Any determination made by L Brands on or prior to the Distribution concerning the satisfaction or waiver of any or all of the conditions set forth in this Section 3.01 shall be conclusive and binding on the Parties and all other affected Persons.

Section 3.02. The Distribution. (a) L Brands shall, in its sole discretion, determine the Distribution Date and all terms of the Distribution, including the timing of the consummation of all or part of the Distribution. L Brands may, at any time and from time to time until the consummation of the Distribution, modify or change the terms of the Distribution including by accelerating or delaying the timing of the consummation of all or part of the Distribution. For the avoidance of doubt, nothing in this Agreement shall in any way limit L Brands' right to terminate this Agreement or the Distribution as set forth in Section 6.12 or alter the consequences of any such termination from those specified in Section 6.12.

(a) Subject to the terms and conditions set forth in this Agreement, (i) on or prior to the Distribution Date, L Brands shall take such steps as are reasonably necessary or appropriate to permit the Distribution by the Distribution Agent of validly issued, fully paid and non-assessable shares of VS Common Stock, registered in book-entry form through the registration system, (ii) the Distribution shall be effective at the Distribution Time, and (iii) subject to Section 3.03, L Brands shall instruct the Distribution Agent to distribute, on or as soon as practicable after the Distribution Date, to each holder of record of L Brands Common Stock as of the Record Date, by means of a *pro rata* dividend, one (1) share of VS Common Stock for every three (3) shares of L Brands Common Stock so held. VS will not issue paper stock certificates in respect of the VS Common Stock. Following the Distribution Date, VS agrees to provide all book-entry transfer authorizations for shares of VS Common Stock that L Brands or the Distribution Agent shall require (after giving effect to Section 3.03) in order to effect the Distribution.

(b) Until the VS Common Stock is duly transferred in accordance with this Article 3 and Applicable Law, from and after the Distribution Time, VS will regard the Persons entitled to receive such VS Common Stock as record holders of VS Common Stock in accordance with the terms of the Distribution without requiring any action on the part of such Persons. VS agrees that, subject to any transfers of such shares, from and after the Distribution Time (i) each such holder will be entitled to receive all dividends, if any, payable on, and exercise voting rights and all other rights and privileges with respect to, the shares of VS Common Stock then held by such holder, and (ii) each such holder will be entitled, without any action on the part of such holder, to receive evidence of ownership of the shares of VS Common Stock then held by such holder.

Section 3.03. Fractional Shares. No fractional shares of VS Common Stock will be delivered in the Distribution. The Distribution Agent will be directed to determine (based on the aggregate number of shares held by each holder) the number of whole shares and the fractional share of VS Common Stock allocable to each holder of L Brands Common Stock as of the Record Date. Upon the determination by the Distribution Agent of such numbers of whole shares and fractional shares, as soon as practicable on or after the Distribution Date, the Distribution Agent, acting on behalf of the holders thereof, shall aggregate the fractional shares into whole shares and shall sell the whole shares obtained thereby for cash on the open market (with the Distribution Agent, in its sole discretion, determining when, how and through which broker-dealer(s) and at which price(s) to make such sales) and shall thereafter promptly remit to each such holder entitled thereto (*pro rata* based on the fractional share such holder would have been entitled to receive in the Distribution) the resulting aggregate cash proceeds, after making appropriate deductions of the amounts required to be withheld for United States federal income tax purposes, if any, and after deducting an amount equal to all brokerage fees and commissions, transfer taxes and other costs attributed to the sale of shares pursuant to this Section 3.03. Neither L Brands nor VS will be required to guarantee any minimum sale price for the fractional shares. Neither the Distribution Agent nor the broker-dealers through which the aggregated fractional shares are sold shall be Affiliates of L Brands or VS. Recipients of cash in lieu of fractional shares will not be entitled to any interest on the amounts of payments made in lieu of fractional shares.

Section 3.04. NO REPRESENTATIONS OR WARRANTIES. EXCEPT AS EXPRESSLY SET FORTH HEREIN OR IN ANY OTHER DISTRIBUTION DOCUMENT, NO MEMBER OF EITHER GROUP MAKES ANY REPRESENTATION OR WARRANTY OF ANY KIND WHATSOEVER, EXPRESS OR IMPLIED, TO ANY MEMBER OF THE OTHER GROUP OR ANY OTHER PERSON WITH RESPECT TO ANY OF THE TRANSACTIONS OR MATTERS CONTEMPLATED HEREBY OR IN ANY OTHER DISTRIBUTION DOCUMENT (INCLUDING WITH RESPECT TO THE BUSINESS, ASSETS, LIABILITIES, CONDITION OR PROSPECTS (FINANCIAL OR OTHERWISE) OF, OR ANY OTHER MATTER INVOLVING, EITHER BUSINESS, OR THE SUFFICIENCY OF ANY ASSETS TRANSFERRED OR LICENSED TO THE APPLICABLE GROUP, OR ANY CONSENTS OR APPROVALS REQUIRED IN CONNECTION WITH SUCH TRANSFER OR LICENSE OR THE TITLE TO ANY SUCH ASSETS, OR THE VALUE OR FREEDOM FROM ANY SECURITY INTERESTS OF, OR ANY OTHER MATTER CONCERNING, ANY SUCH ASSETS, OR THAT ANY REQUIREMENTS OF APPLICABLE LAW ARE COMPLIED WITH WITH RESPECT TO THE RESTRUCTURING OR THE DISTRIBUTION, OR THE ABSENCE OF ANY DEFENSES OR RIGHT OF SETOFF OR FREEDOM FROM COUNTERCLAIM WITH RESPECT TO ANY CLAIM OR OTHER ASSET, INCLUDING ANY ACCOUNTS RECEIVABLE, OF ANY PARTY). EXCEPT AS EXPRESSLY SET FORTH HEREIN OR IN ANY OTHER DISTRIBUTION DOCUMENT, EACH MEMBER OF EACH GROUP SHALL TAKE ALL OF THE BUSINESS, ASSETS AND LIABILITIES TRANSFERRED OR LICENSED TO OR ASSUMED BY IT PURSUANT TO THIS AGREEMENT OR ANY DISTRIBUTION DOCUMENT ON AN "AS IS, WHERE IS" BASIS, AND ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A SPECIFIC PURPOSE OR OTHERWISE ARE HEREBY EXPRESSLY DISCLAIMED AND THE RESPECTIVE TRANSFEREES SHALL BEAR THE ECONOMIC AND LEGAL RISKS THAT (I) ANY CONVEYANCE WILL PROVE TO BE INSUFFICIENT TO VEST IN THE TRANSFEREE GOOD AND MARKETABLE TITLE, FREE AND CLEAR OF ANY SECURITY INTEREST, AND (II) ANY NECESSARY APPROVALS OR NOTIFICATIONS ARE NOT OBTAINED OR MADE OR THAT ANY REQUIREMENTS OF LAWS OR JUDGMENTS ARE NOT COMPLIED WITH.

Section 4.01. *Access to Information.*

(a) For a period of seven (7) years after the Distribution Date, each Group shall afford promptly the other Group and its agents and, to the extent required by Applicable Law, authorized representatives of any Governmental Authority of competent jurisdiction, reasonable access (which shall include, to the extent reasonably requested, the right to make copies) during normal business hours to its books of account, financial and other records (including accountant's work papers, to the extent any required consents have been obtained), information (excluding any Commercial Data), employees and auditors to the extent necessary or useful for such other Group in connection with any audit, investigation, dispute or litigation, complying with their obligations under this Agreement or any Ancillary Agreement, any regulatory proceeding, any regulatory filings, complying with reporting disclosure requirements or any other requirements imposed by any Governmental Authority or any other reasonable business purpose of the Group requesting such access that relates to such Group's assets or Liabilities; *provided* that (i) any such access shall not unreasonably interfere with the conduct of the business of the Group providing such access and (ii) if any Party reasonably determines that affording any such access to the other Party would be commercially detrimental in any material respect or violate any Applicable Law or agreement to which such Party or member of its Group is a party, or waive any Privilege applicable to such Party or any member of its Group, the Parties shall use commercially reasonable efforts to permit the compliance with such request in a manner that avoids any such harm or consequence. The Party providing information pursuant to this Section 4.01 shall only be obligated to provide such information in the form, condition and format in which it then exists, and in no event shall such Party be required to perform any improvement, modification, conversion, updating or reformatting of any such information.

(b) Without limiting the generality of the foregoing, until the end of the first full VS fiscal year occurring after the Distribution Date (and for a reasonable period of time afterwards as required for each Party to prepare consolidated financial statements or complete a financial statement audit for the fiscal year during which the Distribution Date occurs), each Party shall use its commercially reasonable efforts to cooperate with the other Party's information requests (other than with respect to any Commercial Data) to enable (i) the other Party to meet its timetable for dissemination of its earnings releases, financial statements and management's assessment of the effectiveness of its disclosure controls and procedures and its internal control over financial reporting in accordance with Items 307 and 308, respectively, of Regulation S-K promulgated under the Exchange Act; and (ii) the other Party's auditors to timely complete their review of the quarterly financial statements and audit of the annual financial statements, including, to the extent applicable to such Party, its auditor's audit of its internal control over financial reporting and management's assessment thereof in accordance with Section 404 of the Sarbanes-Oxley Act of 2002, the Commission's and the Public Company Accounting Oversight Board's rules and auditing standards thereunder and any other Applicable Law.

Section 4.02. *Litigation Cooperation.* (a) After the Distribution Time (except in the case of a dispute between L Brands and VS, or any members of their respective Groups), each Group shall use commercially reasonable efforts to make available to the other Group and its attorneys, accountants, consultants and other designated representatives, upon written request, its directors, officers, employees and representatives as witnesses and any books, records or other documents within its control or which it otherwise has the ability to make available without undue burden, to the extent that any such person (giving consideration to business demands of such directors, officers, employees and representatives) or books, records or other documents may reasonably be required in connection with any Action in which the requesting Party (or member of its Group) may from time to time be involved, regardless of whether such Action is a matter with respect to which indemnification may be sought hereunder.

(a) Notwithstanding the foregoing, this Section 4.02 shall not require the Party to whom any request pursuant to Section 4.02(a) has been made to make available Persons or information if such party determines that doing so would, in the reasonable good faith judgment of such party, reasonably be expected to result in any violation of any Applicable Law or agreement or adversely affect its ability to successfully assert a claim of Privilege under Applicable Law; *provided* that the Parties shall use commercially reasonable efforts to cooperate in seeking to find a way to permit compliance with such obligations to the extent and in a manner that avoids such consequence.

Section 4.03. Reimbursement. Each Group providing information or witnesses to the other Group or otherwise incurring any out-of-pocket expense in connection with cooperating under Section 4.01 or Section 4.02 shall be entitled to receive from the recipient thereof, upon the presentation of invoices therefor, payment for all reasonable and documented out-of-pocket costs and expenses (including outside attorney's fees but excluding reimbursement for general overhead, salary and employee benefits) actually incurred in providing such access, information, witnesses or cooperation.

Section 4.04. Ownership of Information. All information owned by one Party (or a member of its Group) that is provided to the other Party (or a member of its Group) under Section 4.01 or Section 4.02 shall be deemed to remain the property of the providing Party. Unless specifically set forth herein or in any Ancillary Agreement, nothing contained in this Agreement shall be construed to grant or confer rights of license or otherwise in any such information.

Section 4.05. Retention of Records. Except as otherwise required by Applicable Law or agreed to in writing, for a period of two (2) years following the Distribution Date, each Party shall, and shall cause the members of its Group to, retain any and all information in its possession or control relating to the other Group's Business in accordance with the document retention practices of L Brands as in effect as of the date hereof. Neither Party shall destroy, or permit the destruction, or otherwise dispose, or permit the disposal, of any such information, subject to such retention practice, unless, prior to such destruction or disposal, the Party proposing (or whose Group member is proposing) such destruction or disposal (the "**Disposing Party**") provides not less than thirty (30) days' prior written notice to the other Party (the "**Receiving Party**"), specifying the information proposed to be destroyed or disposed of and the scheduled date for such destruction or disposal. If the Receiving Party shall request in writing prior to the scheduled date for such destruction or disposal that any of the information proposed to be destroyed or disposed of be delivered to the Receiving Party, the Disposing Party shall promptly arrange for the delivery of such of the information as was requested at the expense of the Receiving Party; *provided* that, if the Disposing Party reasonably determines that any such provision of information would violate any Applicable Law or agreement to which such Party or member of its Group is a party, or waive any Privilege applicable to such Party or any member of its Group, the Parties shall use commercially reasonable efforts to permit the prompt compliance with such request in a manner that avoids any such harm or consequence. Any records or documents that were subject to a litigation hold prior to the Distribution Date must be retained by the applicable Party until such Party or member of its Group is notified by the other Party that the litigation hold is no longer in effect.

Section 4.06. Confidentiality. Each Party acknowledges that it or a member of its Group may have in its possession, and, in connection with this Agreement and the Ancillary Agreements, may receive, Confidential Information of the other Party or any member of its Group (including information in the possession of such other Party relating to its clients or customers). Each Party shall hold and shall cause its directors, officers, employees, agents, consultants and advisors (“**Representatives**”) and the members of its Group and their Representatives to hold in strict confidence and not to use, with at least the same degree of care that applies to L Brands’ confidential and proprietary information pursuant to policies in effect as of the Distribution Time, except as permitted by this Agreement or any Ancillary Agreement, all such Confidential Information concerning the other Group except to the extent (i) such Party or any of the members of its Group or its or their Representatives is compelled to disclose such Confidential Information by judicial or administrative process or by other requirements of Applicable Law, subject to the remainder of this Section 4.06 or (ii) such Confidential Information can be shown to have been (A) in the public domain through no fault of such Party or any of the members of its Group or its or their Representatives, (B) lawfully acquired after the Distribution Date on a non-confidential basis from other sources not known by such Party or any of the members of its Group to be bound by a confidentiality obligation or other contractual, legal or fiduciary obligation of confidentiality with respect to such information or (C) independently developed by such Party or any of the members of its Group or its or their Representatives without reference to or the use of any Confidential Information of the other Group. Notwithstanding the foregoing, such Party or member of its Group or its or their Representatives may disclose such Confidential Information to the members of its Group and its or their Representatives who need to know such information in their capacities as such so long as such Persons are informed by such Party of the confidential nature of such Confidential Information and are directed by such Party to treat such information confidentially. The obligation of each Party and the members of its Group and its and their Representatives to hold any such Confidential Information in confidence shall be satisfied if they exercise the same level of care with respect to such Confidential Information as they would with respect to their own proprietary information. If such Party or any of a member of its Group or any of its or their Representatives becomes legally compelled to disclose any documents or information subject to this Section 4.06, such Party will promptly notify the other Party and, upon request, use commercially reasonable efforts to cooperate with the other Party’s efforts to seek a protective order or other remedy. If no such protective order or other remedy is obtained or if the other Party waives in writing such Party’s compliance with this Section 4.06, such Party or the member of its Group or its or their Representatives may furnish only that portion of the information which it concludes, after consultation with counsel, is legally required to be disclosed and will exercise its commercially reasonable efforts to obtain reliable assurance that confidential treatment will be accorded such information. Each Party agrees to be responsible for any breach of this Section 4.06 by it, the members of its Group and its and their Representatives.

Section 4.07. Privileged Information. (a) The Parties recognize that legal and other professional services that have been provided prior to the Distribution (whether by outside counsel, in-house counsel or other legal professionals) have been and will be rendered for the collective benefit of each of the members of the L Brands Group and the VS Group, and that, except as set forth in Section 4.07(f), each of the members of the L Brands Group and the VS Group shall be deemed to be the client with respect to such services for the purposes of asserting all attorney-client privilege, the work product doctrine or common interest privilege (collectively, “**Privileges**”) which may be asserted under Applicable Law in connection therewith. Except as set forth in Section 4.07(f), the Parties agree that they shall have a shared privilege or immunity with respect to all Privileges. The Parties hereto acknowledge that members of the L Brands Group, on the one hand, and members of the VS Group, on the other hand, may possess documents or other information regarding the other Group that is or may be subject to Privileges (such documents and other information collectively, the “**Privileged Information**”). Each Party agrees to use commercially reasonable efforts to protect and maintain, and to cause their respective Affiliates to protect and maintain, any applicable claim to Privilege in order to prevent any of the other Group’s Privileged Information from being disclosed or used in a manner inconsistent with such Privilege without the other Party’s consent, including by executing joint defense or common interest agreements where necessary or useful for this purpose. Without limiting the generality of the foregoing, a Party and its Affiliates shall not, without the other Party’s prior written consent, (i) waive any Privilege with respect to any of the other Party’s or any member of its Group’s Privileged Information, (ii) fail to defend any Privilege with respect to any such Privileged Information, or (iii) fail to take any other actions reasonably necessary to preserve any Privilege with respect to any such Privileged Information.

(b) Upon receipt by a Party or any member of such Party’s Group of any subpoena, discovery or other request that calls for the production or disclosure of Privileged Information of the other Party or a member of its Group, or if a Party has knowledge that its or a member of its Group’s directors, officers, employees or representatives have received such a subpoena, discovery or other request, such Party shall promptly notify the other Party of the existence of the request and shall provide the other Party a reasonable opportunity to review the information and to assert any rights it or a member of its Group may have under this Section 4.07 or otherwise to prevent the production or disclosure of such Privileged Information. Each Party agrees that neither it nor any member of its Group will produce or disclose any information that may be covered by a Privilege of the other Party or a member of its Group under this Section 4.07 unless (i) the other Party has provided its written consent to such production or disclosure (which consent shall not be unreasonably withheld) or (ii) a court of competent jurisdiction has entered an order finding that the information is not entitled to protection under any applicable Privilege or otherwise requires disclosure of such information, in each case except as set forth in Section 4.07(f).

(c) Any furnishing of, or access or transfer of, any information pursuant to this Agreement is made in reliance on the agreement of L Brands and VS set forth in this Section 4.07 and in Section 4.06 to maintain the confidentiality of Privileged Information and to assert and maintain all applicable privileges and immunities. The Parties agree that their respective rights to any access to information, witnesses and other Persons, the furnishing of notices and documents and other cooperative efforts between the Parties contemplated by this Agreement, and the transfer of Privileged Information between the Parties and members of their respective Groups as needed pursuant to this Agreement, shall not be deemed a waiver of any privilege that has been or may be asserted under this Agreement or otherwise.

(d) In the event that any member of the L Brands Group and any member of the VS Group cooperate in the mutual defense of any Third Party Claim, such cooperation shall not constitute a waiver or qualification of such Party's right to assert and defend any applicable claim to Privilege.

(e) Each of the L Brands Group and the VS Group covenants and agrees that, following the Distribution Time, Davis Polk & Wardwell LLP or any other internal or external legal counsel currently representing the VS Group or any directors of the L Brands Group (each a "**Prior Company Counsel**") may serve as counsel to the L Brands Group and its Affiliates, or, with the prior written consent of L Brands (not to be unreasonably withheld, conditioned or delayed), the VS Group and its Affiliates, in connection with any matters arising under or related to this Agreement or the transactions contemplated by this Agreement or any Ancillary Agreement, including with respect to any Action, claim or obligation arising out of or related to this Agreement or any Ancillary Agreement or the transactions contemplated by this Agreement or any Ancillary Agreement, notwithstanding any representation by the Prior Company Counsel prior to the Distribution Time. The VS Group hereby irrevocably (i) waives any claim the VS Group has or may have that a Prior Company Counsel has a conflict of interest or is otherwise prohibited from engaging in such representation and (ii) covenants and agrees that, in the event that a dispute arises after the Distribution Time between the VS Group (or any of its Affiliates) and the L Brands Group (or any of its Affiliates), Prior Company Counsel may represent any member of the L Brands Group and any Affiliates thereof in such dispute even though the interests of such Person(s) may be directly adverse to the VS Group and even though Prior Company Counsel may have represented the VS Group in a matter substantially related to such dispute.

(f) Notwithstanding anything to the contrary in this Section 4.07, in the event of any adversarial Action between any member of the L Brands Group, on the one hand, and any member of the VS Group on the other hand, related to the transactions contemplated by this Agreement or any Ancillary Agreement, L Brands shall be entitled to control the assertion or waiver of all Privileges in connection with such matter and shall have the sole right to waive any Privilege in connection with such matter, without obtaining VS's consent pursuant to Section 4.07(a); *provided* that such waiver of Privilege shall be effective only as to the use of information with respect to the Action between the Parties or the applicable members of their respective Groups related to the transactions contemplated by this Agreement or any Ancillary Agreement, and shall not operate as a waiver of the Privilege with respect to any Third Party.

(g) Each of the VS Group and the L Brands Group hereby acknowledges and confirms that it has had the opportunity to review and obtain adequate information regarding the significance and risks of the waivers and other terms and conditions of this Section 4.07, including the opportunity to discuss with counsel such matters and reasonable alternatives to such terms. This Section 4.07 is for the benefit of the L Brands Group, the VS Group and Prior Company Counsel, and the L Brands Group, VS Group and Prior Company Counsel are intended third party beneficiaries of this Section 4.07. This Section 4.07 shall be irrevocable, and no term of this Section 4.07 may be amended, waived or modified, without the prior written consent of L Brands, VS and Prior Company Counsel. The covenants and obligations set forth in this Section 4.07 shall survive the Distribution Time indefinitely.

Section 4.08. *Limitation of Liability.* Except as otherwise provided in this Agreement, no Party shall have any liability to any other party in the event that any information, books or records exchanged or provided pursuant to this Agreement is found to be inaccurate or the requested information, books or records is not provided, in the absence of willful misconduct by the party requested to provide such information, books or records. No Party shall have any liability to any other party if any information, books or records is destroyed after commercially reasonable efforts by such Party to comply with the provisions of Section 4.05.

Section 4.09. *Other Agreements Providing for Exchange of Information.* The rights and obligations granted under this Article 4 are subject to any specific limitations, qualifications or additional provisions on the sharing, exchange, retention, rights to use, or confidential treatment of information set forth in any Ancillary Agreement. Notwithstanding anything in this Agreement to the contrary, (i) the Tax Matters Agreement shall govern the retention of Tax related records and the exchange of Tax related information and (ii) the Employee Matters Agreement shall govern the retention of employment and benefits related records. Any Party that receives, pursuant to a request for information in accordance with this Article 4, information that is not relevant to its request shall, at the request of the providing Party, (i) return it to the providing Party or, at the providing Party's request, destroy such information; and (ii) deliver to the providing Party written confirmation that such information was returned or destroyed, as the case may be, which confirmation shall be signed by an authorized representative of the requesting Party.

Section 4.10. L Brands Insurance. (a) From and after the Distribution Time, the members of the VS Group shall cease to be insured by the current and historical insurance policies or programs of L Brands or any of its Subsidiaries, whether provided by a third-party insurer, “captive insurer,” self-insurance or a co-insurance program (the “**L Brands Insurance Policies**”). From and after the Distribution Time, no member of the VS Group shall have any access, right, title or interest to or in any L Brands Insurance Policy (including to any claims or rights to make claims or any rights to proceeds).

(a) After the Distribution, VS shall promptly notify L Brands about any events, acts, errors, accidents, omissions, incidents, injuries or other forms of occurrences to the extent relating to any member of the VS Group or the properties, assets, business, operations, employees, officers or directors of any member of the VS Group that, in each case, occur prior to the Distribution (collectively, the “**Pre-Distribution Occurrences**”) and that could potentially be covered by a L Brands Insurance Policy that is an occurrence-based policy (which, for the avoidance of doubt, includes any claim relating to a Pre-Distribution Occurrence that is below the deductible or retention for such policy but could potentially be covered if it were above such deductible or retention), and L Brands shall use commercially reasonable efforts to (i) report such Pre-Distribution Occurrences to the applicable third-party insurance provider of such L Brands Insurance Policy, and (ii) to the extent such Pre-Distribution Occurrence is covered by such L Brands Insurance Policy, file a claim for such Pre-Distribution Occurrence under such L Brands Insurance Policy. All (i) insurance claims relating to Pre-Distribution Occurrences that have been filed by L Brands or any of its Subsidiaries prior to the Distribution under a L Brands Insurance Policy (including those filed under L Brands Insurance Policies that are claims-made policies), and (ii) insurance claims relating to Pre-Distribution Occurrences that are filed by L Brands or any of its Subsidiaries after the Distribution under a L Brands Insurance Policy that is an occurrence-based policy (the filed insurance claims in clauses (i) and (ii) collectively, the “**L Brands Insurance Claims**”), shall be retained by L Brands and shall be L Brands Liabilities; *provided* that in no event shall, pursuant to this Section 4.10(b), the L Brands Liabilities include any underlying fact, circumstance or event related to a L Brands Insurance Claim, or any Liability relating to such underlying fact, circumstance, event or Liability (unless such underlying fact, circumstance or event is otherwise an L Brands Liability). After the Distribution, L Brands and its Subsidiaries shall have the sole responsibility for, and the sole right to, handle the claims administration for each L Brands Insurance Claim, including claims handling and resolution, defense costs, payments to claimants, deductibles and retentions, as applicable, under the terms and conditions of each L Brands Insurance Policy, discussions or negotiations with insurers and the control of any Action relating to any L Brands Insurance Claim. All proceeds paid or payable under a L Brands Insurance Policy shall be L Brands Assets. VS shall and shall cause the members of the VS Group to cooperate with L Brands with respect to the L Brands Insurance Claims, including in the investigation and pursuit of any L Brands Insurance Claim, comply with the terms of the L Brands Insurance Policies with respect to the L Brands Insurance Claims, provide such information as is reasonably requested by L Brands in connection with the L Brands Insurance Claims and, upon L Brands’ request, assign the L Brands Insurance Claims to L Brands or its Subsidiary.

Section 4.11. Intellectual Property License.

(a) Effective from and after the Distribution Time, L Brands (on behalf of itself and its Subsidiaries) hereby grants the VS Group a non-exclusive, worldwide, perpetual, irrevocable, fully paid-up, royalty-free, non-transferable, non-sublicensable (except as set forth in Section 4.11(d)) license under the Intellectual Property Rights (other than any and all Trademarks, formulas, Commercial Data and Personal Information) (i) that are owned by the L Brands Group as of the Distribution Time and (ii) that have been used or held for use in the VS Business on or prior to the Distribution Time but are not included in the VS Assets, in each case, to use, reproduce, create derivative works of, modify, distribute, make, have made, sell, offer for sale, import or otherwise commercially exploit products and services solely in connection with the operation of the VS Business.

(b) Effective from and after the Distribution Time, VS (on behalf of itself and its Subsidiaries) hereby grants the L Brands Group a non-exclusive, worldwide, perpetual, irrevocable, fully paid-up, royalty-free, non-transferable, non-sublicensable (except as set forth in Section 4.11(d)) license under the VS IP (other than any and all Trademarks, formulas, Commercial Data and Personal Information) that has been used or held for use by the L Brands Group in the operation of the L Brands Business on or prior to the Distribution Time but are not included in the L Brands Assets, in each case, to use, reproduce, create derivative works of, modify, distribute, make, have made, sell, offer for sale, import or otherwise commercially exploit products and services solely in connection with the operation of the L Brands Business.

(c) Notwithstanding the assignment provision in Section 6.04, L Brands and VS may assign their respective licenses set forth in this Section 4.11, in whole or in part, in connection with a merger, consolidation or sale of all or substantially all of, or any portion of the assets of, their respective Businesses to which the licenses relate.

(d) L Brands and VS may sublicense their respective licenses set forth in this Section 4.11 to (i) their vendors, consultants, contractors and suppliers, in connection with the provision of services to their respective Businesses to which the licenses relate and (ii) their distributors, customers and end-users, in connection with the distribution, licensing, offering and sale of the current and future products and services of their respective Businesses to which the licenses relate.

(e) Each license granted in this Section 4.11 is, and will otherwise be deemed to be, for purposes of Section 365(n) of the Bankruptcy Code, a license of rights to “intellectual property” (as defined under Section 101 of the Bankruptcy Code), and L Brands and VS will retain and may fully exercise all of their respective rights and elections under the Bankruptcy Code (or any similar foreign law) with respect thereto.

(f) For the avoidance of doubt, this Section 4.11 shall survive in perpetuity.

Section 4.12. Trademark Phase Out.

(a) As soon as reasonably practicable after the Distribution, but in no event later than twelve (12) months after the Distribution Time, VS shall and shall cause its Subsidiaries to (i) cease any and all use of the L Brands Names and Marks and (ii) destroy, conceal, cover, redact, replace or remove the L Brands Names and Marks from any and all VS Assets and any other assets and materials under their possession or control bearing such L Brands Names and Marks. VS acknowledges and agrees that, during the 12-month period set forth in this Section 4.12(a), VS shall only use the L Brands Names and Marks in substantially the same manner as such L Brands Names and Marks were used by L Brands and its Subsidiaries prior to the Distribution Time. Any and all goodwill resulting from the VS Group’s use of the L Brands Names and Marks shall inure solely to the benefit of L Brands.

(b) As soon as reasonably practicable after the Distribution, but in no event later than six (6) months after the Distribution Time, VS shall and shall cause its Subsidiaries to take any and all actions necessary (including the filing of amended organizational documents and any other required documentation with the relevant Governmental Authorities) to initiate a change to the corporate name, “doing business as” name, trade name and any other similar corporate identifier of VS and its Subsidiaries to a corporate name, “doing business as” name, trade name or any other similar corporate identifier that does not contain any L Brands Names and Marks or any name confusingly similar to any L Brands Names and Marks, including “Limited,” “Limited Brands,” “LB,” “Bath & Body Works” or “BBW.”

(c) VS agrees that (i) the L Brands Name and Marks are, as of the date of this Agreement, and shall continue to be following the Distribution Time, owned by L Brands or a Subsidiary of L Brands, as applicable, (ii) no member of the VS Group has any rights in, and shall not use in any manner, any of the L Brands Names and Marks following the twelve (12)-month period set forth in Section 4.12(a) and (iii) no member of the VS Group shall contest the ownership, enforceability or validity of any rights of L Brands and its Subsidiaries in or to any of the L Brands Names and Marks.

(d) As soon as reasonably practicable after the Distribution, but in no event later than twelve (12) months after the Distribution Time, L Brands shall and shall cause its Subsidiaries to (i) cease any and all use of the VS Trademarks and (ii) destroy, conceal, cover, redact, replace or remove any and all VS Trademarks from any and all L Brands Assets and any other assets and materials under their possession or control bearing such VS Trademarks. L Brands acknowledges and agrees that, during the 12-month period set forth in this Section 4.12(d), L Brands shall only use the VS Trademarks in substantially the same manner as such VS Trademarks were used by L Brands and its Subsidiaries prior to the Distribution Time. Any and all goodwill resulting from the L Brands Group's use of the VS Trademarks shall inure solely to the benefit of VS.

(e) As soon as reasonably practicable after the Distribution, but in no event later than six (6) months after the Distribution Time, L Brands shall and shall cause its Subsidiaries to take any and all actions necessary (including the filing of amended organizational documents and any other required documentation with the relevant Governmental Authorities) to initiate a change to the corporate name, "doing business as" name, trade name or any other similar corporate identifier of each Subsidiary of L Brands to a corporate name, "doing business as" name, trade name or any other similar corporate identifier that does not contain any VS Trademarks.

(f) L Brands agrees that (i) the VS Trademarks are, as of the date of this Agreement, and shall continue to be following the Distribution Time, owned by VS or a Subsidiary of VS, as applicable, (ii) no member of the L Brands Group has any rights in, and shall not use in any manner, any of the VS Trademarks following the twelve (12)-month period set forth in Section 4.12(d) and (iii) no member of the L Brands Group shall contest the ownership, enforceability or validity of any rights of VS and its Subsidiaries in or to any of the VS Trademarks.

(g) Notwithstanding the foregoing, nothing in this Section 4.12 shall be construed as prohibiting either Party from making any use of the other Party's Trademarks to the extent such use constitutes "fair use" under Applicable Law.

Section 4.13. Commercial Data. VS shall not, and shall cause its Subsidiaries not to, following the Distribution Time, without the consent of the individuals to whom the VS Commercial Data relates, use or disclose VS Commercial Data for purposes other than those for which such VS Commercial Data was collected by L Brands or its Subsidiaries prior to the Distribution Time (unless (i) such consent is obtained by VS or (ii) otherwise permitted or required by Applicable Law), and shall give effect to any withdrawal of consent made in accordance with Applicable Law. VS shall, and shall cause its Subsidiaries to, protect and safeguard the VS Commercial Data against unauthorized collection, use or disclosure, as provided by Applicable Law. To the extent required by Applicable Law, within a reasonable time after the Distribution Time, VS shall notify the individuals to whom the VS Commercial Data relates that the transactions contemplated by this Agreement have been completed and that their VS Commercial Data has been transferred to VS.

Section 4.14. Limited License. L Brands hereby grants to VS a limited license to use (and reasonable access to) space at certain facilities and to continue to use certain equipment located at such facilities (including the use of office security and badge services) (the “**VS Temporary Facilities**”), for substantially the same purposes as used in the operation of the VS Business immediately prior to the Distribution. VS’s rights to the Temporary Facilities shall include reasonable access and a limited license to use ancillary services to the same extent as such services are provided as of the Distribution Date to its own employees at such facility. VS hereby grants to L Brands a limited license to use (and reasonable access to) space at certain facilities and to continue to use certain equipment located at such facilities (including the use of office security and badge services) (the “**L Brands Temporary Facilities**” and together with the VS Temporary Facilities, collectively, the “**Temporary Facilities**”), for substantially the same purposes as used in the operation of the L Brands Business immediately prior to the Distribution. L Brands’ rights to the Temporary Facilities shall include reasonable access and a limited license to use ancillary services to the same extent as such services are provided as of the Distribution Date to its own employees at such facility. VS and L Brands shall each (i) vacate the VS Temporary Facilities, in the case of VS, and the L Brands Temporary Facilities, in the case of L Brands, on or prior to the date that is three (3) months following the Distribution Date, and (ii) vacate or deliver back, as applicable, the VS Temporary Facilities, in the case of VS, and the L Brands Temporary Facilities, in the case of L Brands, in substantially the same repair and condition at that date as on the Distribution Date, ordinary wear and tear excepted. The rights granted with respect to the Temporary Facilities shall be in the nature of a license and shall not create a leasehold or other estate or possessory rights therein and shall not include any right of sub-license or sub-leasehold to any Third Party. The covenants set forth in this Section 4.14 shall survive for six (6) months following the Distribution Date.

Section 4.15. Other Matters. Each of L Brands and VS agrees to the covenants, agreements and undertakings set forth on Schedule 4.15.

Section 4.16. Inducement. VS acknowledges and agrees that L Brands’ willingness to cause, effect and consummate the Distribution has been conditioned upon and induced by VS’s covenants and agreements in this Agreement and the Ancillary Agreements, including VS’s assumption of the VS Liabilities. The Parties acknowledge that, after the Distribution Time, each Party shall be independent of the other Party, with responsibility for its own actions and inactions and its own Liabilities relating to, arising out of or resulting from the conduct of its business, operations and activities following the Distribution Time, except as may otherwise be provided in this Agreement or in any Ancillary Agreement, and each Party shall (except as otherwise provided in this Agreement) use commercially reasonable efforts to prevent such Liabilities from being inappropriately borne by the other Party.

ARTICLE 5
RELEASE; INDEMNIFICATION

Section 5.01. *Release of Pre-Distribution Claims.*

(a) Except (i) as provided in Section 5.01(b) and (ii) as otherwise expressly provided in this Agreement or any Ancillary Agreement, each Party does hereby, on behalf of itself and each member of its Group, and each of their successors and assigns, and to the extent permitted by Applicable Law, all Persons who at any time prior to the Distribution Time have been directors, officers, employees or agents serving as independent contractors of such Party or any member of its Group (in each case, in their respective capacities as such), release and forever discharge the other Party and the other members of such Party's Group, and their respective successors and assigns, and all Persons who at any time prior to the Distribution Time have been directors, officers, employees or agents serving as independent contractors of such other Party or any member of its Group (in each case, in their respective capacities as such), and their respective heirs, executors, administrators, successors and assigns (collectively, the "**Released Parties**"), from any and all demands, claims, Actions and Liabilities whatsoever, whether at law or in equity (including any right of contribution or any right pursuant to any Environmental Law whether now or hereinafter in effect), whether arising under any Contract, by operation of law or otherwise (and including for the avoidance of doubt, those arising as a result of the negligence, strict liability or any other liability under any theory of law or equity of, or any violation of law by any Released Party), existing or arising from any acts or events occurring or failing to occur or alleged to have occurred or to have failed to occur or any conditions existing or alleged to have existed on or before the Distribution Date, in the case of the release by L Brands, to the extent relating to, arising out of or resulting from the L Brands Business, the L Brands Assets or the L Brands Liabilities, and in the case of the release by VS, to the extent relating to, arising out of or resulting from the VS Business, the VS Assets or the VS Liabilities. In furtherance of the foregoing, each Party shall cause each of the members of its respective Group to, effective as of the Distribution Time, release and forever discharge each of the Released Parties of the other Group as and to the same extent as the release and discharge provided by such Party pursuant to the foregoing provisions of this Section 5.01(a).

(b) Nothing contained in Section 5.01(a) shall impair any right of any Person identified in Section 5.01(a) to enforce this Agreement or any Ancillary Agreement. Nothing contained in Section 5.01(a) shall release or discharge any Person from:

(i) any Liability assumed, transferred, assigned, retained or allocated to that Person in accordance with, or any other Liability of that Person under, this Agreement or any of the Ancillary Agreements;

(ii) any Liability that is expressly specified in this Agreement (including Section 2.08) or any Ancillary Agreement to continue after the Distribution Time, but subject to any limitation set forth in this Agreement (including Section 2.08) or any Ancillary Agreement relating specifically to such Liability;

(iii) any Liability that the Parties may have with respect to claims for indemnification, recovery or contribution brought pursuant to this Agreement or any Ancillary Agreement, which Liability shall be governed by the provisions of this Article 5, or, if applicable, the appropriate provisions of the Ancillary Agreements; or

(iv) any Liability the release of which would result in the release of any Person, other than a member of the L Brands Group, the VS Group or any related Released Party; *provided, however*, that the Parties agree not to bring or allow their respective Subsidiaries to bring suit against the other party or any related Released Party with respect to any such Liability.

In addition, nothing contained in Section 5.01(a) shall release any Party or any member of its Group from honoring its existing obligations to indemnify, or advance expenses to, any Person who was a director, officer or employee of such Party or any member of its Group, at or prior to the Distribution Time, to the extent such Person was entitled to such indemnification or advancement of expenses pursuant to then-existing obligations and remains so entitled; *provided, however*, that to the extent applicable, Section 5.02 hereof shall determine whether any Party shall be required to indemnify the other Party or a member of its Group in respect of such Liability.

(c) No Party shall make, nor permit any member of its Group to make, any claim or demand, or commence any Action asserting any claim or demand, including any claim of contribution or indemnification, against the other Party, or any related Released Party, with respect to any Liability released pursuant to Section 5.01(a).

(d) It is the intent of each of the Parties by virtue of the provisions of this Section 5.01 to provide for a full and complete release and discharge of all Liabilities existing or arising from all acts and events occurring or failing to occur or alleged to have occurred or to have failed to occur and all conditions existing or alleged to have existed on or before the Distribution Date between members of the L Brands Group, on the one hand, and members of the VS Group, on the other hand (including any Contract existing or alleged to exist between the Parties on or before the Distribution Date), except as expressly set forth in Section 5.01(b) or as expressly provided in this Agreement or any Ancillary Agreement. At any time, at the reasonable request of either L Brands or VS, the other Party shall execute and deliver (and cause its respective Subsidiaries to execute and deliver) releases reflecting the provisions hereof.

Section 5.02. VS Indemnification of the L Brands Group. (a) Effective as of and after the Distribution Time, VS shall, and shall cause the other members of the VS Group to, indemnify, defend and hold harmless each member of the L Brands Group, each Affiliate thereof and each of their respective past, present and future directors, officers, employees and agents and the respective heirs, executors, administrators, successors and assigns of any of the foregoing (the “**L Brands Indemnitees**”) from and against any and all Liabilities incurred or suffered by any of the L Brands Indemnitees arising out of or in connection with (i) any of the VS Liabilities, or the failure of any member of the VS Group or any other Person to pay, perform or otherwise discharge any of the VS Liabilities, whether prior to, at or after the Distribution Time, (ii) any breach by VS or any member of the VS Group of this Agreement or any Ancillary Agreement, (iii) the ownership or operation of the VS Business, the businesses conducted by the VS Group or the VS Assets on or after the Distribution Date, (iv) any payments made by L Brands or any member of the L Brands Group in respect of any Guarantee given or obtained by any member of the L Brands Group for the benefit of any member of the VS Group or the VS Business, or any Liability of any member of the L Brands Group in respect thereof, and (v) any use of any L Brands Names and Marks by VS.

(b) Except to the extent set forth in Section 5.03(b), effective as of and after the Distribution Time, VS shall indemnify, defend and hold harmless each of the L Brands Indemnitees and each Person, if any, who controls any L Brands Indemnitee within the meaning of either Section 15 of the Securities Act or Section 20 of the Exchange Act from and against any and all Liabilities caused by any untrue statement or alleged untrue statement of a material fact contained in the Form 10 or any amendment thereof, the Information Statement (as amended or supplemented), the Equity Compensation Registration Statement or any offering or marketing materials prepared in connection with the VS Financing Transactions or caused by any omission or alleged omission to state therein a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading.

Section 5.03. L Brands Indemnification of the VS Group. (a) Effective as of and after the Distribution Time, L Brands shall, and shall cause the other members of the L Brands Group to, indemnify, defend and hold harmless each member of the VS Group, each Affiliate thereof and each of their respective past, present and future directors, officers, employees and agents and the respective heirs, executors, administrators, successors and assigns of any of the foregoing (the “**VS Indemnitees**”) from and against any and all Liabilities incurred or suffered by any of the VS Indemnitees and arising out of or in connection with (i) any of the L Brands Liabilities, or the failure of any member of the L Brands Group or any other Person to pay, perform or otherwise discharge any of the L Brands Liabilities, whether prior to, at or after the Distribution Time, (ii) the ownership or operation of the L Brands Business or the L Brands Assets on or after the Distribution Date, and (iii) any breach by L Brands or any member of the L Brands Group of this Agreement or any Ancillary Agreement.

(b) Effective as of and after the Distribution Time, L Brands shall indemnify, defend and hold harmless each of the VS Indemnitees and each Person, if any, who controls any VS Indemnitee within the meaning of either Section 15 of the Securities Act or Section 20 of the Exchange Act from and against any and all Liabilities caused by any untrue statement or alleged untrue statement of a material fact contained in the Form 10 or any amendment thereof, the Information Statement (as amended or supplemented), the Equity Compensation Registration Statement or any offering or marketing materials prepared in connection with the VS Financing Transactions or caused by any omission or alleged omission to state therein a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading, in each case to the extent, but only to the extent, that such Liabilities are caused by any such untrue statement or omission or alleged untrue statement or omission based on information furnished by L Brands solely in respect of the L Brands Group and which information is set forth on Schedule 5.03(b), it being agreed that the statements set forth on Schedule 5.03(b) shall be the only information furnished by L Brands in respect of the L Brands Group in the Form 10, the Information Statement, the Equity Compensation Registration Statement or any offering or marketing materials prepared in connection with the VS Financing Transactions, and all other information contained in the Form 10, the Information Statement, the Equity Compensation Registration Statement or any offering or marketing materials prepared in connection with the VS Financing Transactions shall be deemed to be information supplied by VS.

Section 5.04. Procedures. (a) The Party seeking indemnification under Section 5.02 or Section 5.03 (the “**Indemnified Party**”) agrees to give prompt notice to the Party against whom indemnity is sought (the “**Indemnifying Party**”) of the assertion of any claim, or the commencement of any suit, action or proceeding (each, a “**Claim**”) in respect of which indemnity may be sought hereunder and will provide the Indemnifying Party such information with respect thereto that the Indemnifying Party may reasonably request. The failure to so notify the Indemnifying Party shall not relieve the Indemnifying Party of its obligations hereunder, except to the extent such failure shall have adversely prejudiced the Indemnifying Party.

(b) The Indemnifying Party shall be entitled to participate in the defense of any Claim (other than any criminal Action or Action brought by a Governmental Authority) asserted by any Third Party (“**Third Party Claim**”) and, subject to the limitations set forth in this Section 5.04, if it so notifies the Indemnified Party no later than thirty (30) days after receipt of the notice described in Section 5.04(a), shall be entitled to control and appoint lead counsel for such defense (other than any criminal Action or Action brought by a Governmental Authority), in each case at its expense; *provided* that, prior to the Indemnifying Party controlling the defense of such Third Party Claim, it shall first confirm to the Indemnified Party in writing that, assuming the facts presented to the Indemnifying Party by the Indemnified Party are true, the Indemnifying Party shall indemnify the Indemnified Party for any such damages to the extent resulting from, or arising out of, such Third Party Claim. If the Indemnifying Party does not so notify the Indemnified Party, the Indemnified Party shall have the right to defend or contest such Third Party Claim through counsel chosen by the Indemnified Party that is reasonably acceptable to the Indemnifying Party, subject to the provisions of this Section 5.04, and if the Indemnifying Party has an indemnification obligation with respect to such Third Party Claim, then the Indemnifying Party shall be liable for all reasonable and documented fees and expenses incurred by the Indemnified Party in connection with the defense of such Third Party Claim. If an Indemnifying Party has elected to control the defense of a Third Party Claim, then such Indemnifying Party shall be solely liable for all fees and expenses incurred by it in connection with the defense of such Third Party Claim and shall not be entitled to seek any indemnification or reimbursement from the Indemnified Party for any such fees or expenses incurred by the Indemnifying Party during the course of the defense of such Third Party Claim by such Indemnifying Party, regardless of any subsequent decision by the Indemnifying Party to reject or otherwise abandon its assumption of such defense.

(c) If the Indemnifying Party shall assume the control of the defense of any Third Party Claim in accordance with the provisions of Section 5.04(b), (i) the Indemnifying Party shall obtain the prior written consent of the Indemnified Party (which shall not be unreasonably withheld, conditioned or delayed) before entering into any settlement of such Third Party Claim, if the settlement does not release the Indemnified Party from all Liabilities and obligations with respect to such Third Party Claim or the settlement imposes injunctive or other equitable relief against the Indemnified Party or any of its related Indemnitees or is otherwise materially prejudicial to any such Person and (ii) the Indemnified Party shall be entitled to participate in (but not control) the defense of such Third Party Claim and, at its own expense, to employ separate counsel (including local counsel as necessary) of its choice for such purpose; *provided* that (A) in the event of a conflict of interest between the Indemnifying Party and the applicable Indemnified Party, the reasonable and documented fees and expenses of such separate counsel (including local counsel as necessary) shall be at the Indemnifying Party’s expense, and (B) the members of the VS Group shall not be entitled to participate in the defense of any Third Party Claim to the extent relating to the matters set forth on Schedule 5.04(c).

(d) Each Party shall cooperate, and cause their respective Affiliates to cooperate, in the defense or prosecution of any Third Party Claim and shall furnish or cause to be furnished such records, information and testimony, and attend such conferences, discovery proceedings, hearings, trials or appeals, as may be reasonably requested in connection therewith.

(e) Each Indemnified Party shall use commercially reasonable efforts to collect any amounts available under insurance coverage, or from any other Person alleged to be responsible, for any Liabilities payable under Section 5.02 or Section 5.03 and the reasonable expenses incurred in connection therewith will be treated as Liabilities subject to indemnification hereunder. Notwithstanding the foregoing, an Indemnifying Party may not delay making any indemnification payment required under the terms of this Agreement, or otherwise satisfying any indemnification obligation, pending the outcome of any Action to collect or recover any amounts available under insurance coverage, and an Indemnified Party need not attempt to collect any such amounts prior to making a claim for indemnification or contribution or receiving any payment otherwise owed to it under this Agreement or any Ancillary Agreement.

(f) In the event of any Action in which the Indemnifying Party is not also named defendant, at the request of either the Indemnified Party or the Indemnifying Party, the Parties will use commercially reasonable efforts to substitute the Indemnifying Party or its applicable Affiliate for the named defendant in the Action.

Section 5.05. Calculation of Indemnification Amount. Any indemnification amount pursuant to Section 5.02 or Section 5.03 shall be paid (i) net of any amounts actually recovered (net of any out-of-pocket costs or expenses incurred in the collection thereof) by the Indemnified Party under applicable Third Party insurance policies or from any other Third Party alleged to be responsible therefor, and (ii) taking into account any Tax Benefit allowable to the Indemnified Party (using the methodology set forth in Section 11(d) of the Tax Matters Agreement to determine the amount of any such Tax Benefit) and any Tax cost incurred by the Indemnified Party arising from the incurrence or payment of the relevant Liabilities. L Brands and VS agree that, for United States federal income tax purposes, any payment made pursuant to this Article 5 will be treated as provided under Section 12(b) of the Tax Matters Agreement. If the Indemnified Party receives any amounts under applicable Third Party insurance policies, or from any other Third Party alleged to be responsible for any Liabilities, subsequent to an indemnification payment by the Indemnifying Party in respect thereof, then such Indemnified Party shall promptly reimburse the Indemnifying Party for any payment made by such Indemnifying Party in respect thereof up to the amount received (net of any out-of-pocket costs or expenses incurred in the collection thereof) by the Indemnified Party from such Third Party insurance policy or Third Party, as applicable.

Section 5.06. Contribution. If for any reason the indemnification provided for in Section 5.02 or Section 5.03 is held to be unenforceable or is unavailable to any Indemnified Party, or insufficient to hold it harmless, then the Indemnifying Party shall contribute to the amount paid or payable by such Indemnified Party as a result of such Liabilities in such proportion as is appropriate to reflect the relative fault of the L Brands Group, on the one hand, and the VS Group, on the other hand, in connection with the conduct, statement or omission that resulted in such Liabilities. In case of any Liabilities arising out of or related to information contained in the Form 10 or any amendment thereof, the Information Statement (as amended or supplemented), the Equity Compensation Registration Statement or any offering or marketing materials prepared in connection with the VS Financing Transactions, the relative fault of the L Brands Group, on the one hand, and the VS Group, on the other hand, shall be determined by reference to, among other things, whether the untrue statement or alleged untrue statement of a material fact or the omission or alleged omission of a material fact relates to information supplied by VS or any member of its Group, on the one hand, or L Brands or any member of its Group (but solely to the extent such information is set forth on Schedule 5.03(b)), on the other hand.

Section 5.07. Non-Exclusivity of Remedies. Subject to Section 5.01, the remedies provided for in this Article 5 are not exclusive and shall not limit any rights or remedies which may otherwise be available to any Indemnified Party at law or in equity; *provided* that the procedures set forth in Sections 5.04 and 5.05 shall be the exclusive procedures governing any indemnity action brought under this Agreement.

Section 5.08. Survival of Indemnities. The rights and obligations of any Indemnified Party or Indemnifying Party under this Article 5 shall survive the sale or other transfer of any Party or any member of its Group of any of its assets, business or liabilities or any merger, consolidation, business combination, restructuring, recapitalization, reorganization or similar transaction involving either Party or any member of its Group.

Section 5.09. Ancillary Agreements. If an indemnification claim is covered by the indemnification provisions of an Ancillary Agreement, the claim shall be made under the Ancillary Agreement to the extent applicable and the provisions thereof shall govern such claim. In no event shall any Party be entitled to double recovery from the indemnification provisions of this Agreement and any Ancillary Agreement.

ARTICLE 6
MISCELLANEOUS

Section 6.01. *Notices.* Any notice, instruction, direction or demand under the terms of this Agreement required to be in writing shall be duly given upon delivery, if delivered by hand, facsimile transmission, mail, or e-mail transmission to the following addresses:

If to L Brands to:

L Brands, Inc.
Three Limited Parkway
Columbus, Ohio 43230
Attn: Michael Wu
Tim Faber
Email: MiWu@lb.com
TFaber@lb.com

with a copy to:

Davis Polk & Wardwell LLP
450 Lexington Avenue
New York, New York 10017
Attn: William H. Aaronson
Cheryl Chan
Email: william.aaronson@davispolk.com
cheryl.chan@davispolk.com

If to VS to:

Victoria's Secret & Co.
4 Limited Parkway East
Reynoldsburg, Ohio 43068
Attn: Melinda McAfee
Email: MMcAfee@lb.com

or such other address or facsimile number as such Party may hereafter specify for the purpose by notice to the other Party. All such notices, requests and other communications shall be deemed received on the date of receipt by the recipient thereof if received prior to 5:00 p.m. in the place of receipt and such day is a Business Day in the place of receipt. Otherwise, any such notice, request or communication shall be deemed not to have been received until the next succeeding Business Day in the place of receipt.

Section 6.02. *Amendments; No Waivers.* (a) Any provision of this Agreement may be amended or waived if, and only if, such amendment or waiver is in writing and is signed, in the case of an amendment, by L Brands and VS, or in the case of a waiver, by the Party against whom the waiver is to be effective.

(b) No failure or delay by any Party in exercising any right, power or privilege hereunder shall operate as a waiver thereof nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The rights and remedies herein provided shall be cumulative and not exclusive of any rights or remedies provided by Applicable Law.

Section 6.03. Expenses. L Brands and VS shall each bear the costs and expenses incurred or paid in connection with the Restructuring, the Distribution and any other related transaction, as applicable, set forth below their respective names on Schedule 6.03. All other third-party fees, costs and expenses paid or incurred in connection with the foregoing (except as specifically allocated pursuant to the terms of this Agreement or any Ancillary Agreement) will be paid by the Party incurring such fees or expenses, whether or not the Distribution occurs, or as otherwise agreed by the Parties in writing.

Section 6.04. Successors and Assigns. The provisions of this Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns; *provided* that neither Party may assign, delegate or otherwise transfer any of its rights or obligations under this Agreement without the consent of the other Party, except pursuant to Section 4.11(c). If any Party or any of its successors or permitted assigns (i) shall consolidate with or merge into any other Person and shall not be the continuing or surviving corporation or entity of such consolidation or merger or (ii) shall transfer all or substantially all of its properties and assets to any Person, then, and in each such case, no such consent shall be required and proper provisions shall be made so that the successors and assigns of such Party shall assume all of the obligations of such Party under the Distribution Documents; *provided* that no such assignment shall release the assigning Party from liability for the full performance of its obligations under the Distribution Documents.

Section 6.05. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware, without regard to the conflicts of law rules of such state.

Section 6.06. Counterparts; Effectiveness; Third-party Beneficiaries. This Agreement may be signed in any number of counterparts (which may include counterparts delivered by any standard form of telecommunication), each of which shall be an original, with the same effect as if the signatures thereto and hereto were upon the same instrument. The words “execution,” “signed,” “signature,” and words of like import in this Agreement or in any other certificate, agreement or document related to this Agreement shall include images of manually executed signatures transmitted by facsimile or other electronic format (including “pdf,” “tif” or “jpg”) and other electronic signatures (including DocuSign and AdobeSign). The use of electronic signatures and electronic records (including any contract or other record created, generated, sent, communicated, received, or stored by electronic means) shall be of the same legal effect, validity and enforceability as a manually executed signature or use of a paper-based recordkeeping system to the fullest extent permitted by Applicable Law. This Agreement shall become effective when each Party shall have received a counterpart hereof signed by the other Party. Until and unless each Party has received a counterpart hereof signed by the other Party, this Agreement shall have no effect and no Party shall have any right or obligation hereunder (whether by virtue of any other oral or written agreement or other communication). Except for Section 4.07, Section 6.12, and the indemnification and release provisions of Article 5, neither this Agreement nor any provision hereof is intended to confer any rights, benefits, remedies, obligations, or liabilities hereunder upon any Person other than the Parties and their respective successors and permitted assigns.

Section 6.07. Entire Agreement. This Agreement and the other Distribution Documents constitute the entire understanding of the Parties with respect to the subject matter hereof and thereof and supersede all prior agreements, understandings and negotiations, both written and oral, between the Parties with respect to the subject matter hereof and thereof. No representation, inducement, promise, understanding, condition or warranty not set forth herein or in the other Distribution Documents has been made or relied upon by any Party or any member of their Group with respect to the transactions contemplated by the Distribution Documents. Without limiting Section 5.09 and subject to Section 6.08, in the event and to the extent that there shall be a conflict between the provisions of this Agreement and the provisions of any Ancillary Agreement, the Ancillary Agreement shall control with respect to the subject matter thereof, and this Agreement shall control with respect to all other matters; *provided* that to the extent that there shall be a conflict between the provisions of this Agreement and the provisions of any Restructuring Agreement, this Agreement shall control with respect to all matters.

Section 6.08. Tax and Employee Matters. Except as otherwise provided herein, this Agreement shall not govern (i) Tax matters (including any administrative, procedural and related matters thereto), which shall be exclusively governed by the Tax Matters Agreement and the Employee Matters Agreement or (ii) employee matters (including any labor, compensation plans, benefit plans and related matters thereto), which shall be exclusively governed by the Employee Matters Agreement. For the avoidance of doubt, to the extent of any inconsistency between this Agreement and either of the Tax Matters Agreement or Employee Matters Agreement, the terms of the Tax Matters Agreement or Employee Matters Agreement, as the case may be, shall govern.

Section 6.09. Dispute Resolution. (a) With respect to matters under this Agreement requiring dispute resolution (each, a “**Dispute**”), the disputing Party shall notify the other Party of such Dispute in writing and, upon the non-disputing Party’s receipt of such written notice, the Parties shall attempt to resolve such Dispute in good faith within thirty (30) days of such receipt, and if the Parties are unable to resolve such Dispute in such thirty (30) day period, then the Parties shall escalate such Dispute to each party’s Chief Financial Officer for resolution.

(b) If the Parties' Chief Financial Officers are unable to resolve such Dispute within thirty (30) days following such receipt of such notice, then either Party shall initiate a non-binding mediation by providing written notice (a "**Mediation Notice**") to the other Party within five (5) Business Days following the expiration of such thirty (30) day period.

(c) Upon receipt of a Mediation Notice, the applicable Dispute shall be submitted within five (5) Business Days following such receipt of such Mediation Notice for non-binding mediation conducted in accordance with the Commercial Mediation Rules of the American Arbitration Association ("**Arbitration Association**"), and the Parties agree to bear equally the costs of such mediation (including any fees or expenses of the applicable mediator); *provided* that each Party shall bear its own costs in connection with participating in such mediation. The Parties agree to participate in good faith in such mediation for a period of forty-five (45) days or such longer period as the Parties may mutually agree following receipt of such Mediation Notice (the "**Mediation Period**").

(d) In connection with such mediation, the Parties shall cooperate with the Arbitration Association and with one another in selecting a neutral mediator with relevant industry experience and in scheduling the mediation proceedings during the applicable Mediation Period. If the Parties are unable to agree on a neutral mediator within five (5) Business Days of submitting a Dispute for mediation pursuant to Section 6.09(c), application shall be made by the Parties to the Arbitration Association for the Arbitration Association to select and appoint a neutral mediator on the Parties' behalf in accordance with the Commercial Mediation Rules of the Arbitration Association.

(e) The Parties further agree that all information, whether oral or written, provided in the course of any such mediation by either Party or their Representatives, and by the applicable mediator and any employees of the mediation service, is confidential, privileged, and inadmissible for any purpose, including impeachment, in any Action involving the Parties; *provided* that any such information that is otherwise admissible or discoverable shall not be rendered inadmissible or non-discoverable as a result of its use in such mediation.

(f) If the Parties cannot resolve the Dispute for any reason, on and following the expiration of the Mediation Period, either party may commence litigation in a court of competent jurisdiction pursuant to the provisions of Section 6.10. Nothing contained in this Agreement shall deny either Party the right to seek injunctive or other equitable relief from a court of competent jurisdiction in the context of a bona fide emergency or prospective irreparable harm, and such an Action may be filed and maintained notwithstanding any ongoing efforts under this Section 6.09.

Section 6.10. Jurisdiction. The Parties agree that any suit, action or proceeding seeking to enforce any provision of, or based on any matter arising out of or in connection with, this Agreement or the transactions contemplated hereby shall be brought in the Chancery Court of the State of Delaware and any state appellate court therefrom within the State of Delaware (or if the Chancery Court of the State of Delaware declines to accept jurisdiction over a particular matter, any federal or state court sitting in the State of Delaware and any federal or state appellate court therefrom), and each of the Parties hereto hereby irrevocably consents to the exclusive jurisdiction of such courts in any such suit, action or proceeding and irrevocably waives, to the fullest extent permitted by law, any objection that it may now or hereafter have to the laying of the venue of any such suit, action or proceeding in any such court or that any such suit, action or proceeding brought in any such court has been brought in an inconvenient forum. Process in any such suit, action or proceeding may be served on any Party anywhere in the world, whether within or without the jurisdiction of any such court. Without limiting the foregoing, each Party agrees that service of process on such Party as provided in Section 6.01 shall be deemed effective service of process on such Party.

Section 6.11. WAIVER OF JURY TRIAL. EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

Section 6.12. Termination. Notwithstanding any provision of this Agreement to the contrary, the Board of Directors of L Brands may, in its sole discretion and without the approval of VS or any other Person, at any time prior to the Distribution terminate this Agreement and the Ancillary Agreements or abandon the Distribution, whether or not it has theretofore approved this Agreement and the Ancillary Agreements or the Distribution. In the event this Agreement and the Ancillary Agreements are terminated pursuant to the preceding sentence, this Agreement and the Ancillary Agreements shall forthwith become void and neither Party nor any of its Affiliates or its or their directors or officers shall have any liability or further obligation to the other Party or its Affiliates or any other Person by reason of this Agreement or the Ancillary Agreements. After the Distribution Time, this Agreement may not be terminated except by an agreement in writing signed by a duly authorized officer of each of the Parties.

Section 6.13. Severability. If any one or more of the provisions contained in this Agreement should be declared invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained in this Agreement shall not in any way be affected or impaired thereby. Upon such a declaration, the Parties shall modify this Agreement so as to effect the original intent of the Parties as closely as possible in an acceptable manner so that the transactions contemplated hereby are consummated as originally contemplated to the fullest extent possible.

Section 6.14. *Survival.* All covenants and agreements of the Parties contained in this Agreement, and Liability for the breach of any obligations contained herein, shall survive the Distribution Date indefinitely, unless a specific survival or other applicable period is expressly set forth herein.

Section 6.15. *Captions.* The captions herein are included for convenience of reference only and shall be ignored in the construction or interpretation hereof.

Section 6.16. *Interpretation.* In the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the Parties, and no presumption or burden of proof shall arise favoring or disfavoring any Party by virtue of its authorship of any of the provisions of this Agreement.

Section 6.17. *Specific Performance.* Each Party to this Agreement acknowledges and agrees that damages for a breach or threatened breach of any of the provisions of this Agreement would be inadequate and irreparable harm would occur. In recognition of this fact, each Party agrees that, if there is a breach or threatened breach, in addition to any and all other rights and remedies at law or in equity, the other nonbreaching Party to this Agreement, without posting any bond, shall be entitled to seek and obtain equitable relief in the form of specific performance, temporary restraining order, temporary or permanent injunction, attachment, or any other equitable remedy which may then be available to obligate the breaching Party (i) to perform its obligations under this Agreement or (ii) if the breaching Party is unable, for whatever reason, to perform those obligations, to take any other actions as are necessary, advisable or appropriate to give the other Party to this Agreement the economic effect which comes as close as possible to the performance of those obligations (including transferring, or granting liens on, the assets of the breaching Party to secure the performance by the breaching Party of those obligations).

Section 6.18. *Performance.* Each Party shall cause to be performed, and shall guarantee the performance of, all actions, agreements and obligations set forth herein to be performed by any member of such Party's Group.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF the Parties have caused this Agreement to be duly executed by their respective authorized officers as of the date first above written.

L BRANDS, INC.

By: /s/ Andrew Meslow
Name: Andrew Meslow
Title: Chief Executive Officer

VICTORIA'S SECRET & CO.

By: /s/ Martin Waters
Name: Martin Waters
Title: Chief Executive Officer

AMENDED AND RESTATED CERTIFICATE OF INCORPORATION

OF

VICTORIA'S SECRET & CO.

FIRST. The name of the Corporation is: Victoria's Secret & Co.

SECOND. The address of the registered office of the Corporation in the State of Delaware is 1209 Orange Street, Wilmington, Delaware, County of New Castle 19801, and the name of its registered agent at that address is The Corporation Trust Company.

THIRD. The purpose of the Corporation is to engage in any lawful act or activity for which corporations may be organized under the Delaware General Corporation Law (the "DGCL").

FOURTH.

Section 1. Capital Stock. The Corporation shall be authorized to issue two classes of stock to be designated, respectively, "Preferred Stock" and "Common Stock"; the total number of shares which the Corporation shall have authority to issue is One Billion Ten Million (1,010,000,000); the total number of shares of Preferred Stock shall be Ten Million (10,000,000) and each such share shall have a par value of \$0.01; and the total number of shares of Common Stock shall be One Billion (1,000,000,000) and each such share shall have a par value of \$0.01.

Section 2. Preferred Stock.

2.1 Series and Limits of Variations between Series. Any unissued or treasury shares of the Preferred Stock may be issued from time to time in one or more series for such consideration as may be fixed from time to time by the Board of Directors and each share of a series shall be identical in all respects with the other shares of such series, except that, if the dividends thereon are cumulative, the date from which they shall be cumulative may differ. Before any shares of Preferred Stock of any particular series shall be issued, a certificate shall be filed with the Secretary of State of Delaware setting forth the designation, rights, privileges, restrictions, and conditions to be attached to the Preferred Stock of such series and such other matters as may be required, and the Board of Directors shall fix and determine, and is hereby expressly empowered to fix and determine, in the manner provided by law, the particulars of the shares of such series (so far as not inconsistent with the provisions of this Article applicable to all series of Preferred Stock), including, but not limited to, the following:

2.1.1 the distinctive designation of such series and the number of shares which shall constitute such series, which number may be increased (except where otherwise provided by the Board of Directors in creating such series) or decreased (but not below the number of shares thereof then outstanding) from time to time by like action of the Board of Directors;

2.1.2 the annual rate of dividends payable on shares of such series, the conditions upon which such dividends shall be payable and the date from which dividends shall be cumulative in the event the Board of Directors determines that dividends shall be cumulative;

2.1.3 whether such series shall have voting rights, in addition to the voting rights provided by law and, if so, the terms of such voting rights;

2.1.4 whether such series shall have conversion privileges and, if so, the terms and conditions of such conversion, including, but not limited to, provision for adjustment of the conversion rate upon such events and in such manner as the Board of Directors shall determine;

2.1.5 whether or not the shares of such series shall be redeemable and, if so, the terms and conditions of such redemption, including the date or dates upon or after which they shall be redeemable, and the amount per share payable in case of redemption, which amount may vary under different conditions and at different redemption dates;

2.1.6 whether such series shall have a sinking fund for the redemption or purchase of shares of that series and, if so, the terms and amount of such sinking fund;

2.1.7 the rights of the shares of such series in the event of voluntary or involuntary liquidation, dissolution or winding up of the Corporation, and the relative rights of priority, if any, of payment of shares of that series; and

2.1.8 any other relative rights, preferences and limitations of such series.

Section 3. Common Stock.

3.1 Issuance and Consideration. Any unissued or treasury shares of the Common Stock may be issued for such consideration as may be fixed in accordance with applicable law from time to time by the Board of Directors.

3.2 Voting Rights. At every meeting of the stockholders every holder of Common Stock shall be entitled to one vote, in person or by proxy, for each share of Common Stock standing in the name of such stockholder on the books of the Corporation, on each matter on which the stockholders generally are entitled to vote.

3.3 Dividends. Subject to the rights of holders of the Preferred Stock, the holders of the Common Stock shall be entitled to receive, when and as declared by the Board of Directors, out of the assets of the Corporation which are by law available therefor, dividends payable either in cash, in property, or in shares of stock and the holders of the Preferred Stock shall not be entitled to participate in any such dividends (unless otherwise provided by the Board of Directors in any resolution providing for the issue of a series of Preferred Stock).

3.4 Rights in Event of Dissolution. In the event of any dissolution, liquidation or winding up of the affairs of the Corporation, either voluntarily or involuntarily, the holders of the Common Stock shall be entitled, after payment or provision for payment of the debts and other liabilities of the Corporation and the amounts to which the holders of the Preferred Stock shall be entitled, to share ratably in the remaining assets of the Corporation to the exclusion of the Preferred Stock (unless otherwise provided by the Board of Directors in any resolution providing for the issue of a series of Preferred Stock). Neither the merger or consolidation of the Corporation, nor the sale, lease or conveyance of all or part of its assets, shall be deemed to be a liquidation, dissolution or winding up of the affairs of the Corporation within the meaning of this Section 3.4.

FIFTH. Amendment of Bylaws by Directors. In furtherance and not in limitation of the powers conferred by statute, the Board of Directors is expressly authorized to make, repeal, alter, amend and rescind the bylaws of the Corporation.

SIXTH.

Section 1. Election of Directors. Subject to the right of the holders of any class or series of Preferred Stock to elect one or more directors of the Corporation, each director shall be elected for a term expiring at the next annual meeting, and shall hold office until such director's successor is elected and qualified or until such director's earlier death, resignation or removal.

Section 2. Election by Holders of Preferred Stock. During any period when the holders of any Preferred Stock or any one or more series thereof, voting as a class, shall be entitled to elect a specified number of directors, by reason of divided arrearages or other provisions giving them the right to do so, then and during such time as such right continues (i) the then otherwise authorized number of directors shall be increased by such specified number of directors, and the holders of such Preferred Stock or such series thereof, voting as a class, shall be entitled to elect the additional directors so provided for, pursuant to the provisions of such Preferred Stock or series; (ii) each such additional director shall serve for such term, and have such voting powers, as shall be stated in the provisions pertaining to such Preferred Stock or series; and (iii) whenever the holders of any such Preferred Stock or series thereof are divested of such rights to elect a specified number of directors, voting as a class, pursuant to the provisions of such Preferred Stock or series, the terms of office of all directors elected by the holders of such Preferred Stock or series, voting as a class pursuant to such provisions or elected to fill any vacancies resulting from the death, resignation or removal of directors so elected by the holders of such Preferred Stock or series, shall forthwith terminate and the authorized number of directors shall be reduced accordingly.

Section 3. Cumulative Voting. There shall be no cumulative voting in the election of directors.

Section 4. Elimination of Certain Personal Liability of Directors. A director of this Corporation shall not be personally liable to the Corporation or its stockholders for monetary damages for breach of any fiduciary duty as a director, except for liability (i) for any breach of the director's duty of loyalty to the Corporation or its stockholders, (ii) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (iii) under Section 174 of the DGCL or (iv) for any transaction from which the director derives an improper personal benefit. If the DGCL is amended after approval by the stockholders of this Section to authorize corporate action further eliminating or limiting the personal liability of directors, then the liability of a director of the Corporation shall be eliminated or limited to the fullest extent permitted by the DGCL, as so amended. The foregoing limitation on liability shall not apply to acts or omissions occurring prior to the effective date of this Section.

SEVENTH. No action shall be taken by the stockholders except at an annual or special meeting of stockholders.

EIGHTH. Any director may be removed at any annual or special stockholders' meeting, with or without cause, upon the affirmative vote of the holders of not less than a majority of the outstanding shares of capital stock of the Corporation at that time entitled to vote generally in the election of directors, voting together as a single class; provided, that directors who shall have been elected by the holders of a series or class of Preferred Stock, voting separately as a class, shall be removed only pursuant to the provisions establishing the rights of such series or class to elect such directors.

NINTH. Amendments Generally. The Corporation reserves the right to amend, alter, change or repeal any provision contained in this Certificate of Incorporation, in the manner now or hereafter prescribed by statute, and all rights conferred on stockholders herein are granted subject to this reservation.

AMENDED AND RESTATED BYLAWS OF VICTORIA'S SECRET & CO.

Adopted as of August 2, 2021

ARTICLE I STOCKHOLDERS

Section 1.01. Annual Meeting. An annual meeting of the stockholders of this corporation shall be held for the purpose of electing directors and transacting such other business as may properly come before the meeting.

Section 1.02. Special Meetings.

1.02.01. Special meetings of the stockholders may be called at any time by the chair of the board of directors (the "Board of Directors"), any vice chair of the Board of Directors, or in case of the death, absence, or disability of the chair of the Board of Directors (and, if elected, a vice chair of the Board of Directors), the chief executive officer, or in the case of the chief executive officer's death, absence or disability, the president, or in case of the president's death, absence, or disability, the vice president, if any, authorized to exercise the authority of the president, or a majority of the Board of Directors acting with or without a meeting and may not be called by any other person or persons; provided that if and to the extent that any special meeting of stockholders may be called by any other person or persons specified in any provision of the certificate of incorporation or any amendment thereto or any certificate filed under Section 151(g) of the Delaware General Corporation Law (the "DGCL") (or its successor statute as in effect from time to time), then such special meeting may also be called by such person or persons. A special meeting shall be held only in the manner, at the times and for the purposes specified on the notice of meeting or at the meeting by the person or persons properly calling the meeting in accordance with this Section 1.02.01. For the avoidance of doubt, the Board of Directors shall be permitted to submit matters to the stockholders at any special meeting requested by the stockholders pursuant to Section 1.02.02.

1.02.02. A special meeting of stockholders shall be called by the Board of Directors pursuant to Section 1.02.01 at the written request or requests to the secretary (the "secretary") of the corporation (each, a "Special Meeting Request" and, collectively, the "Special Meeting Requests") of holders of record who Own (as defined in Section 2.05) or, if such Special Meeting Request is made on behalf of one or more beneficial owners, of such beneficial owners who Own, at least 25% of the number of outstanding shares of common stock of the corporation entitled to vote on the matter or matters to be brought before the proposed special meeting (the "Requisite Percentage"). The Special Meeting Requests to the secretary shall be signed and dated by each stockholder of record (or a duly authorized agent of such stockholder) requesting the special meeting (each, a "Requesting Stockholder"), shall comply with this Section 1.02.02 and, if applicable, Section 2.04, and shall include (i) a statement of the specific purpose or purposes of the special meeting, (ii) the information required by Section 1.12 and, if applicable, Section 2.04, (iii) an acknowledgment by the Requesting Stockholders and the beneficial owners, if any, on whose behalf the Special Meeting Requests are being made that a disposition (prior to the time of the special meeting) of shares of the corporation's stock Owned as of the date on which a Special Meeting Request in respect of such shares is delivered to the secretary shall constitute a revocation of such Special Meeting Request with respect to such disposed shares and (iv) documentary evidence that the Requesting Stockholders or the beneficial owners, if any, on whose behalf the Special Meeting Requests are being made Own the Requisite Percentage as of the dates of such written requests to the secretary; provided, however, that if the Requesting Stockholders are not the beneficial owners of the shares representing the Requisite Percentage, then to be valid, the Special Meeting Requests must also include documentary evidence (or, if not simultaneously provided with any Special Meeting Request, such documentary evidence must be delivered to the secretary within 10 business days after the date on which such Special Meeting Request is delivered to the secretary) that the beneficial owners on whose behalf the Special Meeting Requests are made Own the Requisite Percentage as of the dates on which such Special Meeting Requests are delivered to the secretary. In addition, the Requesting Stockholders and the beneficial owners, if any, on whose behalf the Special Meeting Requests are being made shall promptly provide any other information reasonably requested by the corporation. The information required under clauses (iii), (iv) and (v) of Section 1.12.02(a) shall be supplemented by each Requesting Stockholder and any beneficial owner on whose behalf the Special Meeting Requests are made not later than 10 days after the record date for the special meeting to disclose such information as of the record date.

1.02.03. Special meetings of the stockholders shall be held on such date, at such time, and at such place as may be designated by the Board of Directors in accordance with these bylaws; provided, however, that in the case of a special meeting requested by stockholders pursuant to Section 1.02.02, the date of any such special meeting shall not be more than 90 days after Special Meeting Requests that satisfy the requirements of this Section 1.02 are received by the secretary.

1.02.04. Notwithstanding the foregoing provisions of this Section 1.02, a special meeting requested by stockholders shall not be held if (i) the Special Meeting Requests do not comply with this Section 1.02, (ii) the Special Meeting Requests relate to an item of business that is not a proper subject for stockholder action under the certificate of incorporation or applicable law, (iii) any of the Special Meeting Requests are received by the corporation during the period commencing 90 days prior to the first anniversary of the date of the immediately preceding annual meeting and ending on the date of the next annual meeting, (iv) an annual or special meeting of stockholders that included an identical or substantially similar item of business (“Similar Business”) was held not more than 120 days before any of the Special Meeting Requests were received by the secretary, (v) the Board of Directors has called or calls for an annual or special meeting of stockholders to be held within 90 days after any of the Special Meeting Requests are received by the secretary and the business to be conducted at such meeting includes Similar Business or (vi) any Special Meeting Request was made in a manner that involved a violation of Regulation 14A under the Securities Exchange Act of 1934 and the rules and regulations thereunder (the “Exchange Act”) or other applicable law. For purposes of this Section 1.02.04, the nomination, election or removal of directors shall be deemed to be Similar Business with respect to all items of business involving the nomination, election or removal of directors, changing the size of the Board of Directors and filling of vacancies and/or newly created directorships resulting from any increase in the authorized number of directors. The Board of Directors shall determine in good faith whether the requirements set forth in this Section 1.02.04 have been satisfied. For purposes of Sections 1.02.04, 1.12.01 and 2.04.01 of these bylaws, the first anniversary of the 2021 annual meeting of stockholders shall be deemed to be May 20, 2022.

1.02.05. In determining whether a special meeting of stockholders has been requested by the record holders of shares representing in the aggregate at least the Requisite Percentage, multiple Special Meeting Requests delivered to the secretary will be considered together only if (i) 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 of Directors) and (ii) such Special Meeting Requests have been dated and delivered to the secretary within 60 days of the earliest dated Special Meeting Request. A Requesting Stockholder may revoke a Special Meeting Request at any time by written revocation delivered to the secretary and if, following such revocation, there are outstanding un-revoked requests from Requesting Stockholders holding less than the Requisite Percentage, the Board of Directors may, in its discretion, cancel the special meeting. If none of the Requesting Stockholders appears or sends a duly authorized agent to present the business to be presented for consideration that was specified in the Special Meeting Request, the corporation need not present such business for a vote at such special meeting.

Section 1.03. Time and Place of Meetings. Meetings of stockholders shall be held at such place or, in its sole discretion, by means of remote communication, either within or without the State of Delaware, on such date and at such time as may be determined from time to time by the Board of Directors.

Section 1.04. Notices of Meetings. Unless waived, notice of each annual or special meeting, stating the date, time, and place and the purpose or purposes 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 meeting, shall be served upon, mailed, or delivered in any other manner permitted under Delaware law, including, but not limited to, electronic delivery, to each stockholder of record entitled to vote or entitled to notice, not more than 60 days nor less than 10 days before any such meeting. If mailed, such notice shall be directed to a stockholder at his or her address as the same appears on the records of the corporation. If a meeting is adjourned to another time or place and such adjournment is for 30 days or less and no new record date is fixed for the adjourned meeting, no further notice as to such adjourned meeting need be given if the time and place to which it is adjourned, 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 meeting, are fixed and announced at such meeting. In the event of a transfer of shares after notice has been given and prior to the holding of the meeting, it shall not be necessary to serve notice on the transferee. Such notice shall specify the place where the stockholders list will be open for examination prior to the meeting if required by Section 1.08 hereof.

Section 1.05. Fixing Date for Determination of Stockholders of Record. In order that the corporation may determine the stockholders entitled to notice of or to vote at any meeting of stockholders or any adjournment thereof, or entitled to receive payment of any dividend or other distribution or allotment of any rights, or entitled to exercise any rights in respect of any other 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 be more than 60 nor less than 10 days before the date of such meeting, nor more than 60 days prior to any other action. If the Board shall not fix such a record date, (i) the record date for determining stockholders entitled to notice of or to vote at a meeting of stockholders shall be the close of business on the day next preceding the day on which notice is given, or, if notice is waived, at the close of business on the day next preceding the day on which the meeting is held, and (ii) in any case involving the determination of stockholders for any purpose other than notice of or voting at a meeting of stockholders, the record date for determining stockholders for such purpose shall be the close of business on the day on which the Board of Directors shall adopt the resolution relating thereto. Determination of stockholders entitled to notice of or to vote at a meeting of stockholders shall apply to any adjournment of such meeting; provided, however, that the Board of Directors may fix a new record date for the adjourned meeting.

Section 1.06. Organization. At each meeting of the stockholders, the chair of the Board of Directors, or, in the chair's absence, any vice chair of the Board of Directors, or, in the absence of any vice chair, the chief executive officer, or, in the chief executive officer's absence, the president, or, in the president's absence, any vice president, or, in any vice president's absence, any person selected by the Board of Directors, or, in the absence of the chair of the Board of Directors, any vice chair of the Board of Directors, the chief executive officer, the president, any vice president, or a person selected by the Board of Directors, any person chosen by a majority in voting interest of the stockholders present in person or by proxy and entitled to vote, shall act as chair, and the secretary, or, in the secretary's absence, the assistant secretary, or, in the assistant secretary's absence, any person whom the chair of the meeting shall appoint, shall act as secretary of the meeting.

Section 1.07. Quorum. A stockholders' meeting duly called shall not be organized for the transaction of business unless a quorum is present. Except as otherwise expressly provided by law, the certificate of incorporation, these bylaws, or any certificate filed under Section 151(g) of the DGCL (or its successor statute as in effect from time to time), (i) at any meeting called by the Board of Directors, the presence in person or by proxy of holders of record entitling them to exercise at least one-third of the voting power of the corporation shall constitute a quorum for such meeting, and (ii) at any meeting called other than by the Board of Directors, the presence in person or by proxy of holders of record entitling them to exercise at least a majority of the voting power of the corporation shall constitute a quorum for such meeting. The stockholders present at a duly organized meeting can continue to do business until adjournment, notwithstanding the withdrawal of enough stockholders to leave less than a quorum. If a meeting cannot be organized because a quorum has not attended, a majority in voting interest of the stockholders present or the chair of the meeting may adjourn the meeting from time to time to such date and time (not more than 30 days after the previously adjourned meeting) and place as they (or the chair of the meeting) may determine, without notice other than by announcement at the meeting of the time and place of the adjourned meeting. At any such adjourned meeting at which a quorum is present any business may be transacted which might have been transacted at the meeting as originally called.

Section 1.08. List of Stockholders. The secretary shall prepare and make a complete list of the stockholders of record as of the applicable record date entitled to vote at the meeting, arranged in alphabetical order, and showing the address of each stockholder and the number of shares registered in the name of each stockholder. The corporation shall not be required to include electronic mail addresses or other electronic contact information on such list. 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 10 days prior to the meeting, either (i) on a reasonably accessible electronic network, provided that the information required to gain access to such list is provided with the notice of the meeting, or (ii) during ordinary business hours, at the principal place of business of the corporation. If the meeting is to be held at a place, the list shall also be produced and kept at the time and place of the meeting during the whole time thereof, and may be inspected by any stockholder who is present. If the meeting is to be held solely by means of remote communication, then such list shall also be open to the examination of any stockholder during the whole time of the meeting on a reasonably accessible electronic network, and the information required to access such list shall be provided with the notice of the meeting. Except as otherwise provided by law, the list shall presumptively determine the identity of the stockholders entitled to vote at the meeting and the number of shares held by each of them.

Section 1.09. Order of Business and Procedure. The order of business at all meetings of the stockholders and all matters relating to the manner of conducting the meeting shall be determined by the chair of the meeting. Meetings shall be conducted in a manner designed to accomplish the business of the meeting in a prompt and orderly fashion and to be fair and equitable to all stockholders, but it shall not be necessary to follow any manual of parliamentary procedure.

Section 1.10. Voting.

1.10.01. Each stockholder shall, at each meeting of the stockholders, be entitled to vote in person or by proxy each share or fractional share of the stock of the corporation having voting rights on the matter in question and which shall have been held by such person and registered in such person's name on the books of the corporation on the date fixed pursuant to Section 1.05 of these bylaws as the record date for the determination of stockholders entitled to notice of and to vote at such meeting.

1.10.02. Shares of its own stock belonging to the corporation or to another corporation, if a majority of the shares entitled to vote in the election of directors in such other corporation is held, directly or indirectly, by the corporation, shall neither be entitled to vote nor be counted for quorum purposes.

1.10.03. Any such voting rights may be exercised by the stockholder entitled thereto or by such person's proxy appointed by an instrument in writing or in any other manner then permitted by law, subscribed by such person or such person's attorney thereunto authorized in any manner then permitted by law and delivered to the secretary in sufficient time to permit the necessary examination and tabulation thereof before the vote is taken; provided, however, that no proxy shall be valid after the expiration of three years after its date of execution, unless the stockholder executing it shall have specified therein the length of time it is to continue in force. At any meeting of the stockholders all matters, except as otherwise provided in the certificate of incorporation, in these bylaws, or by applicable law, rules or regulations, shall be decided by the affirmative vote of the holders of a majority of the votes cast at the meeting on such matter, a quorum being present. The vote at any meeting of the stockholders on any question need not be by ballot, unless so directed by the chair of the meeting or required by the certificate of incorporation. For the purposes of these bylaws, abstentions and broker non-votes shall not be counted as votes cast. On a vote by ballot, each ballot shall be signed by the stockholder voting, or by such person's proxy, if there be such proxy, and it shall state the number of shares voted.

Section 1.11. Inspectors. The Board of Directors, in advance of any meeting of the stockholders, may appoint one or more inspectors to act at the meeting. If inspectors are not so appointed, the person presiding at the meeting may appoint one or more inspectors. If any person so appointed fails to appear or act, the vacancy may be filled by appointment made by the Board of Directors in advance of the meeting or at the meeting by the person presiding thereat. Each inspector, before entering upon the discharge of his or her duties, shall take and sign an oath faithfully to execute the duties of inspector at the meeting with strict impartiality and according to the best of such person's ability. The inspectors so appointed shall determine the number of shares outstanding, the shares represented at the meeting, the existence of a quorum and the authenticity, validity, and effect of proxies and shall receive votes, ballots, waivers, releases, or consents, hear and determine all challenges and questions arising in connection with the right to vote, count and tabulate all votes, ballots, waivers, releases, or consents, determine and announce the results, and do such acts as are proper to conduct the election or vote with fairness to all stockholders. On request of the person presiding at the meeting, the inspectors shall make a report in writing of any challenge, question, or matter determined by them and execute a certificate of any fact found by them. Any report or certificate made by them shall be prima facie evidence of the facts stated and of the vote as certified by them.

Section 1.12. Notice of Business.

1.12.01. At any meeting of the stockholders, only such business shall be conducted as shall have been brought before the meeting (i) by or at the direction of the Board of Directors or such other person or persons authorized to present business to a meeting of stockholders in accordance with Section 1.02.01 of these bylaws or (ii) by any stockholder of the corporation who is a stockholder of record at the time of giving of the notice provided for in this Section 1.12, who shall be entitled to vote at such meeting and who complies with the notice procedures set forth in this Section 1.12; provided that, notwithstanding the foregoing provisions of this Section 1.12, (A) in the case of special meetings, the provisions of Section 1.02 shall govern and (B) in the case of nominations of directors, the provisions of Section 2.04 shall govern. For business to be properly brought by a stockholder before an annual meeting of stockholders, the stockholder must have given timely notice thereof in writing to the secretary. To be timely, a stockholder's notice shall be delivered to or mailed and received at the principal executive offices of the corporation not less than 90 days nor more than 120 days prior to the first anniversary of the preceding year's annual meeting of stockholders; provided that, (A) in the event that the date of the annual meeting is advanced more than 30 days prior to such anniversary date or delayed more than 90 days after such anniversary date then to be timely such notice must be received by the corporation no earlier than 120 days prior to such annual meeting and no later than the later of 90 days prior to the meeting or the 10th day following the day on which public announcement of the date of the meeting was made and (B) a stockholder may deliver or mail the notice contemplated by this Section 1.12 prior to the time periods specified above if earlier delivery or mailing is required under Rule 14a-8 of the Exchange Act, as such Rule may be amended from time to time. In no event shall any adjournment or postponement of an annual meeting or the public announcement thereof commence a new time period (or extend any time period) for the giving of a stockholder's notice.

1.12.02. (a) A stockholder's notice to the secretary (in the case of an annual meeting) or Special Meeting Request (in the case of a special meeting) shall set forth as to each matter the stockholder proposes to bring before the meeting:

(i) a brief description of the business desired to be brought before the meeting (including the text of any resolutions proposed for consideration and in the event that such business includes a proposal to amend these bylaws, the text of the proposed amendment) and the reasons for conducting such business at the meeting;

(ii) the name and address, as they appear on the corporation's books, of the stockholder proposing such business, the beneficial owner, if any, on whose behalf the proposal is made, and any Stockholder Associated Person covered by clauses (iii), (iv) and (v) of this Section 1.12.02(a);

(iii) a description of any agreement, arrangement or understanding between or among such stockholder, the beneficial owner, if any, on whose behalf the proposal is made, or any Stockholder Associated Person, and any other person or persons (including their names), in connection with the proposal of such business;

(iv) (A) the class and number of shares of the corporation which are held of record or are beneficially owned by such stockholder, the beneficial owner, if any, on whose behalf the proposal is made, or by any Stockholder Associated Person with respect to the corporation's securities and (B) a description of any agreement, arrangement or understanding (including any derivative or short positions, profit interests, options, warrants, convertible securities, stock appreciation or similar rights, hedging transactions, and borrowed or loaned shares) that has been entered into as of the date of such notice by, or on behalf of, such stockholder, beneficial owner or Stockholder Associated Person, whether or not such agreement, arrangement or understanding shall be subject to settlement in underlying shares of capital stock of the corporation, the effect or intent of which is to increase or decrease the voting power of, mitigate loss to, or manage risk or benefit of share price changes for, such stockholder, such beneficial owner or any Stockholder Associated Person with respect to the corporation's securities;

(v) any material interest of the stockholder, such beneficial owner or any Stockholder Associated Person in such business;

(vi) a representation that the stockholder intends to appear in person or by proxy at the meeting to bring such business before the meeting; and

(vii) any other information relating to such stockholder or such beneficial owner, if any, required to be disclosed in a proxy statement or other filings required to be made in connection with solicitations of proxies for the proposal pursuant to and in accordance with Section 14(a) of the Exchange Act and the rules and regulations promulgated thereunder.

(b) If requested by the Corporation, the information required under clauses (iii), (iv) and (v) of Section 1.12.02(a) shall be supplemented by such stockholder not later than 10 days after the record date for the meeting to disclose such information as of the record date.

(c) "Stockholder Associated Person" of any stockholder means (i) any person controlling, controlled by or under common control with, or acting in concert with, such stockholder, and (ii) any person controlling, controlled by or under common control with any person described in clause (i). The term "beneficially" held (or any similar term) includes direct or indirect holdings and has the meaning set forth in Rule 13d-3 (or any successor thereto) under the Exchange Act.

1.12.03. If the stockholder does not appear or does not send a duly authorized agent to present the business to be presented for consideration that was specified in the notice submitted pursuant to this Section 1.12, the corporation need not present such business for a vote at such meeting.

1.12.04. Notwithstanding anything in these bylaws to the contrary, no business shall be conducted at a stockholder meeting except in accordance with the procedures set forth in this Article I and, when applicable, Section 2.04. The chair of the meeting shall, if the facts warrant, determine and declare to the meeting that business was not properly brought before the meeting and in accordance with the provisions of the bylaws, and if he or she should so determine, he or she shall so declare to the meeting and any such business not properly brought before the meeting shall not be transacted. The provisions of this Section 1.12 are in addition to the applicable requirements of the Exchange Act. Accordingly, notwithstanding the foregoing provisions of this Section 1.12, a stockholder shall also comply with all applicable requirements of the Exchange Act with respect to the matters set forth in this Section 1.12.

ARTICLE II BOARD OF DIRECTORS

Section 2.01. General Powers of Board. The powers of the corporation shall be exercised, its business and affairs conducted, and its property controlled by the Board of Directors, except as otherwise provided by the law of Delaware or in the certificate of incorporation.

Section 2.02. Number of Directors. The number of directors of the corporation (exclusive of directors to be elected by the holders of any one or more series of Preferred Stock voting separately as a class or classes) shall not be less than 6 nor more than 15, the exact number of directors to be such number as may be set from time to time within the limits set forth above by resolution adopted by affirmative vote of a majority of the whole Board of Directors. As used in these Bylaws, the term "whole Board" means the total number of directors that the corporation would have if there were no vacancies.

Section 2.03. Election of Directors.

2.03.01. Except as otherwise provided in these bylaws, each director shall be elected by the affirmative vote of the holders of a majority of the votes cast at the meeting with respect to that director's election, a quorum being present. For purposes of this Section 2.03, any "withhold" or "against" votes in a director's election will count as a vote cast, but "abstentions" and broker non-votes will not count as a vote cast with respect to that director's election. In a contested election, the nominees receiving a plurality of the votes cast by holders of shares entitled to vote in the election at a meeting at which a quorum is present shall be elected. A "contested election" is one in which, as of the last date by which stockholders may submit notice to nominate a person for election as a director pursuant to Section 2.04 or Section 2.05 of these bylaws, the number of nominees for any election of directors exceeds the number of directors to be elected.

2.03.02. (a) In order for any incumbent director to become a nominee for further service on the Board of Directors, such person must submit an irrevocable resignation, which resignation shall become effective upon (i) that person not receiving a majority of the votes cast in an election that is not a contested election and (ii) acceptance by the Board of Directors of that resignation in accordance with any policies and procedures adopted by the Board of Directors for such purpose.

(b) In order for any other person to become a nominee for service on the Board of Directors, such person must submit an irrevocable commitment that, if elected, such individual will tender, promptly upon such person's election, an irrevocable resignation, which resignation shall become effective upon (i) that person not receiving a majority of the votes cast in the next election that is not a contested election following such person's initial election to the Board of Directors and (ii) acceptance by the Board of Directors of that resignation in accordance with any policies and procedures adopted by the Board of Directors for such purpose.

2.03.03. In the event an incumbent director does not receive a majority of the votes cast with respect to that director's election at any meeting for the uncontested election of directors at which a quorum is present, the Board of Directors, acting on the recommendation of the Nominating and Governance Committee, shall no later than at its first regularly scheduled meeting following certification of the stockholder vote for the election of directors determine whether to accept the resignation of the incumbent director or whether to take other action.

2.03.04. The Nominating and Governance Committee, in making any such recommendation, and the Board of Directors, in making its determination, may consider any factors or other information that they believe appropriate and relevant.

2.03.05. If the Board of Directors determines to accept the resignation contemplated by Section 2.03.02 of a nominee, the Nominating and Governance Committee shall promptly either recommend a candidate to the Board of Directors to fill the office formerly held by such person or recommend a reduction in the size of the Board of Directors.

2.03.06. The Nominating and Governance Committee and the Board of Directors shall take the actions required under this Section 2.03 without the participation of any nominee whose resignation, as contemplated by Section 2.03.02, is under consideration, except that (i) if every member of the Nominating and Governance Committee is such a nominee, then a majority of the Board of Directors shall appoint a Board committee of independent directors for the purpose of considering the tendered resignations and making a recommendation to the Board of Directors whether to accept or reject them; and (ii) if the number of independent directors who are not such nominees is three or fewer, all directors may participate in the decisions under this Section 2.03. As used above, the term “independent director” shall mean a director who complies with the “independent director” requirements under the rules of the principal securities exchange upon which the common stock of the corporation is listed or traded.

2.03.07. If the Board of Directors accepts the resignation contemplated by Section 2.03.02 of any nominee, or if a nominee for director who is not an incumbent director does not receive a majority of the votes cast with respect to that director’s election, then the Board of Directors may fill the resulting vacancy pursuant to Section 2.07 or may decrease the size of the Board of Directors pursuant to the provisions of Section 2.02.

Section 2.04. Nominations.

2.04.01. (a) At any meeting of the stockholders, only persons who are nominated in accordance with the procedures set forth in these bylaws shall be eligible to serve as directors. Nominations of persons for election to the Board of Directors of the corporation may be made at a meeting of stockholders (i) by or at the direction of the Board of Directors, (ii) by or at the direction of the Nominating and Governance Committee of the Board of Directors, (iii) by any stockholder of the corporation who is a stockholder of record at the time of giving of notice provided for in this Section 2.04, who shall be entitled to vote for the election of directors at the meeting and who complies with the notice procedures set forth in this Section 2.04, (iv) in accordance with Section 2.05 or (v) in accordance with any certificate filed under Section 151(g) of the DGCL; provided that, (A) notwithstanding the foregoing provisions of Section 2.04, in the case of special meetings, the provisions of Section 1.02 shall govern and (B) all nominees must comply with the requirements of Section 2.03.02 (in addition to all other applicable requirements). Such nominations, other than those made by or at the direction of the Board of Directors or its Nominating and Governance Committee or pursuant to Section 2.05, shall be made pursuant to Special Meeting Requests made in accordance with Section 1.02 or, in the case of an annual meeting, pursuant to timely notice in writing to the secretary. For a nomination pursuant to this Section 2.04 to be timely, a stockholder’s notice shall be delivered to or mailed and received at the principal executive offices of the corporation not less than 90 days nor more than 120 days prior to the first anniversary of the preceding year’s annual meeting of stockholders; provided, however, that in the event that the date of the annual meeting is advanced more than 30 days prior to such anniversary date or delayed more than 90 days after such anniversary date then to be timely such notice must be received by the corporation no earlier than 120 days prior to such annual meeting and no later than the later of 90 days prior to the date of the meeting or the 10th day following the day on which public announcement of the date of the meeting was made. In no event shall any adjournment or postponement of an annual meeting or the public announcement thereof commence a new time period (or extend any time period) for the giving of such notice pursuant to this Section 2.04. Each such notice or Special Meeting Request, as applicable, shall include (1) (x) the name and address of the stockholder making such nomination, as they appear on the corporation’s books, the beneficial owner, if any, on whose behalf the proposal is made, and any Stockholder Associated Person covered by clause (5) or (6) and (y) the name, age, business address and, if known, residence address of each nominee proposed in such notice, (2) the principal occupation or employment of each such nominee, (3) all information relating to such person that is required to be disclosed in solicitations of proxies for election of directors, or is otherwise required, in each case pursuant to Regulation 14A under the Exchange Act (including such person’s written consent to being named in the proxy statement as a nominee and to serving as a director if elected), (4) a reasonably detailed description of any compensatory or other financial agreement, arrangement or understanding that each such nominee has with any other person or entity other than the corporation, including the amount of any payment or payments received or receivable thereunder, in each case in connection with candidacy or service as a director of the corporation (each, a “Third-Party Compensation Arrangement”), (5) a description of any agreement, arrangement or understanding between or among the stockholder giving the notice, the beneficial owner, if any, on whose behalf the proposal is made, or any Stockholder Associated Person, on the one hand, and any other person or persons (including their names), including the nominee, on the other hand, in connection with the proposal of each such nominee, (6) (x) the class and number of shares of the corporation which are held of record or beneficially by the stockholder giving the notice, the beneficial owner, if any, on whose behalf the proposal is made, or any Stockholder Associated Person and (y) a description of any agreement, arrangement or understanding (including any derivative or short positions, profit interests, options, warrants, convertible securities, stock appreciation or similar rights, hedging transactions, and borrowed or loaned shares) that has been entered into as of the date of such notice by, or on behalf of, such stockholder, beneficial owner or any Stockholder Associated Person, whether or not such agreement, arrangement or understanding shall be subject to settlement in underlying shares of capital stock of the corporation, the effect or intent of which is to create or mitigate loss to, manage risk or benefit of share price changes for or increase or decrease the voting power of, such stockholder, such beneficial owner or any Stockholder Associated Person with respect to the corporation’s securities, (7) a representation that the stockholder intends to appear in person or by proxy at the meeting to bring such nomination before the meeting, and (8) any other information relating to such stockholder, such beneficial owner, if any, or nominee 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 in support of such nominee pursuant to Section 14(a) of the Exchange Act and the rules and regulations promulgated thereunder.

(b) To be eligible to be a nominee for election as a director pursuant to this Section 2.04, the proposed nominee must provide to the secretary in accordance with the applicable time periods prescribed for delivery of notice under Section 1.02 or this Section 2.04, as applicable, a written representation and agreement that such nominee (i) is not and will not become a party to any agreement, arrangement or understanding with, and has not given any commitment or assurance to, any person or entity as to how such nominee, if elected as a director of the corporation, will act or vote on any issue or question that has not been disclosed to the corporation prior to or concurrently with the notice submitted pursuant to this Section 2.04, (ii) is not and will not become a party to any Third-Party Compensation Arrangement that has not been disclosed to the corporation prior to or concurrently with the notice submitted pursuant to this Section 2.04, (iii) would be in compliance, if elected as a director of the corporation, and will comply with the corporation's code of conduct and ethics, corporate governance guidelines, stock ownership and trading policies and guidelines, related person transaction policy and any other policies or guidelines of the corporation applicable to directors and (iv) will make such other acknowledgments, enter into such agreements and provide such information as the Board of Directors requires of all directors, including promptly submitting all completed and signed questionnaires required of the corporation's directors. The corporation may require any proposed nominee pursuant to this Section 2.04 to furnish any other information (A) that may reasonably be requested by the corporation to determine whether such nominee would belong to any of the categories described in clauses (i) through (viii) of Section 2.05.10, (B) that could be material to a reasonable stockholder's understanding of the independence, or lack thereof, of such nominee or (C) that may reasonably be requested by the corporation to determine the eligibility of such nominee to serve as a director of the corporation.

(c) If the stockholder does not appear or does not send a duly authorized agent to present the nomination that was submitted pursuant to this Section 2.04, such nomination shall be disregarded at such meeting for which such nomination was submitted.

(d) Notwithstanding anything in these bylaws to the contrary, no nomination for the election of directors shall be made except in accordance with the procedures set forth in this Section 2.04 or Section 2.05, as applicable. The provisions of this Section 2.04 and Section 2.05 are in addition to the applicable requirements of the Exchange Act. Accordingly, notwithstanding the foregoing provisions of this Section 2.04 or the following provisions of Section 2.05, a stockholder shall also comply with all applicable requirements of the Exchange Act with respect to the matters set forth in this Section 2.04 or Section 2.05, as applicable.

2.04.02. Notice of nominations that are proposed by the Board of Directors or its nominating committee shall be given by the chair of the meeting.

2.04.03. The chair of the meeting shall, if the facts warrant, determine and declare to the meeting that a nomination was not properly brought before the meeting and in accordance with the provisions of these bylaws, and if he should so determine, he shall so declare to the meeting and any such nomination not properly brought before the meeting shall not be given effect.

Section 2.05. Proxy Access.

2.05.01. Whenever the Board of Directors solicits proxies with respect to the election of directors at an annual meeting of stockholders, subject to the provisions of this Section 2.05, the corporation shall include in its proxy statement for such annual meeting, in addition to any persons nominated for election by or at the direction of the Board of Directors (or any duly authorized committee thereof), the name, together with the Required Information (as defined below), of any person nominated for election (the "Stockholder Nominee") to the Board of Directors by an Eligible Stockholder (as defined in Section 2.05.4) that expressly elects at the time of providing the notice required by this Section 2.05 to have such nominee included in the corporation's proxy materials pursuant to this Section 2.05 and that has satisfied all applicable conditions and complied with all applicable procedures set forth in this Section 2.05. For purposes of this Section 2.05, the "Required Information" that the corporation will include in its proxy statement is (i) the information provided to the secretary concerning the Stockholder Nominee and the Eligible Stockholder that is required to be disclosed in the corporation's proxy statement pursuant to Section 14 of the Exchange Act and the rules and regulations promulgated thereunder and (ii) if the Eligible Stockholder so elects, a Supporting Statement (as defined in Section 2.05.8). For the avoidance of doubt, nothing in this Section 2.05 shall limit the corporation's ability to solicit against any Stockholder Nominee or include in its proxy materials the corporation's own statements or other information relating to any Eligible Stockholder or Stockholder Nominee, including any information provided to the corporation pursuant to this Section 2.05. Subject to the provisions of this Section 2.05, the name of any Stockholder Nominee included in the corporation's proxy statement for an annual meeting of stockholders shall also be set forth on the form of proxy distributed by the corporation in connection with such annual meeting.

2.05.02. In addition to any other applicable requirements, for a nomination to be made by an Eligible Stockholder pursuant to this Section 2.05, the Eligible Stockholder must have given timely notice of such nomination (the "Notice of Proxy Access Nomination") in proper written form to the secretary. To be timely, the Notice of Proxy Access Nomination shall be delivered to or mailed and received at the principal executive offices of the corporation not less than 120 days nor more than 150 days prior to the first anniversary of the date that the corporation first distributed its proxy statement to stockholders for the immediately preceding annual meeting of stockholders. In no event shall any adjournment or postponement of an annual meeting or the public announcement thereof commence a new time period (or extend any time period) for the giving of a Notice of Proxy Access Nomination pursuant to this Section 2.05.

2.05.03. The maximum number of Stockholder Nominees nominated by all Eligible Stockholders that will be included in the corporation's proxy materials with respect to an annual meeting of stockholders shall not exceed 20% of the number of directors (rounded down to the nearest whole number but not less than two) in office as of the last day on which a Notice of Proxy Access Nomination may be delivered pursuant to and in accordance with this Section 2.05 (such date, the "Final Proxy Access Nomination Date" and such maximum number, the "Permitted Number"). In the event that one or more vacancies for any reason occurs on the Board of Directors after the Final Proxy Access Nomination Date but before the date of the annual meeting and the Board of Directors resolves to reduce the size of the Board of Directors in connection therewith, the Permitted Number shall be calculated based on the number of directors in office as so reduced. For purposes of determining when the Permitted Number has been reached, each of the following persons shall be counted as one of the Stockholder Nominees: (i) any individual nominated by an Eligible Stockholder for inclusion in the corporation's proxy materials pursuant to this Section 2.05 whose nomination is subsequently withdrawn, (ii) (A) any individual nominated by an Eligible Stockholder for inclusion in the corporation's proxy materials pursuant to this Section 2.05 who ceases to satisfy the eligibility requirements to be a Stockholder Nominee or (B) any individual nominated by a stockholder that ceases to satisfy the eligibility requirements to be an Eligible Stockholder, (iii) any individual nominated by an Eligible Stockholder for inclusion in the corporation's proxy materials pursuant to this Section 2.05 whom the Board of Directors decides to nominate for election to the Board of Directors and (iv) any director in office as of the Final Proxy Access Nomination Date who was included in the corporation's proxy materials as a Stockholder Nominee for either of the two preceding annual meetings of stockholders (including any individual counted as a Stockholder Nominee pursuant to the immediately preceding clause (iii)) and whom the Board of Directors decides to nominate for re-election to the Board of Directors. Any Eligible Stockholder submitting more than one Stockholder Nominee for inclusion in the corporation's proxy materials pursuant to this Section 2.05 shall rank such Stockholder Nominees based on the order in which the Eligible Stockholder desires such Stockholder Nominees to be selected for inclusion in the corporation's proxy materials in the event that the total number of Stockholder Nominees submitted by Eligible Stockholders pursuant to this Section 2.05 exceeds the Permitted Number. In the event that the number of Stockholder Nominees submitted by Eligible Stockholders pursuant to this Section 2.05 exceeds the Permitted Number, the highest ranking Stockholder Nominee who meets the requirements of this Section 2.05 from each Eligible Stockholder will be selected for inclusion in the corporation's proxy materials until the Permitted Number is reached, going in order of the number (largest to smallest) of shares of common stock of the corporation each Eligible Stockholder disclosed as Owned (as defined in Section 2.05.05) in its Notice of Proxy Access Nomination. If the Permitted Number is not reached after the highest ranking Stockholder Nominee who meets the requirements of this Section 2.05 from each Eligible Stockholder has been selected, then the next highest ranking Stockholder Nominee who meets the requirements of this Section 2.05 from each Eligible Stockholder will be selected for inclusion in the corporation's proxy materials, and this process will continue as many times as necessary, following the same order each time, until the Permitted Number is reached. Notwithstanding anything to the contrary contained in this Section 2.05, the corporation shall not be required to include any Stockholder Nominees in its proxy materials pursuant to this Section 2.05 for any meeting of stockholders for which the secretary receives notice (whether or not subsequently withdrawn or made the subject of a settlement with the corporation) that a stockholder intends to nominate one or more persons for election to the Board of Directors pursuant to the advance notice requirements for stockholder nominees set forth in Section 2.04.

2.05.04. An “Eligible Stockholder” is a holder of record or group of no more than 20 holders of record and, to the extent that a holder of record is acting on behalf of one or more beneficial owners, such beneficial owners (counting as one holder of record or beneficial owner, as applicable, for this purpose, any two or more funds that are part of the same Qualifying Fund Group (as defined below)) that (i) has Owned continuously for at least three years preceding and including the date of submission of the Notice of Proxy Access Nomination (the “Minimum Holding Period”) at least 3% of the number of outstanding shares of common stock of the corporation as of the most recent date for which such number is given in any filing by the corporation with the U.S. Securities and Exchange Commission (the “SEC”) prior to the submission of the Notice of Proxy Access Nomination (the “Required Shares”) (as adjusted for any stock splits, reverse stock splits, stock dividends or similar events), (ii) continues to Own the Required Shares through the date of the annual meeting and (iii) satisfies all other requirements of, and complies with all applicable procedures set forth in, this Section 2.05. A “Qualifying Fund Group” is a group of two or more funds that are (A) under common management and investment control, (B) under common management and funded primarily by the same employer or (C) a “family of investment companies” or a “group of investment companies” as each such term is defined in the Investment Company Act of 1940 and the rules, regulations and forms adopted thereunder, all as amended. Whenever the Eligible Stockholder consists of a group (including a group of funds that are part of the same Qualifying Fund Group), each provision in this Section 2.05 that requires the Eligible Stockholder to provide any written statements, representations, undertakings, agreements or other instruments or to meet any other conditions shall be deemed to require each holder of record or beneficial owner, as applicable (including each individual fund within any Qualifying Fund Group) that is a member of such group to provide such statements, representations, undertakings, agreements or other instruments and to meet such other conditions (except that the members of such group may aggregate the shares that each member has Owned continuously for the Minimum Holding Period in order to meet the 3% ownership requirement of the “Required Shares” definition). Whenever the Eligible Stockholder consists of a group, should any holder of record or beneficial owner, as applicable (including each individual fund within any Qualifying Fund Group) that is a member of such group cease to satisfy the eligibility requirements in this Section 2.05 or withdraw from such group at any time prior to the annual meeting, the Eligible Stockholder shall be deemed to Own only the shares held by the remaining members of such group. No person may be a member of more than one group constituting an Eligible Stockholder with respect to any annual meeting, and if any person appears as a member of more than one such group, it shall be deemed to be a member only of the group that Owns the largest number of shares of common stock of the corporation as reflected in the Notice of Proxy Access Nomination.

2.05.05. A person shall be deemed to “Own” only those outstanding shares of common stock of the corporation as to which such person possesses both (i) the full voting and investment rights pertaining to the shares and (ii) the full economic interest in (including the opportunity for profit from and risk of loss on) such shares; provided that the number of shares calculated in accordance with clauses (i) and (ii) shall not include any shares (A) sold by such person or any of its affiliates in any transaction that has not been settled or closed, (B) borrowed by such person or any of its affiliates for any purpose or purchased by such person or any of its affiliates pursuant to an agreement to resell or subject to any other obligation to resell to another person or (C) subject to any option, warrant, forward contract, swap, contract of sale or other derivative or similar instrument or agreement entered into by such person or any of its affiliates, whether any such instrument or agreement is to be settled with shares or with cash based on the notional amount or value of shares of outstanding common stock 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 person’s or its affiliates’ full right to vote or direct the voting of any such shares and/or (y) hedging, offsetting or altering to any degree any gain or loss realized or realizable from maintaining the full economic ownership of such shares by such person or affiliate. A person shall “Own” shares held in the name of a nominee or other intermediary so long as such person 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 person’s ownership of shares shall be deemed to continue during any period in which (1) such person has loaned such shares; provided that such person has the power to recall such loaned shares on five business days’ notice or (2) such person has delegated any voting power by means of a proxy, power of attorney or other instrument or arrangement which is revocable at any time by such person. The terms “Owned,” “Owning” and other variations of the word “Own” shall have correlative meanings. For purposes of this Section 2.05, the term “affiliate” or “affiliates” shall have the meaning ascribed thereto under the General Rules and Regulations under the Exchange Act.

2.05.06. To be in proper written form for purposes of this Section 2.05, the Notice of Proxy Access Nomination must include or be accompanied by the following:

(a) a written statement by the Eligible Stockholder certifying as to the number of shares it Owns and has Owned continuously during the Minimum Holding Period, and the Eligible Stockholder’s agreement to provide (i) not later than 10 days after the record date for the annual meeting, a written statement by the Eligible Stockholder certifying as to the number of shares it Owns and has Owned continuously through the record date and (ii) immediate notice if the Eligible Stockholder ceases to Own any of the Required Shares prior to the date of the annual meeting; provided, however, that if such Eligible Stockholder, or any member of the group that together constitutes such Eligible Stockholder, is not the beneficial owner of the shares representing the Required Shares, then to be valid, the Notice of Proxy Access Nomination must also include documentary evidence (or, if not simultaneously provided with the Notice of Proxy Access Nomination, such documentary evidence must be delivered to the secretary within 10 business days after the date on which such Notice of Proxy Access Nomination is delivered to the secretary) that the beneficial owners on whose behalf the Notice of Proxy Access Nomination is made Own the Required Shares as of the date on which the Notice of Proxy Access Nomination is delivered to the secretary.

(b) a copy of the Schedule 14N (or any successor form) that has been or is concurrently being filed with the SEC as required by Rule 14a-18 under the Exchange Act;

(c) 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 form) if it existed on the date of submission of the Schedule 14N;

(d) the information that would be required to be set forth in a stockholder's notice of a nomination pursuant to the last sentence of Section 2.04.1(a);

(e) a representation that the Eligible Stockholder (i) satisfies the eligibility requirements set forth in Section 2.05.04, (ii) will continue to hold the Required Shares through the date of the annual meeting, (iii) acquired the Required Shares in the ordinary course of business and not with the intent to change or influence control at the corporation, and does not have such intent, (iv) has not nominated and will not nominate for election to the Board of Directors at the annual meeting any person other than the Stockholder Nominee(s) it is nominating pursuant to this Section 2.05, (v) has not engaged and will not engage in, and has not and will not be a "participant" in another person's, "solicitation" within the meaning of Rule 14a-1(l) under the Exchange Act in support of the election of any individual as a director at the annual meeting other than its Stockholder Nominee(s) or a nominee of the Board of Directors, (vi) has not distributed and will not distribute to any stockholder of the corporation any form of proxy for the annual meeting other than the form distributed by the corporation, (vii) has complied and will comply with all laws and regulations applicable to solicitations and the use, if any, of soliciting material in connection with the annual meeting and (viii) has provided and will provide facts, statements and other information in all communications with the corporation and its stockholders that are or will be true and correct in all material respects and do not and will not omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading;

(f) a representation from the Eligible Stockholder that the Stockholder Nominee does not fall into any of the categories and has not taken any of the actions described in clauses (i) through (ix) of Section 2.05.10;

(g) an undertaking that the Eligible Stockholder agrees to (i) assume all liability stemming from any actual or alleged legal or regulatory violation arising out of the Eligible Stockholder's communications with the stockholders of the corporation or any other person in connection with the nomination or election of its Stockholder Nominee or out of the information that the Eligible Stockholder provided to the corporation, (ii) 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) 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 Stockholder pursuant to this Section 2.05 or any solicitation or other activity in connection therewith and (iii) file with the SEC any solicitation or other communication with the stockholders of the corporation relating to the meeting at which its Stockholder Nominee(s) will be nominated, regardless of whether any such filing is required under Regulation 14A of the Exchange Act or whether any exemption from filing is available for such solicitation or other communication under Regulation 14A of the Exchange Act;

(h) a written representation and agreement from each Stockholder Nominee that such Stockholder Nominee (i) is not and will not become a party to any agreement, arrangement or understanding with, and has not given any commitment or assurance to, any person or entity as to how such Stockholder Nominee, if elected as a director of the corporation, will act or vote on any issue or question (a “Voting Commitment”) that has not been disclosed to the corporation prior to or concurrently with the Eligible Stockholder’s submission of the Notice of Proxy Access Nomination, (ii) is not and will not become a party to any agreement, arrangement or understanding with any person or entity other than the corporation with respect to any direct or indirect compensation, reimbursement or indemnification in connection with service or action as a director that has not been disclosed to the corporation prior to or concurrently with the Eligible Stockholder’s submission of the Notice of Proxy Access Nomination, (iii) would be in compliance, if elected as a director of the corporation, and will comply with the corporation’s code of conduct and ethics, corporate governance guidelines, stock ownership and trading policies and guidelines, related person transaction policy and any other policies or guidelines of the corporation applicable to directors and (iv) will make such other acknowledgments, enter into such agreements and provide such information as the Board of Directors requires of all directors, including promptly submitting all completed and signed questionnaires required of the corporation’s directors;

(i) in the case of a nomination by a group constituting an Eligible Stockholder, the designation by all group members of one member of the group that is authorized to receive communications, notices and inquiries from the corporation and to act on behalf of all members of the group with respect to all matters relating to the nomination under this Section 2.05 (including withdrawal of the nomination); and

(j) in the case of a nomination by a group constituting an Eligible Stockholder in which two or more funds that are part of the same Qualifying Fund Group are counted as one holder of record or beneficial owner, as applicable, for purposes of qualifying as an Eligible Stockholder, documentation reasonably satisfactory to the corporation that demonstrates that such funds are part of the same Qualifying Fund Group.

2.05.07. In addition to the information required pursuant to Section 2.05.6 or any other provision of these bylaws, (a) the corporation may require any proposed Stockholder Nominee to furnish any other information (i) that may reasonably be requested by the corporation to determine whether the Stockholder Nominee would belong to any of the categories described in clauses (i) through (viii) of Section 2.05.10, (ii) that could be material to a reasonable stockholder’s understanding of the independence, or lack thereof, of such Stockholder Nominee or (iii) that may reasonably be requested by the corporation to determine the eligibility of such Stockholder Nominee to be included in the corporation’s proxy materials pursuant to this Section 2.05 or to serve as a director of the corporation and (b) the corporation may require the Eligible Stockholder to furnish any other information that may reasonably be requested by the corporation to verify the Eligible Stockholder’s continuous ownership of the Required Shares for the Minimum Holding Period.

2.05.08. The Eligible Stockholder may, at its option, provide to the secretary, at the time the Notice of Proxy Access Nomination is provided, a written statement, not to exceed 500 words, in support of the Stockholder Nominee(s)' candidacy (a "Supporting Statement"). Only one Supporting Statement may be submitted by an Eligible Stockholder (including any group constituting an Eligible Stockholder) in support of its Stockholder Nominee(s). Notwithstanding anything to the contrary contained in this Section 2.05, the corporation may omit from its proxy materials any information or Supporting Statement (or portion thereof) that it, in good faith, believes would violate any applicable law or regulation.

2.05.09. In the event that any information or communication provided by an Eligible Stockholder or a Stockholder Nominee to the corporation or its stockholders ceases to be true and correct in all material respects or omits to state a material fact necessary to make the statements made, in light of the circumstances under which they were made, not misleading, such Eligible Stockholder or Stockholder Nominee, as the case may be, shall promptly notify the corporation and any other recipient of such communication of any such defect in such previously provided information and of the information that is required to correct any such defect; it being understood that providing such notification shall not be deemed to cure any such defect or limit the remedies available to the corporation relating to any such defect (including the right to omit a Stockholder Nominee from its proxy materials pursuant to this Section 2.05). In addition, any person providing any information to the corporation pursuant to this Section 2.05 shall further update and supplement such information, if necessary, so that all such information shall be true and correct as of the record date for the determination of stockholders entitled to vote at the annual meeting, and such update and supplement shall be delivered to or be mailed and received by the secretary at the principal executive offices of the corporation not later than 10 days after the record date for the annual meeting.

2.05.10. Notwithstanding anything to the contrary contained in this Section 2.05, the corporation shall not be required to include in its proxy materials, pursuant to this Section 2.05, any Stockholder Nominee (i) who would not be an independent director under the rules and listing standards of the principal securities exchange upon which the common stock of the corporation is listed or traded, any applicable rules of the SEC or any publicly disclosed standards used by the Board of Directors in determining and disclosing the independence of the corporation's directors, (ii) whose election as a member of the Board of Directors would cause the corporation to be in violation of these bylaws, the certificate of incorporation, the rules and listing standards of the principal securities exchanges upon which the common stock of the corporation is listed or traded or any applicable law, rule or regulation, (iii) who would not meet the audit committee and compensation committee independence requirements under the rules and listing standards of the principal securities exchange upon which the common stock of the corporation is listed or traded, any applicable rules of the SEC or any publicly disclosed standards used by the Board of Directors in determining and disclosing the independence of such committee members, (iv) who would not be, if elected to the Board of Directors, a "non-employee director" for the purposes of Rule 16b-3 under the Exchange Act, (v) who would not be, if elected to the Board of Directors, an "outside director" for the purposes of Section 162(m) under the Internal Revenue Code, (vi) who is or has been, within the past three years, an officer or director of a competitor, as defined in Section 8 of the Clayton Antitrust Act of 1914, as amended, (vii) who is a named subject of a pending criminal proceeding (excluding traffic violations and other minor offenses) or has been convicted in such a criminal proceeding within the past 10 years, (viii) who is or has been subject to any event of the type specified in Rule 506(d)(1) of Regulation D promulgated under the Securities Act of 1933, as amended (the "Securities Act"), or (ix) who shall have provided any information to the corporation or its stockholders that was untrue in any material respect or that omitted to state a material fact necessary to make the statements made, in light of the circumstances in which they were made, not misleading.

2.05.11. Notwithstanding anything to the contrary set forth herein, if (i) a Stockholder Nominee and/or the applicable Eligible Stockholder breaches any of its agreements or representations or fails to comply with any of its obligations under this Section 2.05 or (ii) a Stockholder Nominee otherwise becomes ineligible for inclusion in the corporation's proxy materials pursuant to this Section 2.05 or dies, becomes disabled or otherwise becomes ineligible or unavailable for election at the annual meeting, (A) the corporation may omit or, to the extent feasible, remove the information concerning such Stockholder Nominee and the related Supporting Statement from its proxy materials and/or otherwise communicate to its stockholders that such Stockholder Nominee will not be eligible for election at the annual meeting and (B) the Board of Directors (or any duly authorized committee thereof) or the chair of the annual meeting shall declare such nomination to be invalid and such nomination shall be disregarded notwithstanding that proxies in respect of such vote may have been received by the corporation. In addition, if the Eligible Stockholder (or a representative thereof) does not appear at the annual meeting to present any nomination pursuant to this Section 2.05, such nomination shall be declared invalid and disregarded as provided in clause (B) above.

2.05.12. Any Stockholder Nominee who is included in the corporation's proxy materials for a particular annual meeting of stockholders but either (i) withdraws from or becomes ineligible or unavailable for election at the annual meeting or (ii) does not receive at least 25% of the votes cast in favor of such Stockholder Nominee's election, will be ineligible to be a Stockholder Nominee pursuant to this Section 2.05 for the next two annual meetings of stockholders. For the avoidance of doubt, the immediately preceding sentence shall not prevent any stockholder from nominating any person to the Board of Directors pursuant to and in accordance with Section 2.04.

2.05.13. This Section 2.05 provides the exclusive method for a stockholder to include nominees for election to the Board of Directors in the corporation's proxy materials.

Section 2.06. Resignations. Any director of the corporation may resign at any time by giving written notice (including electronic transmission) to the chair of the Board of Directors or the secretary. Such resignation shall take effect at the time specified therein, and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 2.07. Vacancies. In the event that any vacancy shall occur in the Board of Directors, whether because of death, resignation, removal, newly created directorships resulting from any increase in the authorized number of directors, the failure of the stockholders to elect the whole authorized number of directors, or any other reason, such vacancy may be filled by the vote of a majority of the directors then in office, although less than a quorum. A director elected to fill a vacancy, other than a newly created directorship, shall hold office until such director's successor shall have been duly elected and qualified or until such director's earlier death, resignation or removal.

Section 2.08. Removal of Directors. Directors may be removed only as provided in the certificate of incorporation.

Section 2.09. Place of Meeting, etc. The Board of Directors may hold any of its meetings at the principal office of the corporation or at such other place or places as the Board of Directors may from time to time designate. Directors may participate in any regular or special meeting of the Board of Directors by means of conference telephone or similar communications equipment pursuant to which all persons participating in the meeting of the Board of Directors can hear each other and such participation shall constitute presence in person at such meeting.

Section 2.10. Annual Meeting. A regular annual meeting of the Board of Directors shall be held each year at the same place as and immediately after the annual meeting of stockholders, or at such other place and time as shall theretofore have been determined by the Board of Directors, and notice thereof need not be given. At its regular annual meeting the Board of Directors shall organize itself and may transact any business.

Section 2.11. Regular Meetings. Regular meetings of the Board of Directors may be held at such intervals and at such times as shall from time to time be determined by the Board of Directors. After such determination and notice thereof has been once given to each person then a member of the Board of Directors, regular meetings may be held at such intervals and time and place without further notice being given.

Section 2.12. Special Meetings. Special meetings of the Board of Directors may be called at any time by the Board of Directors or by the chief executive officer or by a majority of directors then in office to be held on such day and at such time as shall be specified by the person or persons calling the meeting.

Section 2.13. Notice of Meetings. Notice of each special meeting or, where required, each regular meeting, of the Board of Directors shall be given to each director either by being mailed on at least the third day prior to the date of the meeting or by being delivered electronically or given personally or by telephone on at least 24 hours' notice prior to the date of meeting. Such notice shall specify the place, date, and time of the meeting and, if it is for a special meeting, the purpose or purposes for which the meeting is called. At any meeting of the Board of Directors at which every director shall be present, even though without such notice, any business may be transacted. Any acts or proceedings taken at a meeting of the Board of Directors not validly called or constituted may be made valid and fully effective by ratification at a subsequent meeting which shall be legally and validly called or constituted. Notice of any regular meeting of the Board of Directors need not state the purpose of the meeting and, at any regular meeting duly held, any business may be transacted. If the notice of a special meeting shall state as a purpose of the meeting the transaction of any business that may come before the meeting, then at the meeting any business may be transacted, whether or not referred to in the notice thereof. A written waiver of notice of a special or regular meeting, signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed the equivalent of such notice, and attendance of a director at a meeting shall constitute a waiver of notice of such meeting except when the director attends the meeting and prior to or at the commencement of such meeting protests the lack of proper notice.

Section 2.14. Quorum and Voting. At all meetings of the Board of Directors, the presence of a majority of the directors then in office shall constitute a quorum for the transaction of business. Except as otherwise required by law, the certificate of incorporation, or these bylaws, the vote of a majority of the directors present at any meeting at which a quorum is present shall be the act of the Board of Directors. At all meetings of the Board of Directors, each director shall have one vote.

Section 2.15. Committees.

2.15.01. The Board of Directors may designate one or more committees of the Board of Directors, to consist of one or more directors of the corporation, and may delegate to any such committee any of the authority of the Board of Directors, however conferred, other than the power or authority in reference to amending the certificate of incorporation, adopting an agreement of merger or consolidation, recommending to the stockholders the sale, lease, or exchange of all or substantially all of the corporation's property and assets, recommending to the stockholders a dissolution of the corporation or a revocation of a dissolution, or amending the bylaws of the corporation.

2.15.02. Each such committee shall serve at the pleasure of the Board of Directors, shall act only in the intervals between meetings of the Board of Directors, and shall be subject to the control and direction of the Board of Directors. Any such committee may act by a majority of its members at a meeting or by a writing or writings signed by all of its members. Any such committee shall keep written minutes of its meetings and report the same to the Board of Directors at the next regular meeting of the Board of Directors.

Section 2.16. Compensation. The Board of Directors may, by resolution passed by a majority of those in office, fix the compensation of directors for service in any capacity and may fix fees for attendance at meetings and may authorize the corporation to pay the traveling and other expenses of directors incident to their attendance at meetings, or may delegate such authority to a committee of the Board of Directors.

Section 2.17. Action by Consent. Any action required or permitted to be taken at any meeting of the Board of Directors or any committee thereof may be taken without a meeting if a written consent thereto is signed by all members of the Board of Directors or of such committee, as the case may be, and such written consent is filed with the minutes of proceedings of the Board of Directors or such committee.

Section 2.18. Chair of the Board of Directors; Vice Chair of the Board of Directors. There shall be a chair of the Board of Directors and, if determined by the Board of Directors, a vice chair of the Board of Directors, each of whom shall be chosen by the Board of Directors from among the directors. The chair of the Board of Directors and the vice chair of the Board of Directors may but need not be officers of or employed by the corporation. The chair of the Board of Directors shall preside at all meetings of the Board of Directors and all meetings of the stockholders, shall have the respective powers and duties set forth in these bylaws, and shall also have such other powers and duties as from time to time may be conferred by the Board of Directors. The vice chair of the Board of Directors shall perform the duties of the chair of the Board of Directors in his or her absence or disability, shall have the respective powers and duties set forth in these bylaws, and shall also have such other powers and duties as from time to time may be conferred by the Board of Directors.

ARTICLE III OFFICERS

Section 3.01. General Provisions. The officers of the corporation shall include the following: a chief executive officer; a president; such number of vice presidents as the board may from time to time determine; a secretary; and a treasurer. Any person may hold any two or more offices and perform the duties thereof, except the offices of president and secretary.

Section 3.02. Election, Terms of Office, and Qualification. The officers of the corporation named in Section 3.01 of this Article III shall be elected by the Board of Directors for an indeterminate term and shall hold office during the pleasure of the Board of Directors.

Section 3.03. Additional Officers, Agents, etc. In addition to the officers mentioned in Section 3.01 of this Article III, the corporation may have such other officers or agents as the Board of Directors may deem necessary and may appoint, each of whom or each member of which shall hold office for such period, have such authority, and perform such duties as may be provided in these bylaws or as the Board of Directors may from time to time determine. The Board of Directors may delegate to any officer the power to appoint any subordinate officers or agents. In the absence of any officer of the corporation, or for any other reason the Board of Directors may deem sufficient, the Board of Directors may delegate, for the time being, any or all of the powers and duties of such officer to any other officer or to any director.

Section 3.04. Removal. Any officer of the corporation may be removed, either with or without cause, at any time, by resolution adopted by the Board of Directors at any meeting. Any officer appointed not by the Board of Directors but by an officer or committee to which the Board of Directors shall have delegated the power of appointment may be removed, with or without cause, by the committee or superior officer (including successors) who made the appointment or by any committee or officer upon whom such power of removal may be conferred by the Board of Directors.

Section 3.05. Resignations. Any officer may resign at any time by giving written notice to the Board of Directors, or to the chair of the Board of Directors, the vice chair of the Board of Directors, the chief executive officer, the president, or the secretary. Any such resignation shall take effect at the time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 3.06. Vacancies. A vacancy in any office because of death, resignation, removal, disqualification, or otherwise shall be filled in the manner prescribed in these bylaws for regular appointments or elections to such office.

ARTICLE IV DUTIES OF THE OFFICERS

Section 4.01. The Chief Executive Officer. The chief executive officer of the corporation shall have general supervision over the property, business, and affairs of the corporation and over its several officers, subject, however, to the control of the Board of Directors. The chief executive officer may sign, with the secretary, treasurer, or any other proper officer of the corporation thereunto authorized by the Board of Directors, certificates for shares in the corporation. The chief executive officer may sign, execute, and deliver in the name of the corporation all deeds, mortgages, bonds, leases, contracts, or other instruments, either when specially authorized by the Board of Directors or when required or deemed necessary or advisable by the chief executive officer in the ordinary conduct of the corporation's normal business, except in cases where the signing and execution thereof shall be expressly delegated by these bylaws to some other officer or agent of the corporation or shall be required by law or otherwise to be signed or executed by some other officer or agent, and the chief executive officer may cause the seal of the corporation, if any, to be affixed to any instrument requiring the same.

Section 4.02. The President. The president shall perform such duties as are conferred upon such officer by these bylaws or as may from time to time be assigned to such officer by the Board of Directors.

Section 4.03. Vice Presidents. The vice presidents shall perform such duties as are conferred upon them by these bylaws or as may from time to time be assigned to them by the Board of Directors. At the request of the Board of Directors, in the absence or disability of the president, a vice president designated by the Board of Directors shall perform all the duties of the president, and when so acting, shall have all of the powers of the president.

Section 4.04. The Treasurer. The treasurer shall be the custodian of all funds and securities of the corporation. Whenever so directed by the Board of Directors, the treasurer shall render a statement of the cash and other accounts of the corporation, and the treasurer shall cause to be entered regularly in the books and records of the corporation to be kept for such purpose full and accurate accounts of the corporation's receipts and disbursements. The treasurer shall have such other powers and shall perform such other duties as may from time to time be assigned to such officer by the Board of Directors.

Section 4.05. The Secretary. The secretary shall record and keep the minutes of all meetings of the stockholders and the Board of Directors in a book to be kept for that purpose. The secretary shall be the custodian of, and shall make or cause to be made the proper entries in, the minute book of the corporation and such other books and records as the Board of Directors may direct. The secretary shall be the custodian of the seal of the corporation, if any, and shall affix such seal to such contracts, instruments, and other documents as the Board of Directors or any committee thereof may direct. The secretary shall have such other powers and shall perform such other duties as may from time to time be assigned to such officer by the Board of Directors.

ARTICLE V INDEMNIFICATION OF DIRECTORS AND OFFICERS

Section 5.01. Indemnification. The corporation shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, or investigative, by reason of the fact that such person, or such person's testator or intestate, is or was a director or officer 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, or as a member of any committee or similar body against all expenses (including attorneys' fees), judgments, penalties, fines, and amounts paid in settlement actually and reasonably incurred by such person in connection with such action, suit, or proceeding (including appeals) or the defense or settlement thereof or any claim, issue, or matter therein, to the fullest extent permitted by the laws of Delaware as they may exist from time to time.

Section 5.02. Insurance. The proper officers of the corporation, without further authorization by the Board of Directors, may in their discretion 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 for another corporation, partnership, joint venture, trust, or other enterprise, against any liability.

Section 5.03. ERISA. To assure indemnification under this Article of all such persons who are or were “fiduciaries” of an employee benefit plan governed by the Act of Congress entitled “Employee Retirement Income Security Act of 1974”, as amended from time to time, the provisions of this Article V shall, for the purposes hereof, be interpreted as follows: an “other enterprise” shall be deemed to include an employee benefit plan; the corporation shall be deemed to have requested a person to serve as an employee of an employee benefit plan where the performance by such person of duties to the corporation also imposes duties on, or otherwise involves services by, such person to the plan or participants or beneficiaries of the plan; excise taxes assessed on a person with respect to an employee benefit plan pursuant to said Act of Congress shall be deemed “fines”; and action taken or omitted by a person with respect to an employee benefit plan in the performance of such person’s duties for a purpose reasonably believed by such person to be in the interest of the participants and beneficiaries of the plan shall be deemed to be for a purpose which is not opposed to the best interests of the corporation.

Section 5.04. Contractual Nature. The foregoing provisions of this Article V shall be deemed to be a contract between the corporation and each director and officer who serves in such capacity at any time while this Article V is in effect, and any repeal or modification thereof shall not affect any rights or obligations then existing with respect to any state of facts then or theretofore existing or any action, suit, or proceeding theretofore or thereafter brought based in whole or in part upon any such state of facts.

Section 5.05. Construction. For the purposes of this Article V, references to “the corporation” include in addition to the resulting corporation, any constituent corporation (including any constituent of a constituent) absorbed in a consolidation or merger which, if its separate existence had continued, would have had power and authority to indemnify its directors, officers, employees or agents, so that any person who is or was a director or officer of such constituent corporation or is or was serving at the request of such constituent corporation as a director, officer, employee, or agent of another corporation, partnership, joint venture, trust, or other enterprise, or as a member of any committee or similar body, shall stand in the same position under the provisions of this Article with respect to the resulting or surviving corporation as such person would have with respect to such constituent corporation, if its separate existence had continued.

Section 5.06. Non-Exclusive. The corporation may indemnify, or agree to indemnify, any person against any liabilities and expenses and pay any expenses, including attorneys’ fees, in, advance of final disposition of any action, suit, or proceeding, under any circumstances, if such indemnification and/or payment is approved by the vote of the stockholders or of the disinterested directors, or is, in the opinion of independent legal counsel selected by the Board of Directors, to be made on behalf of an indemnitee who acted in good faith and in a manner such person reasonably believed to be in, or not opposed to, the best interests of the corporation.

ARTICLE VI DEPOSITORIES, CONTRACTS AND OTHER INSTRUMENTS

Section 6.01. Depositories. The chief executive officer, the president, the treasurer, and any vice president of the corporation whom the Board of Directors authorizes to designate depositories for the funds of the corporation are each authorized to designate depositories for the funds of the corporation deposited in its name and the signatories and conditions with respect thereto in each case, and from time to time to change such depositories, signatories, and conditions with the same force and effect as if each such depository, signatory, and condition with respect thereto and changes therein had been specifically designated or authorized by the Board of Directors; and each depository designated by the Board of Directors or by the chief executive officer, the president, the treasurer, or any vice president of the corporation, shall be entitled to rely upon the certificate of the secretary or any assistant secretary of the corporation setting forth the fact of such designation and of the appointment of the officers of the corporation or of both or of other persons who are to be signatories with respect to the withdrawal of funds deposited with such depository, or from time to time the fact of any change in any depository or in the signatories with respect thereto.

Section 6.02. Execution of Instruments Generally. In addition to the powers conferred upon the chief executive officer in Section 4.01 and except as otherwise provided in Section 6.01, the authority to sign contracts and other instruments entered into in the ordinary course of business requiring execution by the corporation, which may be general or confined to specific instances, shall be conferred by the Board of Directors upon any person or persons. Any person having authority to sign on behalf of the corporation may delegate, from time to time, by instrument in writing, all or any part of such authority to any person or persons if authorized so to do by the Board of Directors.

ARTICLE VII SHARES AND THEIR TRANSFER

Section 7.01. Certificates for Shares, Uncertificated Shares. The shares of the corporation shall be represented by certificates; provided that the Board of Directors of the corporation may provide by resolution or resolutions that some or all of any or all classes or series of its stock shall be uncertificated shares. Any such resolution shall not apply to shares represented by a certificate until such certificate is surrendered to the corporation. Except as otherwise provided by law, the rights and obligations of the holders of uncertificated shares and the rights and obligations of the holders of shares represented by certificates of the same class and series shall be identical. Every owner of one or more shares in the corporation represented by certificates shall be entitled to a certificate, which shall be in such form as the Board of Directors shall prescribe, certifying the number and class of shares in the corporation owned by such person. When such certificate is counter-signed by an incorporated transfer agent or registrar, the signature of any of said officers may be facsimile, engraved, stamped, or printed. A record shall be kept of the name of the person, corporation, or other entity owning shares, whether represented by certificates or in uncertificated form, including, in the case of shares represented by certificates, the number of shares represented thereby, the date thereof, and in case of cancellation, the date of cancellation. Every certificate surrendered to the corporation for exchange or transfer shall be cancelled, and no new certificate or certificates (or shares in uncertificated form) shall be issued in exchange for any existing certificates until such existing certificates shall have been so cancelled.

Section 7.02. Lost, Destroyed and Mutilated Certificates. If any certificates for shares in this corporation become worn, defaced, or mutilated but are still substantially intact and recognizable, the directors, upon production and surrender thereof, shall order the same cancelled and, unless the shares are thereafter to be held in uncertificated form, shall issue a new certificate in lieu of same. The holder of any shares in the corporation shall immediately notify the corporation if a certificate therefore shall be lost, destroyed, or mutilated beyond recognition, and the corporation may issue a new certificate in the place of any certificate theretofore issued by it which is alleged to have been lost or destroyed or mutilated beyond recognition, and the Board of Directors may, in its discretion, require the owner of the certificate which has been lost, destroyed, or mutilated beyond recognition, or such owner's legal representative, to give the corporation a bond in such sum and with such surety or sureties as it may direct, not exceeding double the value of the stock, to indemnify the corporation against any claim that may be made against it on account of the alleged loss, destruction, or mutilation of any such certificate.

The Board of Directors may, however, in its discretion, refuse to issue any such new certificate except pursuant to legal proceedings under the laws of the State of Delaware.

Section 7.03. Transfers of Shares. Transfers of shares in the corporation shall be made only on the books of the corporation by the registered holder thereof, such person's legal guardian, executor, or administrator, or by such person's attorney thereunto authorized by power of attorney duly executed and filed with the secretary or with a transfer agent appointed by the Board of Directors, and (i) in the case of certificated shares, on surrender of the certificate or certificates for such shares properly endorsed or accompanied by properly executed stock powers and (ii) in the case of uncertificated shares, upon compliance with appropriate procedures for transferring shares in uncertificated form established by the corporation. In addition, no transfer shall be effected unless the corporation has received appropriate evidence of the payment of all taxes imposed upon such transfer. The person in whose name shares stand on the books of the corporation shall, to the full extent permitted by law, be deemed the owner thereof for all purposes as regards the corporation.

Section 7.04. Regulations. The Board of Directors may make such rules and regulations as it may deem expedient but not inconsistent with these bylaws concerning the issue, transfer, and registration of certificated or uncertificated shares in the corporation. It may appoint one or more transfer agents or one or more registrars, or both, and may require all certificates for shares to bear the signature of either or both.

ARTICLE VIII SECURITIES OF OTHER CORPORATIONS

Unless otherwise directed by the Board of Directors, the chief executive officer, the president, and any vice president of the corporation shall have the power to vote and otherwise act on behalf of the corporation, in person or by proxy, at any meeting, or with respect to any action, of stockholders of any other corporation in which this corporation may hold securities and otherwise to exercise any and all rights and powers which this corporation may possess by reason of its ownership of securities in such other corporation.

ARTICLE IX SEAL

The Board of Directors may provide a corporate seal, which shall be circular and shall contain the name of the corporation engraved around the margin, the words "corporate seal", the year of its organization, and the word "Delaware".

ARTICLE X EXCLUSIVE FORUM

Unless the corporation consents in writing to the selection of an alternative forum, the sole and exclusive forum for

(i) any derivative action or proceeding brought on behalf of the corporation;

(ii) any action asserting a claim for or based on a breach of a fiduciary duty owed by any current or former director or officer or other employee or agent of the corporation to the corporation or to the corporation's stockholders, including a claim alleging the aiding and abetting of such a breach of fiduciary duty;

(iii) any action asserting a claim against the corporation or any current or former director or officer or other employee or agent of the corporation arising pursuant to any provision of the DGCL or the corporation's certificate of incorporation or bylaws (as any of the foregoing may be amended from time to time);

(iv) any action asserting a claim related to or involving the corporation that is governed by the internal affairs doctrine;

or

(v) any action asserting an "internal corporate claim" as that term is defined in Section 115 of the DGCL; shall be a state court located within the State of Delaware (or, if no state court located within the State of Delaware has jurisdiction, the federal court for the District of Delaware).

VICTORIA'S SECRET & CO.,
as Company

and

U.S. BANK NATIONAL ASSOCIATION,
as Trustee

INDENTURE

DATED AS OF JULY 15, 2021

4.625% Senior Notes due 2029

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INDENTURE, dated as of July 15, 2021 (as amended, supplemented or otherwise modified from time to time, this “Indenture”), among Victoria’s Secret & Co., a corporation organized under the laws of the State of Delaware, as issuer, and U.S. Bank National Association, a national banking association, as Trustee.

WITNESSETH

WHEREAS, the Company (as defined herein) has duly authorized the creation of an issue of \$600,000,000 aggregate principal amount of the Company’s 4.625% Senior Notes due 2029 (the “Initial Notes”);

WHEREAS, the Company has duly authorized the execution and delivery of this Indenture;

NOW, THEREFORE, the Company and the Trustee agree as follows for the benefit of each other and for the equal and ratable benefit of the Holders (as defined herein):

ARTICLE I

DEFINITIONS AND OTHER PROVISIONS
OF GENERAL APPLICATION

Section 101. Definitions.

“ABL Agent” means JPMorgan Chase Bank, N.A., in its capacity as administrative agent under the ABL Credit Agreement and collateral agent for the ABL Facility Secured Parties under the ABL Credit Agreement and the ABL Facility Collateral Documents, together with its successors and permitted assigns under the ABL Credit Agreement and the ABL Facility Collateral Documents.

“ABL Bank Products Affiliate” means any lender under the ABL Credit Agreement or any Affiliate of any such lender that has entered into a Bank Products Agreement with the Company or any of its Subsidiaries with the obligations of the Company or any such Subsidiary, as applicable, being secured by one or more ABL Facility Collateral Documents.

“ABL Collateral Agent” means JPMorgan Chase Bank, N.A., together with its successors and permitted assigns in its capacity as collateral agent in respect of the ABL Credit Agreement.

“ABL Credit Agreement” means the ABL Credit Agreement, to be entered into on or around the Escrow Release Date, among the Company, certain Subsidiaries of the Company, the ABL Collateral Agent and the other ABL Facility Secured Parties, as amended, restated, supplemented, waived or otherwise modified from time to time or refunded, refinanced, restructured, replaced, renewed, repaid, increased or extended from time to time (whether in whole or in part, whether with the original administrative agent and lenders or other agents and lenders or otherwise, and whether provided under the original ABL Credit Agreement or other credit agreements or otherwise), except to the extent such agreement, instrument or document expressly provides that it is not intended to be and is not an ABL Credit Agreement under this Indenture. Any references to the ABL Credit Agreement hereunder shall be deemed a reference to each ABL Credit Agreement then in existence.

“ABL Facility” means the collective reference to the ABL Credit Agreement, any Loan Documents (as defined therein), any notes and letters of credit issued pursuant thereto and any guarantee and collateral agreement, patent and trademark security agreement, mortgages, letter of credit applications and other guarantees, pledge agreements, security agreements and collateral documents, and other instruments and documents, executed and delivered pursuant to or in connection with any of the foregoing, in each case as the same may be amended, supplemented, waived or otherwise modified from time to time, or refunded, refinanced, restructured, replaced, renewed, repaid, increased or extended from time to time (whether in whole or in part, whether with the original agent and lenders or other agents and lenders or otherwise, and whether provided under the original ABL Credit Agreement or one or more other credit agreements, indentures or financing agreements or otherwise) except to the extent such agreement, instrument or document expressly provides that it is not intended to be and is not an ABL Facility. Without limiting the generality of the foregoing, the term “ABL Facility” shall include any agreement (i) changing the maturity of any Indebtedness Incurred thereunder or contemplated thereby, (ii) adding Subsidiaries of the Company as additional borrowers or guarantors thereunder, (iii) increasing the amount of Indebtedness Incurred thereunder or available to be borrowed thereunder or (iv) otherwise altering the terms and conditions thereof.

“ABL Facility Collateral Agreements” means (i) the Guarantee and Collateral Agreement, to be entered into on or around the Escrow Release Date, among the Company, certain of its Subsidiaries identified therein as grantors and the ABL Agent and (ii) the Guarantee and Collateral Agreement, to be entered into on or around the Escrow Release Date, among the Company, certain of its Foreign Subsidiaries identified therein as grantors and the ABL Agent, and, in each case, together with the documents related thereto (including any supplements thereto), as amended, restated, supplemented or otherwise modified from time to time.

“ABL Facility Collateral Documents” means the ABL Facility Collateral Agreements, the ABL Intercreditor Agreement, the intellectual property security agreements and each other agreement, instrument or other document entered into in favor of the ABL Agent or any of the other ABL Facility Secured Parties for purposes of securing the ABL Facility Obligations (including the guarantees thereof), as the same may be amended, restated, supplemented or otherwise modified from time to time.

“ABL Facility Documents” means the ABL Credit Agreement, the related guarantees, the ABL Facility Collateral Documents, the Loan Documents (as defined in the ABL Credit Agreement), any Bank Products Agreement between the Company or any Subsidiary of the Company and any ABL Bank Products Affiliate, any Hedging Agreements between the Company or any Subsidiary of the Company and any ABL Hedging Affiliate, any Open Account Agreement between the Company or any Subsidiary of the Company and any ABL Open Account Affiliate, and those ancillary agreements as to which the ABL Agent or any lender under the ABL Credit Agreement is a party or a beneficiary and all other agreements, instruments, documents and certificates, now or hereafter executed by or on behalf of the Company or any Subsidiary of the Company or their respective Affiliates, and delivered to the ABL Agent, in connection with any of the foregoing or the ABL Credit Agreement, in each case as the same may be amended, modified or supplemented from time to time.

“ABL Facility Obligations” shall mean all obligations of every nature of the Company and each Subsidiary of the Company from time to time owed to the ABL Agent, the lenders under the ABL Credit Agreement or any of them, any ABL Bank Products Affiliates, any ABL Open Account Affiliates or any ABL Hedging Affiliates, under any ABL Facility Document, including, without limitation, all “Obligations” as defined in the ABL Facility Collateral Agreement, whether for principal, interest, fees, expenses (including interest, fees, and expenses which, but for the filing of a petition in bankruptcy with respect to the Company or any Subsidiary of the Company, would have accrued on any ABL Facility Obligation, whether or not a claim is allowed against the Company or any such Subsidiary for such interest, fees, or expenses in the related bankruptcy proceeding), reimbursement of amounts drawn under letters of credit, payments for early termination of Hedging Agreements, indemnification or otherwise, and all other amounts owing or due under the terms of the ABL Facility Documents, as amended, restated modified, renewed, refunded, replaced or refinanced in whole or in part from time to time.

“ABL Facility Secured Parties” means (a) the holders of ABL Facility Obligations, (b) the Representative(s) with respect thereto and (c) the successors and permitted assigns of each of the foregoing.

“ABL Hedging Affiliate” means any lender under the ABL Credit Agreement or any Affiliate of any such lender that has entered into a Hedging Agreement with the Company or any of its Subsidiaries with the obligations of the Company or any such Subsidiary, as applicable, being secured by one or more ABL Facility Collateral Documents.

“ABL Intercreditor Agreement” means the ABL Intercreditor Agreement, to be entered into on or around the Escrow Release Date, by and between the ABL Agent and the Term Loan Agent, as amended, restated, supplemented or otherwise modified from time to time.

“ABL Open Account Affiliate” means any lender under the ABL Credit Agreement or any Affiliate of any such lender that has entered into an Open Account Agreement with the Company or any of its Subsidiaries with the obligations of the Company or any such Subsidiary, as applicable, being secured by one or more ABL Facility Collateral Documents.

“Acquired Indebtedness” means Indebtedness of a Person (i) existing at the time such Person becomes a Subsidiary or (ii) assumed in connection with the acquisition of assets from such Person, in each case other than Indebtedness Incurred in connection with, or in contemplation of, such Person becoming a Subsidiary or such acquisition. Acquired Indebtedness shall be deemed to be Incurred on the date of the related acquisition of assets from any Person or the date the acquired Person becomes a Subsidiary.

“Additional Assets” means (i) any property or assets that replace the property or assets that are the subject of an Asset Disposition; (ii) any property or assets (other than Indebtedness and Capital Stock) used or to be used by the Company or a Restricted Subsidiary or otherwise useful in a Related Business, and any capital expenditures in respect of any property or assets already so used; (iii) the Capital Stock of a Person that is engaged in a Related Business and becomes a Restricted Subsidiary as a result of the acquisition of such Capital Stock by the Company or another Restricted Subsidiary; or (iv) Capital Stock of any Person that at such time is a Restricted Subsidiary acquired from a third party.

“Additional Notes” means any additional Notes (other than the Initial Notes) issued from time to time under this Indenture in accordance with Sections 303 and 407.

“Affiliate” of any specified Person means any other Person, directly or indirectly, controlling or controlled by or under direct or indirect common control with such specified Person. For the 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.

“Applicable Premium” means, with respect to a Note at any Redemption Date, the greater of (i) 1.00% of the principal amount of such Note and (ii) the excess of (A) the present value at such Redemption Date, calculated as of the date of the applicable redemption notice, of (1) the redemption price of such Note on July 15, 2024 (such redemption price being that described in Section 1009), plus (2) all required remaining scheduled interest payments due on such Note through such date (excluding accrued and unpaid interest to the Redemption Date), computed using a discount rate equal to the Treasury Rate plus 50 basis points, over (B) the principal amount of such Note on such Redemption Date, as calculated by the Company or on behalf of the Company by such Person as the Company shall designate; provided that such calculation shall not be a duty or obligation of the Trustee.

“Asset Disposition” means any sale, lease, transfer or other disposition of shares of Capital Stock of a Restricted Subsidiary (other than directors’ qualifying shares, or (in the case of a Foreign Subsidiary) to the extent required by applicable law), property or other assets (each referred to for the purposes of this definition as a “disposition”) by the Company or any of its Restricted Subsidiaries (including any disposition by means of a merger, consolidation or similar transaction) other than (i) a disposition to the Company or a Restricted Subsidiary, (ii) a disposition in the ordinary course of business, (iii) a disposition of Cash Equivalents, Investment Grade Securities or Temporary Cash Investments, (iv) the sale or discount (with or without recourse, and on customary or commercially reasonable terms, as determined by the Company in good faith) of accounts receivable or notes receivable arising in the ordinary course of business, or the conversion or exchange of accounts receivable for notes receivable, (v) any Restricted Payment Transaction, (vi) a disposition that is governed by Article V, (vii) any Financing Disposition, (viii) any “fee in lieu” or other disposition of assets to any Governmental Authority that continue in use by the Company or any Restricted Subsidiary, so long as the Company or any Restricted Subsidiary may obtain title to such assets upon reasonable notice by paying a nominal fee, (ix) any exchange of property pursuant to or intended to qualify under Section 1031 (or any successor section) of the Code, or any exchange of equipment to be leased, rented or otherwise used in a Related Business, (x) any financing transaction with respect to property built or acquired by the Company or any Restricted Subsidiary after the Issue Date, including without limitation any sale/leaseback transaction or asset securitization, (xi) any disposition arising from foreclosure, condemnation, eminent domain or similar action with respect to any property or other assets, or exercise of termination rights under any lease, license, sublicense, concession or other agreement, or necessary or advisable (as determined by the Company in good faith) in order to consummate any acquisition of any Person, business or assets, or pursuant to buy/sell arrangements under any joint venture or similar agreement or arrangement, or of non-core assets acquired in connection with any acquisition of any Person, business or assets or any Investment, (xii) any disposition of Capital Stock, Indebtedness or other securities of an Unrestricted Subsidiary, (xiii) a disposition of Capital Stock of a Restricted Subsidiary pursuant to an agreement or other obligation with or to a Person (other than the Company or a Restricted Subsidiary) from whom such Restricted Subsidiary was acquired, or from whom such Restricted Subsidiary acquired its business and assets (having been newly formed in connection with such acquisition), entered into in connection with such acquisition, (xiv) a disposition of not more than 5.0% of the outstanding Capital Stock of a Foreign Subsidiary that has been approved by the Board of Directors, (xv) any disposition or series of related dispositions for aggregate consideration not to exceed \$25.0 million, (xvi) any Exempt Sale and Leaseback Transaction, (xvii) the assignment, sale, transfer, lapse, abandonment (including failure to maintain) or other disposition of any Patents, Trademarks, Copyrights or other intellectual property that are, in the good faith judgment of the Company, no longer economically practicable to maintain or useful in the conduct of the business of the Company and its Subsidiaries taken as a whole, (xviii) any license, sublicense, covenant not to sue or other grant of rights in or to any Patents, Trademarks, Copyrights or other intellectual property, or (xix) the creation or granting of any Lien permitted under this Indenture.

“Authenticating Agent” means any Person authorized by the Trustee pursuant to Section 714 to act on behalf of the Trustee to authenticate Notes.

“Bank Products Agreement” means any agreement pursuant to which a bank or other financial institution agrees to provide cash management services or facilities, including: (a) ACH transactions, (b) controlled disbursement services, treasury, depository, overdraft, and electronic funds transfer services, (c) credit card processing services, (d) purchase cards and (e) credit or debit cards.

“Bank Products Obligations” of any Person means the obligations of such Person pursuant to any Bank Products Agreement.

“Board of Directors” means, for any Person, the board of directors or other governing body of such Person or, if such Person does not have such a board of directors or other governing body and is owned or managed by a single entity, the board of directors or other governing body of such entity or, in either case, any committee thereof duly authorized to act on behalf of such board of directors or other governing body. Unless otherwise provided, “Board of Directors” means the Board of Directors of the Company.

“Borrowing Base” means the sum of (1) 90% of the book value of Inventory of the Company and the Restricted Subsidiaries, (2) 85% of the book value of Receivables of the Company and the Restricted Subsidiaries (other than Credit Card Receivables), (3) 95% of the book value of Credit Card Receivables of the Company and the Restricted Subsidiaries (in each case, determined as of the end of the most recently ended fiscal month of the Company for which internal consolidated financial statements of the Company are available) and (4) 50% of the fair market value of real property of the Company and the Restricted Subsidiaries, and, in the case of any determination relating to any Incurrence of Indebtedness, on a pro forma basis including (x) any property or assets of a type described above acquired since the end of such fiscal month and (y) any property or assets of a type described above being acquired in connection therewith.

“Business Day” means a day other than a Saturday, Sunday or other day on which commercial banking institutions are authorized or required by law to close in New York City (or any other city in which a Paying Agent maintains its office).

“Capital Stock” of any Person means any and all shares or units of, rights to purchase, warrants or options for, or other equivalents of or interests in (however designated) equity of such Person, including any Preferred Stock, but excluding any debt securities convertible into such equity.

“Captive Insurance Subsidiary” means any Subsidiary of the Company that is subject to regulation as an insurance company (or any Subsidiary thereof).

“Cash Equivalents” means any of the following: (a) money, (b) securities issued or fully guaranteed or insured by the United States of America, Canada or a member state of the European Union or any agency or instrumentality of any thereof, (c) time deposits, certificates of deposit or bankers’ acceptances of (i) any bank or other institutional lender under the ABL Facility or any affiliate thereof or (ii) any commercial bank having capital and surplus in excess of \$500.0 million (or the foreign currency equivalent thereof as of the date of such investment) and the commercial paper of the holding company of which is rated at least A-2 or the equivalent thereof by S&P or at least P-2 or the equivalent thereof by Moody’s (or, if at such time neither is issuing ratings, a comparable rating of another nationally recognized rating agency), (d) repurchase obligations with a term of not more than seven days for underlying securities of the types described in clauses (b) and (c) above entered into with any financial institution meeting the qualifications specified in clause (c)(i) or (c)(ii) above, (e) money market instruments, commercial paper or other short-term obligations rated at least A-2 or the equivalent thereof by S&P or at least P-2 or the equivalent thereof by Moody’s (or, if at such time neither is issuing ratings, a comparable rating of another nationally recognized rating agency), (f) investments in money market funds subject to the risk limiting conditions of Rule 2a-7 or any successor rule of the SEC under the Investment Company Act of 1940, as amended, (g) investments similar to any of the foregoing denominated in foreign currencies approved by the Board of Directors, and (h) solely with respect to any Captive Insurance Subsidiary, any investment that Person is permitted to make in accordance with applicable law.

“Change of Control” means the occurrence of any of the following: (1) the direct or indirect sale, transfer, conveyance or other disposition (other than by way of merger or consolidation), in one or a series of related transactions, of all or substantially all of the properties or assets of the Company and its Subsidiaries taken as a whole to any “Person” (as that term is used in Section 13(d)(3) of the Exchange Act) other than the Company or one of its Subsidiaries or (2) the consummation of any transaction (including, without limitation, any merger or consolidation) the result of which is that any “Person” (as that term is used in Section 13(d)(3) of the Exchange Act) becomes the beneficial owner, directly or indirectly, of more than 50% of the then outstanding number of shares of the Company’s voting stock. Notwithstanding the foregoing, a transaction will not be deemed to involve a Change of Control if (1) the Company becomes a wholly owned Subsidiary of a holding company and (2) either the holders of the voting stock of such holding company immediately following that transaction are substantially the same as the holders of the Company’s voting stock immediately prior to that transaction or no Person (other than such holding company) beneficially owns, directly or indirectly, more than 50% of the outstanding number of shares of the Company’s voting stock.

“Clearstream” means Clearstream Banking, société anonyme, or any successor securities clearing agency.

“Code” means the Internal Revenue Code of 1986, as amended from time to time.

“Commodities Agreement” means, in respect of a Person, any commodity futures contract, forward contract, option or similar agreement or arrangement (including derivative agreements or arrangements), as to which such Person is a party or beneficiary.

“Company” means Victoria’s Secret & Co., a Delaware corporation, and any successor in interest thereto.

“Company Request” and “Company Order” mean, respectively, a written request, order or consent signed in the name of the Company by an Officer of the Company.

“Consolidated Coverage Ratio” as of any date of determination means the ratio of (i) the aggregate amount of Consolidated EBITDA for the period of the most recent four consecutive fiscal quarters of the Company ending prior to the date of such determination for which consolidated financial statements of the Company are available to (ii) Consolidated Interest Expense for such four fiscal quarters; provided that

(1) if, since the beginning of such period, the Company or any Restricted Subsidiary has Incurred any Indebtedness or the Company has issued any Designated Preferred Stock that remains outstanding on such date of determination or if the transaction giving rise to the need to calculate the Consolidated Coverage Ratio is an Incurrence of Indebtedness or an issuance of Designated Preferred Stock of the Company, Consolidated EBITDA and Consolidated Interest Expense for such period shall be calculated after giving effect on a pro forma basis to such Indebtedness or Designated Preferred Stock as if such Indebtedness or Designated Preferred Stock had been Incurred or issued, as applicable, on the first day of such period (except that in making such computation, the amount of Indebtedness under any revolving credit facility outstanding on the date of such calculation shall be computed based on (A) the average daily balance of such Indebtedness during such four fiscal quarters or such shorter period for which such facility was outstanding or (B) if such facility was created after the end of such four fiscal quarters, the average daily balance of such Indebtedness during the period from the date of creation of such facility to the date of such calculation),

(2) if, since the beginning of such period, the Company or any Restricted Subsidiary has repaid, repurchased, redeemed, defeased or otherwise acquired, retired or discharged any Indebtedness or any Designated Preferred Stock of the Company that is no longer outstanding on such date of determination (each, a “Discharge”) or if the transaction giving rise to the need to calculate the Consolidated Coverage Ratio involves a Discharge of Indebtedness (in each case other than Indebtedness Incurred under any revolving credit facility, unless such Indebtedness has been repaid with an equivalent permanent reduction in commitments thereunder) or a Discharge of Designated Preferred Stock of the Company, Consolidated EBITDA and Consolidated Interest Expense for such period shall be calculated after giving effect on a pro forma basis to such Discharge of such Indebtedness or Designated Preferred Stock, including with the proceeds of such new Indebtedness or new Designated Preferred Stock of the Company, as if such Discharge had occurred on the first day of such period,

(3) if, since the beginning of such period, the Company or any Restricted Subsidiary shall have disposed of any company, any business or any group of assets constituting an operating unit of a business, including any such disposition occurring in connection with a transaction causing a calculation to be made hereunder, or designated any Restricted Subsidiary as an Unrestricted Subsidiary (any such disposition or designation, a “Sale”), the Consolidated EBITDA for such period shall be reduced by an amount equal to the Consolidated EBITDA (if positive) attributable to the assets that are the subject of such Sale for such period or increased by an amount equal to the Consolidated EBITDA (if negative) attributable thereto for such period, and Consolidated Interest Expense for such period shall be reduced by an amount equal to (A) the Consolidated Interest Expense attributable to any Indebtedness of the Company or any Restricted Subsidiary repaid, repurchased, redeemed, defeased or otherwise acquired, retired or discharged with respect to the Company and its continuing Restricted Subsidiaries in connection with such Sale for such period (including, but not limited to, through the assumption of such Indebtedness by another Person) plus (B) if the Capital Stock of any Restricted Subsidiary is disposed of in such Sale or any Restricted Subsidiary is designated as an Unrestricted Subsidiary, the Consolidated Interest Expense for such period attributable to the Indebtedness of such Restricted Subsidiary to the extent the Company and its continuing Restricted Subsidiaries are no longer liable for such Indebtedness after such Sale,

(4) if, since the beginning of such period, the Company or any Restricted Subsidiary (by merger, consolidation or otherwise) shall have made an Investment in any Person that thereby becomes a Restricted Subsidiary, or otherwise acquired any company, any business or any group of assets constituting an operating unit of a business, including any such Investment or acquisition occurring in connection with a transaction causing a calculation to be made hereunder, or designated any Unrestricted Subsidiary as a Restricted Subsidiary (any such Investment, acquisition or designation, a “Purchase”), Consolidated EBITDA and Consolidated Interest Expense for such period shall be calculated after giving pro forma effect thereto (including the Incurrence of any related Indebtedness) as if such Purchase occurred on the first day of such period, and

(5) if, since the beginning of such period, any Person became a Restricted Subsidiary or was merged or consolidated with or into the Company or any Restricted Subsidiary, and since the beginning of such period such Person shall have Discharged any Indebtedness or made any Sale or Purchase that would have required an adjustment pursuant to clause (2), (3) or (4) above if made by the Company or a Restricted Subsidiary since the beginning of such period, Consolidated EBITDA and Consolidated Interest Expense for such period shall be calculated after giving pro forma effect thereto as if such Discharge, Sale or Purchase occurred on the first day of such period;

provided that, in the event that the Company shall classify Indebtedness Incurred on the date of determination as Incurred in part under Section 407(a) and in part under Section 407(b), as provided in Section 407(c)(ii), any pro forma calculation of Consolidated Interest Expense shall not give effect on such date of determination (x) to any Incurrence of Indebtedness pursuant to Section 407(b) (other than if the Company at its option has elected to disregard Indebtedness being Incurred on the date of determination in part pursuant to Section 407(a) for purposes of calculating the Consolidated Total Leverage Ratio for Incurring Indebtedness on the date of determination in part pursuant to Section 407(b)(xi)) or (y) to any Discharge of Indebtedness from the proceeds of any such Incurrence pursuant to Section 407(b) (other than Section 407(b)(xi), if the Incurrence of Indebtedness pursuant to Section 407(b)(xi) is being given effect to in the calculation of the Consolidated Coverage Ratio).

For purposes of this definition, whenever pro forma effect is to be given to any Sale, Purchase or other transaction, or the amount of income or earnings relating thereto and the amount of Consolidated Interest Expense associated with any Indebtedness Incurred, Designated Preferred Stock issued, or Indebtedness or Designated Preferred Stock repaid, repurchased, redeemed, defeased or otherwise acquired, retired or discharged in connection therewith, the pro forma calculations in respect thereof (including without limitation in respect of anticipated cost savings or synergies relating to any such Sale, Purchase or other transaction) shall be as determined in good faith by the Chief Financial Officer or an authorized Officer of the Company. If any Indebtedness bears a floating rate of interest and is being given pro forma effect, the interest expense on such Indebtedness shall be calculated as if the rate in effect on the date of determination had been the applicable rate for the entire period (taking into account any Interest Rate Agreement applicable to such Indebtedness). If any Indebtedness bears, at the option of the Company or a Restricted Subsidiary, a rate of interest based on a prime or similar rate, a eurocurrency interbank offered rate, a secured overnight financing rate, or other fixed or floating rate, and such Indebtedness is being given pro forma effect, the interest expense on such Indebtedness shall be calculated by applying such optional rate as the Company or such Restricted Subsidiary may designate. If any Indebtedness that is being given pro forma effect was Incurred under a revolving credit facility, the interest expense on such Indebtedness shall be computed based upon the average daily balance of such Indebtedness during the applicable period. Interest on a Finance Lease Obligation shall be deemed to accrue at an interest rate determined in good faith by a responsible financial or accounting officer of the Company to be the rate of interest implicit in such Finance Lease Obligation in accordance with GAAP.

“Consolidated Depreciation and Amortization Expense” means, with respect to any Person for any period, the total amount of depreciation and amortization expense, including the amortization of intangible assets and deferred financing fees and amortization of unrecognized prior service costs and actuarial gains and losses related to pensions and other post-employment benefits, of such Person and its Restricted Subsidiaries for such period on a consolidated basis and otherwise determined in accordance with GAAP.

“Consolidated EBITDA” means, with respect to any Person for any period, the Consolidated Net Income of such Person and its Restricted Subsidiaries for such period plus, without duplication and, except in the case of clause (9) below, to the extent the same was deducted in calculating Consolidated Net Income:

- (1) Consolidated Taxes; *plus*
- (2) Fixed Charges and costs of surety bonds in connection with financing activities, *plus* amounts excluded from the definition of “Consolidated Interest Expense” and any non-cash interest expense, to the extent deducted (and not added back) in computing Consolidated Net Income; *plus*
- (3) Consolidated Depreciation and Amortization Expense; *plus*
- (4) Consolidated Non-Cash Charges; *plus*
- (5) any expenses or charges (other than Consolidated Depreciation and Amortization Expense) related to any issuance of Capital Stock, Investment, acquisition, disposition, recapitalization or the incurrence, modification or repayment of Indebtedness (in each case including a refinancing thereof), whether or not successful, including (i) such fees, expenses or charges related to the Transactions, the Notes or the Senior Credit Facilities, (ii) any amendment or other modification of the Notes or other Indebtedness and (iii) commissions, discounts, yield and other fees and charges (including any interest expense) related to any Specified Receivables Facility; *plus*

- (6) business optimization expenses and other restructuring charges, reserves or expenses (which, for the avoidance of doubt, shall include, without limitation, the effect of facility closures, facility consolidations, retention, severance, systems establishment costs, contract termination costs, future lease commitments and excess pension charges); *plus*
- (7) the amount of loss or discount on sale of assets to a Receivables Subsidiary and any commissions, yield and other fees and charges, in each case in connection with a Specified Receivables Facility; *plus*
- (8) any costs or expense incurred pursuant to any management equity plan or stock option plan or any other management or employee benefit plan or agreement or any stock subscription or shareholder agreement, to the extent that such cost or expenses are funded with cash proceeds contributed to the capital of the Company or any Subsidiary Guarantor or net cash proceeds of an issuance of Capital Stock of the Company (other than Disqualified Stock) solely to the extent that such net cash proceeds are excluded from the determination of the amount available for Restricted Payments under Section 409(a)(3)(A); *plus*
- (9) the amount of net cost savings, operating improvements or synergies projected by the Company in good faith to be realized within twelve months following the date of any operational changes, business realignment projects or initiatives, restructurings or reorganizations which have been or are intended to be initiated (calculated on a *pro forma* basis as though such cost savings had been realized on the first day of such period), net of the amount of actual benefits realized during such period from such actions; *provided* that such net cost savings and operating improvements or synergies are reasonably identifiable and quantifiable; *provided, further*, that the aggregate amount added to Consolidated EBITDA pursuant to this clause (9) shall not exceed 20.0% of Consolidated EBITDA for such period (determined after giving effect to such adjustments);

less, without duplication, to the extent the same increased Consolidated Net Income,

- (10) non-cash items increasing Consolidated Net Income for such period (excluding the recognition of deferred revenue or any items which represent the reversal of any accrual of, or cash reserve for, anticipated cash charges that reduced Consolidated EBITDA in any prior period and any items for which cash was received in a prior period).

“Consolidated Interest Expense” means, with respect to any Person for any period, the sum, without duplication, of (1) consolidated interest expense of such Person and its Restricted Subsidiaries for such period, to the extent such expense was deducted in computing Consolidated Net Income (including the interest component of Finance Lease Obligations and net payments and receipts (if any) pursuant to interest rate Hedging Obligations, and non-cash interest expense attributable to movement in mark to market valuation of Hedging Obligations or other derivatives (in each case permitted hereunder) under GAAP) but excluding commissions, discounts, yield and other fees and charges related to any Specified Receivables Facility; plus (2) consolidated capitalized interest of such Person and its Restricted Subsidiaries for such period, whether paid or accrued; plus (3) commissions, discounts, yield and other fees and charges Incurred in connection with any Specified Receivables Facility which are payable to Persons other than the Company and the Restricted Subsidiaries; minus (4) interest income for such period and excluding debt issuance costs, commissions, fees and expenses (including bridge, commitment or other financing fees).

For purposes of this definition, interest on a Finance Lease Obligation shall be deemed to accrue at an interest rate reasonably determined by the Company to be the rate of interest implicit in such Finance Lease Obligation in accordance with GAAP.

“Consolidated Net Income” means, with respect to any Person for any period, the aggregate of the Net Income of such Person and its Restricted Subsidiaries for such period, on a consolidated basis; provided, however, that:

- (1) any net after-tax extraordinary, infrequently occurring, nonrecurring or unusual gains or losses (less all fees and expenses relating thereto) or expenses or charges shall be excluded;
- (2) any severance expenses, relocation expenses, restructuring expenses, curtailments or modifications to pension and post-retirement employee benefit plans, excess pension charges, any expenses related to any reconstruction, decommissioning, recommissioning or reconfiguration of fixed assets for alternate uses and fees, expenses or charges relating to facilities closing costs, acquisition integration costs, facilities opening costs, project start-up costs, business optimization costs, signing, retention or completion bonuses, expenses or charges related to any issuance, redemption, repurchase, retirement or acquisition of Capital Stock, Investment, acquisition, disposition, recapitalization or issuance, repayment, refinancing, amendment or modification of Indebtedness (in each case, whether or not successful), and any fees, expenses or charges related to the Transactions, in each case, shall be excluded;
- (3) effects of purchase accounting adjustments (including the effects of such adjustments pushed down to such Person and such Subsidiaries and including, without limitation, the effects of adjustments to (A) Finance Lease Obligations or (B) any other deferrals of income) in amounts required or permitted by GAAP, resulting from the application of purchase accounting or the amortization or write-off of any amounts thereof, net of taxes, shall be excluded;
- (4) the Net Income for such period shall not include the cumulative effect of a change in accounting principles during such period;
- (5) any net after-tax income or loss from disposed, abandoned, transferred, closed or discontinued operations or fixed assets and any net after-tax gains or losses on disposal of disposed, abandoned, transferred, closed or discontinued operations or fixed assets shall be excluded;
- (6) any net after-tax gains or losses (less all fees and expenses or charges relating thereto) attributable to business dispositions or asset dispositions other than in the ordinary course of business (as determined in good faith by management of the Company) shall be excluded, *provided*, that notwithstanding any classification of any Person, business, assets or operations as discontinued operations because a definitive agreement for the sale, transfer or other disposition in respect thereof has been entered into, the Company shall not exclude any such net after-tax income or loss or any such net after-tax gains or losses attributable thereto until such sale, transfer or other disposition has been consummated;
- (7) any net after-tax gains or losses (less all fees and expenses or charges relating thereto) attributable to the early extinguishment of indebtedness, Hedging Obligations or other derivative instruments shall be excluded;
- (8) (a) the Net Income for such period of any Person that is not a Subsidiary of such Person, or is an Unrestricted Subsidiary, or that is accounted for by the equity method of accounting, shall be included only to the extent of the amount of dividends or distributions or other payments paid in cash (or to the extent converted into cash) to the referent Person or a Restricted Subsidiary thereof in respect of such period and (b) the Net Income for such period shall include any dividend, distribution or other payment in cash (or to the extent converted into cash) received by the referent Person or a Subsidiary thereof (other than an Unrestricted Subsidiary of such referent Person) from any Person in excess of, but without duplication of, the amounts included in subclause (a);

- (9) solely for the purpose of determining the amount available for Restricted Payments under Section 409(a)(3)(A), the Net Income for such period of any Restricted Subsidiary (other than any Subsidiary Guarantor or Foreign Subsidiary) shall be excluded to the extent that the declaration or payment of dividends or similar distributions by such Restricted Subsidiary of its Net Income is not at the date of determination permitted without any prior governmental approval (which has not been obtained) or, directly or indirectly, by the operation of the terms of its charter or any agreement, instrument, judgment, decree, order, statute, rule or governmental regulation applicable to that Restricted Subsidiary or its stockholders, unless such restrictions with respect to the payment of dividends or similar distributions have been legally waived; provided that the Consolidated Net Income of such Person shall be increased by the amount of dividends or other distributions or other payments actually paid in cash (or converted into cash) by any such Restricted Subsidiary to such Person; to the extent not already included therein;
- (10) an amount equal to the amount of tax distributions actually made to any Parent Entity in respect of such period in accordance with Section 409(b)(viii)(C), shall be included as though such amounts had been paid as income taxes directly by such Person for such period;
- (11) any impairment charges or asset write-offs, in each case pursuant to GAAP, and the amortization of intangibles and other fair value adjustments arising pursuant to GAAP shall be excluded;
- (12) any non-cash expense realized or resulting from management equity plans, stock option plans, employee benefit plans or post-employment benefit plans, or grants or sales of stock, stock appreciation or similar rights, stock options, restricted stock, preferred stock or other rights shall be excluded;
- (13) any (a) non-cash compensation charges, (b) costs and expenses after the Issue Date related to employment of terminated employees, or (c) costs or expenses realized in connection with or resulting from stock appreciation or similar rights, stock options or other rights existing on the Issue Date of officers, directors and employees, in each case of such Person or any Restricted Subsidiary, shall be excluded;
- (14) accruals and reserves that are established or adjusted within 12 months after the Escrow Release Date and that are so required to be established or adjusted in accordance with GAAP or as a result of adoption or modification of accounting policies shall be excluded;
- (15) non-cash gains, losses, income and expenses resulting from fair value accounting required by the applicable standard under GAAP and related interpretations shall be excluded;
- (16) any currency translation gains and losses related to currency remeasurements of Indebtedness, and any net loss or gain resulting from hedging transactions for currency exchange risk, shall be excluded;
- (17) (a) to the extent covered by insurance and actually reimbursed, or, so long as such Person has made a determination that there exists reasonable evidence that such amount will in fact be reimbursed by the insurer and only to the extent that such amount is (i) not denied by the applicable carrier in writing within 180 days and (ii) in fact reimbursed within 365 days of the date of such evidence (with a deduction for any amount so added back to the extent not so reimbursed within 365 days), expenses with respect to liability or casualty events or business interruption shall be excluded and (b) amounts in respect of which such Person has determined that there exists reasonable evidence that such amounts will in fact be reimbursed by insurance in respect of lost revenues or earnings in respect of liability or casualty events or business interruption shall be included (with a deduction for amounts actually received up to such estimated amount, to the extent included in Net Income in a future period);

(18) non-cash charges for deferred tax asset valuation allowances shall be excluded; and

(19) the amount of loss or discount on sale of Receivables Facility Assets and related assets in connection with a Receivables Facility shall be excluded.

“Consolidated Non-ABL Indebtedness” means, as of any date of determination, an amount equal to (i) the aggregate principal amount of outstanding Indebtedness of the Company and its Restricted Subsidiaries as of such date consisting of (without duplication) Indebtedness for borrowed money (including Purchase Money Obligations and unreimbursed outstanding drawn amounts under funded letters of credit); Finance Lease Obligations; debt obligations evidenced by bonds, debentures, notes or similar instruments; Disqualified Stock; and (in the case of any Restricted Subsidiary that is not a Subsidiary Guarantor) Preferred Stock, determined on a Consolidated basis in accordance with GAAP (excluding (x) items eliminated in Consolidation and (y) Hedging Obligations), minus (ii) the sum of (A) the amount of such Indebtedness consisting of Indebtedness of a type referred to in, or Incurred pursuant to, Section 407(b)(ix), (B) the amount of such Indebtedness consisting of Indebtedness under the ABL Facility and (C) cash, Cash Equivalents and Temporary Cash Investments held by the Company and its Restricted Subsidiaries as of the end of the most recent four consecutive fiscal quarters of the Company ending prior to the date of such determination for which consolidated financial statements of the Company are available.

“Consolidated Non-ABL Secured Indebtedness” means, as of any date of determination, (i) an amount equal to the sum of, without duplication, Consolidated Non-ABL Indebtedness (without regard to clause (ii) of the definition thereof) and any Ratio Tested Committed Amount as of such date that, in each case, is either (x) secured by a Lien on property or assets of the Company or any of its Restricted Subsidiaries (other than property or assets held in a defeasance or similar trust or arrangement for the benefit of the Indebtedness secured thereby) or (y) Incurred (or, in the case of any Ratio Tested Committed Amount, established) pursuant to Section 407(b)(i)(II), minus (ii) the sum of (A) the amount of such Indebtedness Incurred pursuant to Section 407(b)(ix), (B) the amount of such Indebtedness consisting of Indebtedness under the ABL Facility and (C) cash, Cash Equivalents and Temporary Cash Investments held by the Company and its Restricted Subsidiaries as of the end of the most recent four consecutive fiscal quarters of the Company ending prior to the date of such determination for which consolidated financial statements of the Company are available.

“Consolidated Non-Cash Charges” means, with respect to any Person for any period, the non-cash expenses (other than Consolidated Depreciation and Amortization Expense) of such Person and its Restricted Subsidiaries reducing Consolidated Net Income of such Person for such period on a consolidated basis and otherwise determined in accordance with GAAP, *provided* that if any such non-cash expenses represent an accrual or reserve for potential cash items in any future period, the cash payment in respect thereof in such future period shall be subtracted from Consolidated EBITDA in such future period to the extent paid, but excluding from this proviso, for the avoidance of doubt, amortization of a prepaid cash item that was paid in a prior period.

“Consolidated Secured Leverage Ratio” means, as of any date of determination, the ratio of (i) Consolidated Non-ABL Secured Indebtedness as at such date (after giving effect to any Incurrence or Discharge of Indebtedness on such date) to (ii) the aggregate amount of Consolidated EBITDA for the period of the most recent four consecutive fiscal quarters of the Company ending prior to the date of such determination for which consolidated financial statements of the Company are available, provided that:

- (1) if, since the beginning of such period, the Company or any Restricted Subsidiary shall have made a Sale (including any Sale occurring in connection with a transaction causing a calculation to be made hereunder), the Consolidated EBITDA for such period shall be reduced by an amount equal to the Consolidated EBITDA (if positive) attributable to the assets that are the subject of such Sale for such period or increased by an amount equal to the Consolidated EBITDA (if negative) attributable thereto for such period;

(2) if, since the beginning of such period, the Company or any Restricted Subsidiary (by merger, consolidation or otherwise) shall have made a Purchase (including any Purchase occurring in connection with a transaction causing a calculation to be made hereunder), Consolidated EBITDA for such period shall be calculated after giving pro forma effect thereto as if such Purchase occurred on the first day of such period; and

(3) if, since the beginning of such period, any Person became a Restricted Subsidiary or was merged or consolidated with or into the Company or any Restricted Subsidiary, and since the beginning of such period such Person shall have made any Sale or Purchase that would have required an adjustment pursuant to clause (1) or (2) above if made by the Company or a Restricted Subsidiary since the beginning of such period, Consolidated EBITDA for such period shall be calculated after giving pro forma effect thereto as if such Sale or Purchase occurred on the first day of such period;

provided that, in the event that the Company shall classify Indebtedness secured by a Lien on any property or assets of the Company or any of its Restricted Subsidiaries as Incurred in part pursuant to Section 407(b)(i)(II) and in part pursuant to one or more other clauses or subclauses of Section 407(b) and/or pursuant to Section 407(a) at the time of Incurrence thereof (as provided in Section 407(c)(ii) and 407(c)(iii)), Consolidated Non-ABL Secured Indebtedness at such time shall not include any such Indebtedness (and shall not give effect to any Discharge of Consolidated Non-ABL Secured Indebtedness from the proceeds thereof) to the extent Incurred pursuant to any such other clause or subclause of such Section 407(b) and/or pursuant to such Section 407(a).

For purposes of this definition, whenever pro forma effect is to be given to any Sale, Purchase or other transaction, or the amount of income or earnings relating thereto, the pro forma calculations in respect thereof (including, without limitation, in respect of anticipated cost savings or synergies relating to any such Sale, Purchase or other transaction) shall be as determined in good faith by the Chief Financial Officer or another authorized Officer of the Company.

“Consolidated Tangible Assets” means, as of any date of determination, the total assets less the sum of the goodwill, net, and other intangible assets, net, in each case reflected on the consolidated balance sheet of the Company and its Restricted Subsidiaries as at the end of the most recently ended fiscal quarter of the Company for which such a balance sheet is available, determined on a Consolidated basis in accordance with GAAP (and, in the case of any determination relating to any Incurrence of Indebtedness or Liens or any Investment, on a pro forma basis including any property or assets being acquired in connection therewith).

“Consolidated Taxes” means, with respect to any Person for any period, the provision for taxes based on income, profits or capital, including, without limitation, state, franchise, property and similar taxes, foreign withholding taxes (including penalties and interest related to such taxes or arising from tax examinations) and any tax distributions taken into account in calculating Consolidated Net Income.

“Consolidated Total Leverage Ratio” means, as of any date of determination, the ratio of (i) Consolidated Non-ABL Indebtedness as at such date (after giving effect to any Incurrence or Discharge of Consolidated Non-ABL Indebtedness on such date) to (ii) the aggregate amount of Consolidated EBITDA for the period of the most recent four consecutive fiscal quarters of the Company ending prior to the date of such determination for which consolidated financial statements of the Company are available, provided that:

(1) if, since the beginning of such period, the Company or any Restricted Subsidiary shall have made a Sale (including any Sale occurring in connection with a transaction causing a calculation to be made hereunder), the Consolidated EBITDA for such period shall be reduced by an amount equal to the Consolidated EBITDA (if positive) attributable to the assets that are the subject of such Sale for such period or increased by an amount equal to the Consolidated EBITDA (if negative) attributable thereto for such period;

(2) if, since the beginning of such period, the Company or any Restricted Subsidiary (by merger, consolidation or otherwise) shall have made a Purchase (including any Purchase occurring in connection with a transaction causing a calculation to be made hereunder), Consolidated EBITDA for such period shall be calculated after giving pro forma effect thereto as if such Purchase occurred on the first day of such period; and

(3) if, since the beginning of such period, any Person became a Restricted Subsidiary or was merged or consolidated with or into the Company or any Restricted Subsidiary, and since the beginning of such period such Person shall have made any Sale or Purchase that would have required an adjustment pursuant to clause (1) or (2) above if made by the Company or a Restricted Subsidiary since the beginning of such period, Consolidated EBITDA for such period shall be calculated after giving pro forma effect thereto as if such Sale or Purchase occurred on the first day of such period;

provided that, for purposes of the foregoing calculation, in the event that the Company shall classify Indebtedness Incurred on the date of determination as Incurred in part pursuant to Section 407(b)(xi) (other than by reason of subclause (2) of the proviso to such Section 407(b)(xi)) and in part pursuant to one or more other clauses of such Section 407(b) and/or (unless the Company at its option has elected to disregard Indebtedness being Incurred on the date of determination in part pursuant to subclause (2) of the proviso to Section 407(b)(xi)) for purposes of calculating the Consolidated Coverage Ratio for Incurring Indebtedness on the date of determination in part under Section 407(a) pursuant to Section 407(a) (as provided in Section 407(c)(ii) and (iii)), Consolidated Non-ABL Indebtedness shall not (x) include any such Indebtedness Incurred pursuant to one or more of such other clauses of such Section 407(b) and/or pursuant to such Section 407(a), and (y) shall not give effect to any Discharge of any Indebtedness from the proceeds of any such Indebtedness being disregarded for purposes of the calculation of the Consolidated Total Leverage Ratio that otherwise would be included in Consolidated Non-ABL Indebtedness.

For purposes of this definition, whenever pro forma effect is to be given to any Sale, Purchase or other transaction, or the amount of income or earnings relating thereto, the pro forma calculations in respect thereof (including, without limitation, in respect of anticipated cost savings or synergies relating to any such Sale, Purchase or other transaction) shall be as determined in good faith by the Chief Financial Officer or another authorized Officer of the Company.

“Consolidation” means the consolidation of the accounts of each of the Restricted Subsidiaries with those of the Company in accordance with GAAP; provided that “Consolidation” will not include consolidation of the accounts of any Unrestricted Subsidiary, but the interest of the Company or any Restricted Subsidiary in any Unrestricted Subsidiary will be accounted for as an investment. The term “Consolidated” has a correlative meaning.

“Contingent Obligation” means, with respect to any Person, any obligation of such Person guaranteeing any obligation that does not constitute Indebtedness (a “primary obligation”) of any other Person (the “primary obligor”) in any manner, whether directly or indirectly, including any obligation of such Person, whether or not contingent, (1) to purchase any such primary obligation or any property constituting direct or indirect security therefor, (2) to advance or supply funds (a) for the purchase or payment of any such primary obligation, or (b) to maintain working capital or equity capital of the primary obligor or otherwise to maintain the net worth or solvency of the primary obligor, or (3) to purchase property, securities or services primarily for the purpose of assuring the owner of any such primary obligation of the ability of the primary obligor to make payment of such primary obligation against loss in respect thereof.

“Contribution Amounts” means the aggregate amount of capital contributions applied by the Company to permit the Incurrence of Contribution Indebtedness pursuant to Section 407(b)(x).

“Contribution Indebtedness” means Indebtedness of the Company or any Restricted Subsidiary in an aggregate principal amount not greater than the aggregate amount of cash contributions (other than Excluded Contributions, the proceeds from the issuance of Disqualified Stock or contributions by the Company or any Restricted Subsidiary) made to the capital of the Company or such Restricted Subsidiary after the Issue Date (whether through the issuance or sale of Capital Stock or otherwise); provided that such Contribution Indebtedness (a) is Incurred within 180 days after the receipt of the related cash contribution and (b) is so designated as Contribution Indebtedness pursuant to an Officer’s Certificate on the date of Incurrence thereof.

“Copyrights” means the following: (a) all copyrights, rights and interests in copyrights, works protectable by copyright whether published or unpublished, copyright registrations and copyright applications; (b) all renewals of the foregoing; (c) all income, royalties, damages, and payments now or hereafter due or payable under any of the foregoing, including, without limitation, damages or payments for past or future infringements thereof; (d) the right to sue for past, present, and future infringements thereof; and (e) all domestic rights corresponding to any of the foregoing.

“Corporate Trust Office” means the office of the Trustee at which at any particular time its corporate trust business related to this Indenture shall be administered, which office on the Issue Date is located at 10 W Broad St., CN-OH-BD12, Columbus, OH 43215.

“Credit Card Receivables” has the meaning assigned to such term in the ABL Credit Agreement.

“Credit Facilities” means one or more of (i) the Senior Term Facility, (ii) the ABL Facility and (iii) any other facilities or arrangements designated by the Company, in each case with one or more banks or other lenders or institutions providing for revolving credit loans, term loans, receivables, inventory or real estate financings (including without limitation through the sale of receivables, inventory, real estate and/or other assets to such institutions or to special purpose entities formed to borrow from such institutions against such receivables, inventory, real estate and/or other assets or the creation of any Liens in respect of such receivables, inventory, real estate and/or other assets in favor of such institutions), letters of credit or other Indebtedness, in each case, including all agreements, instruments and documents executed and delivered pursuant to or in connection with any of the foregoing, including but not limited to any notes and letters of credit issued pursuant thereto and any guarantee and collateral agreement, patent, trademark and copyright security agreement, mortgages or letter of credit applications and other guarantees, pledge agreements, security agreements and collateral documents, in each case as the same may be amended, supplemented, waived or otherwise modified from time to time, or refunded, refinanced, restructured, replaced, renewed, repaid, increased or extended from time to time (whether in whole or in part, whether with the original banks, lenders or institutions or other banks, lenders or institutions or otherwise, and whether provided under any original Credit Facility or one or more other credit agreements, indentures, financing agreements or other Credit Facilities or otherwise). Without limiting the generality of the foregoing, the term “Credit Facility” shall include any agreement (i) changing the maturity of any Indebtedness Incurred thereunder or contemplated thereby, (ii) adding Subsidiaries as additional borrowers or guarantors thereunder, (iii) increasing the amount of Indebtedness Incurred thereunder or available to be borrowed thereunder or (iv) otherwise altering the terms and conditions thereof.

“Currency Agreement” means, in respect of a Person, any foreign exchange contract, currency swap agreement or other similar agreement or arrangements (including derivative agreements or arrangements), as to which such Person is a party or a beneficiary.

“Default” means any event or condition that is, or after notice or passage of time or both would be, an Event of Default.

“Depository” means The Depository Trust Company, its nominees and successors.

“Derivative Instrument” with respect to a Person, means any contract, instrument or other right to receive payment or delivery of cash or other assets to which such Person or any Affiliate of such Person that is acting in concert with such Person in connection with such Person’s investment in the Notes (other than a Regulated Bank or a Screened Affiliate) is a party (whether or not requiring further performance by such Person), the value and/or cash flows of which (or any material portion thereof) are materially affected by the value and/or performance of the Notes and/or the creditworthiness of the Company and/or any one or more of the Subsidiary Guarantors (the “Performance References”).

“Designated Noncash Consideration” means noncash consideration received by the Company or one of its Restricted Subsidiaries in connection with an Asset Disposition that is so designated as Designated Noncash Consideration pursuant to an Officer’s Certificate, setting forth the basis of such valuation.

“Designated Preferred Stock” means Preferred Stock of the Company (other than Disqualified Stock) that is issued after the Issue Date for cash (other than to a Restricted Subsidiary) and is so designated as Designated Preferred Stock, pursuant to an Officer’s Certificate of the Company; provided that the cash proceeds of such issuance shall be excluded from the calculation set forth in Section 409(a)(3)(B).

“Disinterested Directors” means, with respect to any Affiliate Transaction, one or more members of the Board of Directors of the Company, or one or more members of the Board of Directors having no material direct or indirect financial interest in or with respect to such Affiliate Transaction. A member of any such Board of Directors shall not be deemed to have such a financial interest by reason of such member’s holding Capital Stock of the Company or any options, warrants or other rights in respect of such Capital Stock or by reason of such member receiving any compensation in respect of such member’s role as director.

“Disqualified Stock” means, with respect to any Person, any Capital Stock (other than Management Stock) that by its terms (or by the terms of any security into which it is convertible or for which it is exchangeable or exercisable) or upon the happening of any event (other than following the occurrence of a Change of Control or other similar event described under such terms as a “change of control,” or an Asset Disposition or other disposition) (i) matures or is mandatorily redeemable pursuant to a sinking fund obligation or otherwise, (ii) is convertible or exchangeable for Indebtedness or Disqualified Stock or (iii) is redeemable at the option of the holder thereof (other than following the occurrence of a Change of Control or other similar event described under such terms as a “change of control,” or an Asset Disposition or other disposition), in whole or in part, in each case on or prior to the final Stated Maturity of the Notes; provided that Capital Stock issued to any employee benefit plan, or by any such plan to any employees of the Company or any Subsidiary, shall not constitute Disqualified Stock solely because it may be required to be repurchased or otherwise acquired or retired in order to satisfy applicable statutory or regulatory obligations.

“Distribution” means L Brands, Inc.’s distribution of the shares of the Company’s common stock to L Brands, Inc.’s stockholders as described in the Form 10.

“Domestic Subsidiary” means any Restricted Subsidiary of the Company other than a Foreign Subsidiary.

“Domestic Transportation Services Agreement” means the Domestic Transportation Services Agreement between L Brands, Inc. or one or more of its Affiliates, on the one hand, and the Company or one or more of its Affiliates, on the other hand, to be dated on or prior to the Escrow Release Date.

“Employee Matters Agreement” means the Employee Matters Agreement between L Brands, Inc. and the Company, to be dated on or prior to the Escrow Release Date.

“Equity Offering” means a sale of Capital Stock of the Company after the Escrow Release Date (other than through the issuance of Disqualified Stock or through an Excluded Contribution) other than (a) offerings registered on Form S-8 (or any successor form) under the Securities Act or any similar offering in other jurisdictions or other securities of the Company or any Parent Entity and (b) issuances of Capital Stock to any Restricted Subsidiary of the Company.

“Escrow Account” means the account into which the Initial Purchasers deposit the gross proceeds of the Initial Notes sold on the Issue Date.

“Escrow Agent” means JPMorgan Chase Bank, N.A., as escrow agent, together with its successors.

“Escrow Agreement” means the Escrow Agreement related to the Initial Notes, dated as of the Issue Date, among the Company, the Trustee and the Escrow Agent.

“Escrow End Date” means January 15, 2022.

“Escrowed Property” means the gross proceeds of the offering of the Initial Notes sold on the Issue Date.

“Escrow Release Date” means the date the Company delivers to the Escrow Agent, on or prior to 5:00 p.m. (New York City time) on the Escrow End Date, an Officer’s Certificate of the Company certifying that the following conditions have been (or, substantially concurrently with the release of the Escrowed Property, will be) satisfied:

- (1) the Restructuring will be consummated on the Escrow Release Date;
- (2) all conditions precedent to the Separation will be satisfied or waived in accordance with the terms of the Separation and Distribution Agreement on the Escrow Release Date;
- (3) all conditions precedent to the borrowings under the Senior Credit Agreements in effect as of such date (other than the release of the Escrowed Property or the receipt of proceeds from this offering, as applicable) to be drawn in connection with the Separation have been satisfied or waived, and the borrowings under such Senior Credit Agreements to be drawn in connection with the Separation (as applicable) will be available to the Company on the Escrow Release Date; and

(4) the initial Subsidiary Guarantors have, by supplemental indenture, become parties to this Indenture.

“Escrow Release Date Distribution” means the distribution by the Company to L Brands, Inc. of 100% of the Company’s common stock for distribution to L Brands Inc.’s existing shareholders.

“Escrow Release Date Payment” means the payment of the Special Cash Payment (as defined in the Separation and Distribution Agreement).

“Euroclear” means Euroclear Bank S.A./N.V., as operator of the Euroclear System, or any successor securities clearing agency.

“Exchange Act” means the Securities Exchange Act of 1934, as amended from time to time.

“Excluded Contribution” means Net Cash Proceeds, or the Fair Market Value (as of the date of contribution) of property or assets, received by the Company as capital contributions to the Company after the Issue Date or from the issuance or sale (other than to a Restricted Subsidiary) of Capital Stock (other than Disqualified Stock) of the Company, in each case to the extent designated as an Excluded Contribution pursuant to an Officer’s Certificate of the Company and not previously included in the calculation set forth in Section 409(a)(3)(B)(x) for purposes of determining whether a Restricted Payment may be made.

“Exempt Sale and Leaseback Transaction” means any Sale and Leaseback Transaction (a) in which the sale or transfer of property occurs within 180 days of the acquisition of such property by the Company or any of its Subsidiaries or (b) that involves property with a book value equal to the greater of \$60.0 million and 1.5% of Consolidated Tangible Assets or less and is not part of a series of related Sale and Leaseback Transactions involving property with an aggregate value in excess of such amount and entered into with a single Person or group of Persons. For purposes of the foregoing, “Sale and Leaseback Transaction” means any arrangement with any Person providing for the leasing by the Company or any of its Subsidiaries of real or personal property that has been or is to be sold or transferred by the Company or any such Subsidiary to such Person or to any other Person to whom funds have been or are to be advanced by such Person on the security of such property or rental obligations of the Company or such Subsidiary.

“Fair Market Value” means, with respect to any asset or property, the fair market value of such asset or property as determined in good faith by senior management of the Company or the Board of Directors, whose determination shall be conclusive.

“Finance Lease Obligation” means an obligation that is required to be classified and accounted for as a finance lease for financial reporting purposes in accordance with GAAP. The Stated Maturity of any Finance Lease Obligation shall be the date of the last payment of rent or any other amount due under the related lease.

“Financing Disposition” means any sale, transfer, conveyance or other disposition of, or creation or incurrence of any Lien on, property or assets by the Company or any Subsidiary thereof to or in favor of any Receivables Subsidiary in connection with the Incurrence by a Receivables Subsidiary of Indebtedness, or obligations to make payments to the obligor on Indebtedness, which may be secured by a Lien in respect of such property or assets.

“Fixed Charges” means, with respect to any Person for any period, the sum, without duplication, of: (1) Consolidated Interest Expense (excluding amortization or write-off of deferred financing costs) of such Person for such period, and (2) all cash dividend payments (excluding items eliminated in consolidation) on any series of Preferred Stock or Disqualified Stock of such Person and its Restricted Subsidiaries.

“Fixed GAAP Date” means the Issue Date; provided that at any time after the Issue Date, the Company may by written notice to the Trustee elect to change the Fixed GAAP Date to be the date specified in such notice, and upon such notice, the Fixed GAAP Date shall be such date for all periods beginning on and after the date specified in such notice.

“Fixed GAAP Terms” means (a) the definitions of the terms “Borrowing Base”, “Consolidated Coverage Ratio”, “Consolidated EBITDA”, “Consolidated Interest Expense”, “Consolidated Net Income”, “Consolidated Non-ABL Secured Indebtedness”, “Consolidated Secured Leverage Ratio”, “Consolidated Tangible Assets”, “Consolidated Non-ABL Indebtedness”, “Consolidated Total Leverage Ratio”, “Consolidation”, “Finance Lease Obligation”, “Inventory” and “Receivable”, (b) all defined terms in this Indenture to the extent used in or relating to any of the foregoing definitions, and all ratios and computations based on any of the foregoing definitions, and (c) any other term or provision of this Indenture or the Notes that, at the Company’s election, may be specified by the Company by written notice to the Trustee from time to time.

“Foreign Subsidiary” means any Subsidiary of the Company (a) that is not organized under the laws of the United States of America or any state thereof or the District of Columbia, and any Subsidiary of such Foreign Subsidiary (including, for the avoidance of doubt, any Subsidiary of the Company which is organized and existing under the laws of Puerto Rico or any other territory of the United States of America), or (b) that has no material assets other than securities or indebtedness of one or more Foreign Subsidiaries (or Subsidiaries thereof), intellectual property relating to such Foreign Subsidiaries (or Subsidiaries thereof), and/or other assets (including cash, Cash Equivalents and Temporary Cash Investments) relating to an ownership interest in any such securities, indebtedness, intellectual property or Subsidiaries.

“Form 10” means the registration statement on Form 10, originally filed by the Company with the SEC on June 21, 2021, as amended or supplemented.

“GAAP” means generally accepted accounting principles in the United States of America as in effect on the Fixed GAAP Date (for purposes of the Fixed GAAP Terms, except that no operating lease (as determined prior to the effectiveness of ASU 2016-02 (Topic 842)) shall be treated as Indebtedness hereunder) and as in effect from time to time (for all other purposes under this Indenture), including those set forth in the opinions and pronouncements of the Accounting Principles Board of the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board or in such other statements by such other entity as approved by a significant segment of the accounting profession, and subject to the following sentence. If at any time the SEC permits or requires U.S. domiciled companies subject to the reporting requirements of the Exchange Act to use IFRS in lieu of GAAP for financial reporting purposes, the Company may elect by written notice to the Trustee to so use IFRS in lieu of GAAP and, upon any such notice, references herein to GAAP shall thereafter be construed to mean (a) for periods beginning on and after the date specified in such notice, IFRS as in effect on the date specified in such notice (for purposes of the Fixed GAAP Terms) and as in effect from time to time (for all other purposes under this Indenture) and (b) for prior periods, GAAP as defined in the first sentence of this definition. All ratios and computations based on GAAP contained in this Indenture shall be computed in conformity with GAAP.

“Governmental Authority” means the government of the United States or any other nation, or of any political subdivision thereof, whether state or local, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government (including any supranational bodies such as the European Union or the European Central Bank).

“Guarantee” means any obligation, contingent or otherwise, of any Person directly or indirectly guaranteeing any Indebtedness or other obligation of any other Person; provided that the term “Guarantee” shall not include endorsements for collection or deposit in the ordinary course of business. The term “Guarantee” used as a verb has a corresponding meaning.

“Guarantor Subordinated Obligations” means, with respect to a Subsidiary Guarantor, any Indebtedness of such Subsidiary Guarantor (whether outstanding on the Issue Date or thereafter Incurred) that is expressly subordinated in right of payment to the obligations of such Subsidiary Guarantor under its Subsidiary Guarantee pursuant to a written agreement (other than Indebtedness owing to the Company or a Restricted Subsidiary).

“Guarantor Supplemental Indenture” means a Supplemental Indenture, to be entered into substantially in the form attached hereto as Exhibit E.

“Hedging Agreements” means, collectively, Interest Rate Agreements, Currency Agreements and Commodities Agreements or other agreement or arrangement designed to protect against fluctuations in interest rates or currency, commodity or equity values (including, without limitation, any option with respect to any of the foregoing and any combination of the foregoing agreement or arrangements), and any confirmation executed in connection with any such agreement or arrangement.

“Hedging Obligations” of any Person means the obligations of such Person pursuant to any Interest Rate Agreement, Currency Agreement or Commodities Agreement.

“Holder” or “Noteholder” means the Person in whose name a Note is registered in the Note Register.

“IFRS” means International Financial Reporting Standards and applicable accounting requirements set by the International Accounting Standards Board or any successor thereto (or the Financial Accounting Standards Board, the Accounting Principles Board of the American Institute of Certified Public Accountants, or any successor to either such board, or the SEC, as the case may be), as in effect from time to time.

“Incur” means issue, assume, enter into any Guarantee of, incur or otherwise become liable for; and the terms “Incurs,” “Incurred” and “Incurrence” shall have a correlative meaning; provided that any Indebtedness or Capital Stock of a Person existing at the time such Person becomes a Subsidiary (whether by merger, consolidation, acquisition or otherwise) shall be deemed to be Incurred by such Subsidiary at the time it becomes a Subsidiary. Accrual of interest, the accretion of accreted value, the payment of interest in the form of additional Indebtedness, and the payment of dividends on Capital Stock constituting Indebtedness in the form of additional shares of the same class of Capital Stock, will be deemed not to be an Incurrence of Indebtedness. Any Indebtedness issued at a discount (including Indebtedness on which interest is payable through the issuance of additional Indebtedness) shall be deemed Incurred at the time of original issuance of the Indebtedness at the initial accreted amount thereof.

“Indebtedness” means, with respect to any Person on any date of determination (without duplication):

- (i) the principal of indebtedness of such Person for borrowed money;
- (ii) the principal of obligations of such Person evidenced by bonds, debentures, notes or other similar instruments;
- (iii) all reimbursement obligations of such Person in respect of letters of credit, bankers’ acceptances or other similar instruments (the amount of such obligations being equal at any time to the aggregate amount of drawings thereunder that have not then been reimbursed);
- (iv) all obligations of such Person to pay the deferred and unpaid purchase price of property (except accruals and Trade Payables), which purchase price is due more than one year after the date of placing such property in final service or taking final delivery and title thereto;
- (v) all Finance Lease Obligations of such Person;
- (vi) the redemption, repayment or other repurchase amount of such Person with respect to any Disqualified Stock of such Person or (if such Person is a Subsidiary of the Company other than a Subsidiary Guarantor) any Preferred Stock of such Subsidiary, but excluding, in each case, any accrued dividends (the amount of such obligation to be equal at any time to the maximum fixed involuntary redemption, repayment or repurchase price for such Capital Stock, or if less (or if such Capital Stock has no such fixed price), to the involuntary redemption, repayment or repurchase price therefor calculated in accordance with the terms thereof as if then redeemed, repaid or repurchased, and if such price is based upon or measured by the Fair Market Value of such Capital Stock, such Fair Market Value shall be as determined in good faith by senior management of the Company, the Board of Directors of the Company or the Board of Directors of the issuer of such Capital Stock);
- (vii) all Indebtedness of other Persons secured by a Lien on any asset of such Person, whether or not such Indebtedness is assumed by such Person; provided that the amount of Indebtedness of such Person shall be the lesser of (A) the Fair Market Value of such asset at such date of determination (as determined in good faith by the Company) and (B) the amount of such Indebtedness of such other Persons;
- (viii) all Guarantees by such Person of Indebtedness of other Persons, to the extent so Guaranteed by such Person; and
- (ix) to the extent not otherwise included in this definition, net Hedging Obligations of such Person (the amount of any such obligation to be equal at any time to the termination value of such agreement or arrangement giving rise to such Hedging Obligation that would be payable by such Person at such time);

provided that Indebtedness shall not include Contingent Obligations Incurred in the ordinary course of business.

The amount of Indebtedness of any Person at any date shall be determined as set forth above or as otherwise provided for in this Indenture, or otherwise shall equal the amount thereof that would appear as a liability on a balance sheet of such Person (excluding any notes thereto) prepared in accordance with GAAP.

“Initial Notes” has the meaning assigned to such term in the recitals of this Indenture.

“Initial Purchasers” means J.P. Morgan Securities LLC, Goldman Sachs & Co. LLC, Barclays Capital Inc., BofA Securities, Inc., Citigroup Global Markets Inc., HSBC Securities (USA) Inc., Wells Fargo Securities, LLC, Huntington Securities, Inc., KeyBanc Capital Markets Inc., Mizuho Securities USA LLC, MUFG Securities Americas Inc. and U.S. Bancorp Investments, Inc.

“interest,” with respect to the Notes, means interest on the Notes and, except for purposes of Article IX, any additional or special interest pursuant to the terms of any Note.

“Interest Payment Date” means, when used with respect to any Note and any installment of interest thereon, the date specified in such Note as the fixed date on which such installment of interest is due and payable, as set forth in such Note.

“Interest Rate Agreement” means, with respect to any Person, any interest rate protection agreement, future agreement, option agreement, swap agreement, cap agreement, collar agreement, hedge agreement or other similar agreement or arrangement (including derivative agreements or arrangements), as to which such Person is a party or a beneficiary.

“Inventory” means goods held for sale, lease or use by a Person in the ordinary course of business, net of any reserve for goods that have been segregated by such Person to be returned to the applicable vendor for credit, as determined in accordance with GAAP.

“Investment” in any Person by any other Person means any direct or indirect advance, loan or other extension of credit (other than to customers, dealers, licensees, franchisees, suppliers, consultants, directors, officers or employees of any Person in the ordinary course of business) or capital contribution (by means of any transfer of cash or other property to others or any payment for property or services for the account or use of others) to, or any purchase or acquisition of Capital Stock, Indebtedness or other similar instruments issued by, such Person. For purposes of the definition of “Unrestricted Subsidiary” and Section 409 only, (i) “Investment” shall include the portion (proportionate to the Company’s equity interest in such Subsidiary) of the Fair Market Value of the net assets of any Subsidiary of the Company at the time that such Subsidiary is designated an Unrestricted Subsidiary; provided that upon a redesignation of such Subsidiary as a Restricted Subsidiary, the Company shall be deemed to continue to have a permanent “Investment” in an Unrestricted Subsidiary in an amount (if positive) equal to (x) the Company’s “Investment” in such Subsidiary at the time of such redesignation less (y) the portion (proportionate to the Company’s equity interest in such Subsidiary) of the Fair Market Value of the net assets of such Subsidiary at the time of such redesignation, (ii) any property transferred to or from an Unrestricted Subsidiary shall be valued at its Fair Market Value (as determined in good faith by the Company) at the time of such transfer and (iii) for purposes of Section 409(a)(3)(C), the amount resulting from the redesignation of any Unrestricted Subsidiary as a Restricted Subsidiary shall be the Fair Market Value of the Investment in such Unrestricted Subsidiary at the time of such redesignation. Guarantees shall not be deemed to be Investments. The amount of any Investment outstanding at any time shall be the original cost of such Investment, reduced (at the Company’s option) by any dividend, distribution, interest payment, return of capital, repayment or other amount or value received in respect of such Investment; provided that to the extent that the amount of Restricted Payments outstanding at any time pursuant to Section 409(a) is so reduced by any portion of any such amount or value that would otherwise be included in the calculation of Consolidated Net Income, such portion of such amount or value shall not be so included for purposes of calculating the amount of Restricted Payments that may be made pursuant to Section 409(a).

“Investment Grade Rating” means a rating equal to or higher than Baa3 (or the equivalent) by Moody’s and BBB- (or the equivalent) by S&P, or any equivalent rating by any other Rating Agency.

“Investment Grade Securities” means (i) securities issued or directly and fully guaranteed or insured by the United States government or any agency or instrumentality thereof (other than Cash Equivalents); (ii) debt securities or debt instruments with an Investment Grade Rating, but excluding any debt securities or instruments constituting loans or advances among the Company and its Subsidiaries; (iii) investments in any fund that invests exclusively in investments of the type described in clauses (i) and (ii) above, which fund may also hold cash pending investment or distribution; and (iv) corresponding instruments in countries other than the United States customarily utilized for high-quality investments.

“Issue Date” means July 15, 2021.

“Junior Capital” means, collectively, any Indebtedness of the Company that (i) is not secured by any asset of the Company or any Restricted Subsidiary, (ii) is expressly subordinated to the prior payment in full of the Notes on terms consistent with those for senior subordinated high yield debt securities issued by U.S. companies (as determined in good faith by the Company, which determination shall be conclusive), (iii) has a final maturity date that is not earlier than, and provides for no scheduled payments of principal prior to, the date that is 91 days after the maturity of the Notes (other than through conversion or exchange of any such Indebtedness for Capital Stock (other than Disqualified Stock) of the Company or any other Junior Capital), (iv) has no mandatory redemption or prepayment obligations other than (x) obligations that are subject to the prior payment in full in cash of the Notes or (y) pursuant to an escrow or similar arrangement with respect to the proceeds of such Junior Capital and (v) does not require the payment of cash interest until the date that is 91 days after the maturity of the Notes.

“L Brands Commitment” means the commitment letter from L Brands, Inc. to the Company, dated as of the Issue Date, pursuant to which L Brands, Inc. has agreed to fund to the Company amounts required to pay the accrued and unpaid interest owing to the Holders of the Notes and such additional amounts as may be necessary to redeem the Notes at 101% of the principal amount thereof in the event that the Special Mandatory Redemption Price exceeds the amount of the funds held in the Escrow Account on the date of the Special Mandatory Redemption.

“Lien” means any mortgage, pledge, security interest, encumbrance, lien or charge of any kind (including any conditional sale or other title retention agreement or lease in the nature thereof), in each case in the nature of security; provided that in no event shall a Non-Financing Lease Obligation in and of itself be deemed to constitute a Lien or lease in the nature thereof).

“Limited Condition Transaction” means (x) any acquisition, including by way of merger, amalgamation, consolidation or other business combination or the acquisition of Capital Stock or otherwise, by one or more of the Company and its Restricted Subsidiaries of any assets, business or Person or any other Investment permitted by this Indenture whose consummation is not conditioned on the availability of, or on obtaining, third party financing or (y) any redemption, repurchase, defeasance, satisfaction and discharge or repayment of Indebtedness, Disqualified Stock or Preferred Stock requiring irrevocable notice in advance of such redemption, repurchase, defeasance, satisfaction and discharge or prepayment.

“Long Derivative Instrument” means a Derivative Instrument (i) the value of which generally increases, and/or the payment or delivery obligations under which generally decrease, with positive changes to the Performance References and/or (ii) the value of which generally decreases, and/or the payment or delivery obligations under which generally increase, with negative changes to the Performance References.

“Management Advances” means (1) loans or advances made to directors, management members, officers, employees or consultants of the Company or any Restricted Subsidiary (x) in respect of travel, entertainment or moving-related expenses incurred in the ordinary course of business, (y) in respect of moving-related expenses incurred in connection with any closing or consolidation of any facility or (z) in the ordinary course of business and (in the case of this clause (z)) not exceeding \$20.0 million in the aggregate outstanding at any time, (2) promissory notes of Management Investors acquired in connection with the issuance of Management Stock to such Management Investors, (3) Management Guarantees, or (4) other Guarantees of borrowings by Management Investors in connection with the purchase of Management Stock, which Guarantees are permitted under Section 407.

“Management Guarantees” means guarantees (x) of up to an aggregate principal amount outstanding at any time of \$30.0 million of borrowings by Management Investors in connection with their purchase of Management Stock or (y) made on behalf of, or in respect of loans or advances made to, directors, officers, employees or consultants of the Company or any Restricted Subsidiary (1) in respect of travel, entertainment and moving related expenses incurred in the ordinary course of business or (2) in the ordinary course of business and (in the case of this clause (2)) not exceeding \$15.0 million in the aggregate outstanding at any time.

“Management Indebtedness” means Indebtedness Incurred to (a) any Person other than a Management Investor of up to an aggregate principal amount outstanding at any time of \$30.0 million and (b) any Management Investor, in each case, to finance the repurchase or other acquisition of Capital Stock of the Company or any Restricted Subsidiary (including any options, warrants or other rights in respect thereof) from any Management Investor, which repurchase or other acquisition of Capital Stock is permitted by Section 409.

“Management Investors” means the management members, officers, directors, employees and other members of the management of the Company or any of its Subsidiaries, or family members or relatives of any of the foregoing, or trusts, partnerships or limited liability companies for the benefit of any of the foregoing, or any of their heirs, executors, successors and legal representatives, who at any date beneficially own or have the right to acquire, directly or indirectly, Capital Stock of the Company or any Restricted Subsidiary.

“Management Stock” means Capital Stock of the Company or any Restricted Subsidiary (including any options, warrants or other rights in respect thereof) held by any of the Management Investors.

“Market Capitalization” means an amount equal to (i) the total number of issued and outstanding shares of capital stock of the Company or any direct or indirect parent company on the date of declaration of the relevant dividend multiplied by (ii) the arithmetic mean of the closing prices per share of such capital stock on the New York Stock Exchange (or, if the primary listing of such capital stock is on another exchange, on such other exchange) for the 30 consecutive trading days immediately preceding the date of declaration of such dividend.

“Material Indebtedness” means any long-term Indebtedness for borrowed money of the Company or any of its Wholly Owned Domestic Restricted Subsidiaries with an aggregate principal amount (or, if applicable, committed amount) in excess of \$250.0 million.

“MMDA” means a JPMorgan Money Market Deposit Account or a successor investment offered by the Escrow Agent in which the Escrow Agent will invest and reinvest the Escrowed Property and the proceeds thereof pursuant to the Escrow Agreement.

“Moody's” means Moody's Investors Service, Inc., and its successors.

“Net Available Cash” from an Asset Disposition means an amount equal to the cash payments received (including any cash payments received by way of deferred payment of principal pursuant to a note or installment receivable or otherwise, but only as and when received, but excluding any other consideration received in the form of assumption by the acquiring Person of Indebtedness or other obligations relating to the properties or assets that are the subject of such Asset Disposition or received in any other non-cash form) therefrom, in each case net of (i) all legal, title and recording tax expenses, commissions and other fees and expenses incurred, and all Federal, state, provincial, foreign and local taxes required to be paid or to be accrued as a liability under GAAP, in each case as a consequence of, or in respect of, such Asset Disposition (including as a consequence of any transfer of funds in connection with the application thereof in accordance with Section 411), (ii) all payments made, and all installment payments required to be made, on any Indebtedness (x) that is secured by any assets subject to such Asset Disposition, in accordance with the terms of any Lien upon such assets, or (y) that must by its terms, or in order to obtain a necessary consent to such Asset Disposition, or by applicable law, be repaid out of the proceeds from such Asset Disposition, including but not limited to any payments required to be made to increase borrowing availability under any revolving credit facility, (iii) all distributions and other payments required to be made to minority interest holders in Subsidiaries or joint ventures as a result of such Asset Disposition, or to any other Person (other than the Company or a Restricted Subsidiary) owning a beneficial interest in the assets disposed of in such Asset Disposition, (iv) any liabilities or obligations associated with the assets disposed of in such Asset Disposition and retained, indemnified or insured by the Company or any Restricted Subsidiary after such Asset Disposition, including without limitation pension and other post-employment benefit liabilities, liabilities related to environmental matters, and liabilities relating to any indemnification obligations associated with such Asset Disposition, and (v) the amount of any purchase price or similar adjustment (x) claimed by any Person to be owed by the Company or any Restricted Subsidiary, until such time as such claim shall have been settled or otherwise finally resolved, or (y) paid or payable by the Company or any Restricted Subsidiary, in either case in respect of such Asset Disposition.

“Net Cash Proceeds” with respect to any issuance or sale of any Indebtedness or securities of the Company or any Subsidiary by the Company or any Subsidiary, or any capital contribution, means the cash proceeds of such issuance, sale, contribution or Incurrence net of attorneys’ fees, accountants’ fees, underwriters’ or placement agents’ fees, discounts or commissions and brokerage, consultant and other fees actually incurred in connection with such issuance, sale, contribution or Incurrence and net of all taxes paid or payable as a result, or in respect, thereof.

“Net Income” means, with respect to any Person, the net income (loss) of such Person and its Restricted Subsidiaries, determined in accordance with GAAP and before any reduction in respect of Preferred Stock dividends.

“Net Short” means, with respect to a Holder or beneficial owner, as of a date of determination, either (i) the value of its Short Derivative Instruments exceeds the sum of the (x) the value of its Notes plus (y) the value of its Long Derivative Instruments as of such date of determination or (ii) it is reasonably expected that such would have been the case were a Failure to Pay or Bankruptcy Credit Event (each as defined in the 2014 International Swaps and Derivatives Association, Inc. Credit Derivatives Definitions) to have occurred with respect to the Company or any Subsidiary Guarantor immediately prior to such date of determination.

“Non-Financing Lease Obligation” of any Person means a lease obligation of such Person that is not an obligation in respect of a Finance Lease Obligation. A straight-line or operating lease shall be considered a Non-Financing Lease Obligation.

“Non-U.S. Person” means a Person who is not a U.S. person, as defined in Regulation S.

“Note Documents” means the Notes (including any Additional Notes), the Subsidiary Guarantees and this Indenture.

“Notes” means the Initial Notes and any Additional Notes that are actually issued. The Initial Notes and any Additional Notes subsequently issued under this Indenture will be treated as a single class for all purposes under this Indenture, including waivers, amendments, redemptions and offers to purchase, except for certain waivers and amendments as set forth herein.

“Obligations” means, with respect to any Indebtedness, any principal, premium (if any), interest (including interest accruing on or after the filing of any petition in bankruptcy or for reorganization relating to the Company or any Restricted Subsidiary whether or not a claim for post-filing interest is allowed or allowable in such proceedings), fees, charges, expenses, reimbursement obligations, Guarantees of such Indebtedness (or of Obligations in respect thereof), other monetary obligations of any nature and all other amounts payable thereunder or in respect thereof.

“Offering Memorandum” means the confidential Offering Memorandum of the Company, dated June 30, 2021, relating to the offering of the Initial Notes.

“Officer” means, with respect to the Company or any other obligor upon the Notes, the Chairman of the Board, the President, the Chief Executive Officer, the Chief Financial Officer, any Vice President, the Controller, the Treasurer or the Secretary (a) of such Person or (b) if such Person is owned or managed by a single entity, of such entity (or any other individual designated as an “Officer” for the purposes of this Indenture by the Board of Directors).

“Officer’s Certificate” means, with respect to the Company or any other obligor upon the Notes, a certificate signed by one Officer of such Person.

“Open Account Agreement” has the meaning specified in the ABL Facility Collateral Agreements.

“Open Account Obligations” of any Person means the obligations of such Person pursuant to any Open Account Agreement.

“Opinion of Counsel” means a written opinion from legal counsel who is reasonably acceptable to the Trustee. The counsel may be an employee of or counsel to the Company or the Trustee.

“Outstanding” or “outstanding,” when used with respect to Notes means, as of the date of determination, all Notes theretofore authenticated and delivered under this Indenture, except:

- (i) Notes theretofore cancelled by the Trustee or delivered to the Trustee for cancellation;
- (ii) Notes for whose payment or redemption money in the necessary amount has been theretofore deposited with the Trustee or any Paying Agent in trust for the Holders of such Notes; provided that, if such Notes are to be redeemed, notice of such redemption has been duly given pursuant to this Indenture or provision therefor reasonably satisfactory to the Trustee has been made; and
- (iii) Notes in exchange for or in lieu of which other Notes have been authenticated and delivered pursuant to this Indenture.

A Note does not cease to be Outstanding because the Company or any Affiliate of the Company holds the Note (and such Note shall be deemed to be outstanding for purposes of this Indenture); provided that in determining whether the Holders of the requisite amount of Outstanding Notes have given any request, demand, authorization, direction, notice, consent or waiver hereunder, Notes owned by the Company or any Affiliate of the Company shall be disregarded and deemed not to be Outstanding, except that, for the purpose of determining whether the Trustee shall be protected in relying on any such request, demand, authorization, direction, notice, consent or waiver, only Notes which a Trust Officer of the Trustee actually knows are so owned shall be so disregarded. Notes so owned that have been pledged in good faith may be regarded as Outstanding if the pledgee establishes to the reasonable satisfaction of the Trustee the pledgee’s right to act with respect to such Notes and that the pledgee is not the Company or an Affiliate of the Company.

“Parent Entity” means, with respect to a Person, any direct or indirect parent of such Person, and, if not in reference to any Person, any direct or indirect parent of the Company.

“Parent Entity Expenses” means (i) costs (including all professional fees and expenses) incurred by any Parent Entity in connection with maintaining its existence or in connection with its reporting obligations under, or in connection with compliance with, applicable laws or applicable rules of any governmental, regulatory or self-regulatory body or stock exchange, this Indenture or any other agreement or instrument relating to Indebtedness of the Company or any Restricted Subsidiary, including in respect of any reports filed with respect to the Securities Act, the Exchange Act or the respective rules and regulations promulgated thereunder, (ii) expenses incurred by any Parent Entity in connection with the acquisition, development, maintenance, ownership, prosecution, protection and defense of its intellectual property and associated rights (including but not limited to trademarks, service marks, trade names, trade dress, patents, copyrights and similar rights, including registrations and registration or renewal applications in respect thereof; inventions, processes, designs, formulae, trade secrets, know-how, confidential information, computer software, data and documentation, and any other intellectual property rights; and licenses of any of the foregoing) to the extent such intellectual property and associated rights relate to the business or businesses of the Company or any Subsidiary thereof, (iii) indemnification obligations of any Parent Entity owing to directors, officers, employees or other Persons under its charter or by-laws or pursuant to written agreements with or for the benefit of any such Person, or obligations in respect of director and officer insurance (including premiums therefor), (iv) other administrative and operational expenses of any Parent Entity incurred in the ordinary course of business, (v) fees and expenses incurred by any Parent Entity in connection with maintenance and implementation of any management equity incentive plan, and (vi) fees and expenses incurred by any Parent Entity in connection with any offering of Capital Stock or Indebtedness, (w) which offering is not completed, or (x) where the net proceeds of such offering are intended to be received by or contributed or loaned to the Company or a Restricted Subsidiary, or (y) in a prorated amount of such expenses in proportion to the amount of such net proceeds intended to be so received, contributed or loaned, or (z) otherwise on an interim basis prior to completion of such offering so long as any Parent Entity shall cause the amount of such expenses to be repaid to the Company or the relevant Restricted Subsidiary out of the proceeds of such offering promptly if completed.

“Paying Agent” means any Person authorized by the Company to pay the principal of (and premium, if any) or interest on any Notes on behalf of the Company; provided that neither the Company nor any of its Affiliates shall act as Paying Agent for purposes of Section 1103 or Section 1205. The Trustee will initially act as Paying Agent for the Notes.

“Patents” means the following: (a) all patents and patent applications; (b) all inventions described and claimed therein; (c) all reissues, divisions, continuations, renewals, extensions and continuations in part thereof; (d) all income, royalties, damages and payments now or hereafter due or payable under any of the foregoing, including, without limitation, damages or payments for past or future infringements thereof; (e) the right to sue for past, present, and future infringements thereof; and (f) all domestic rights corresponding to any of the foregoing.

“Permitted Investment” means an Investment by the Company or any Restricted Subsidiary in, or consisting of, any of the following:

- (i) a Restricted Subsidiary, the Company, or a Person that will, upon the making of such Investment, become a Restricted Subsidiary (and any Investment held by such Person that was not acquired by such Person, or made pursuant to a commitment by such Person that was not entered into, in contemplation of so becoming a Restricted Subsidiary);
- (ii) another Person if as a result of such Investment such other Person is merged or consolidated with or into, or transfers or conveys all or substantially all its assets to, or is liquidated into, the Company or a Restricted Subsidiary (and, in each case, any Investment held by such other Person that was not acquired by such Person, or made pursuant to a commitment by such Person that was not entered into, in contemplation of such merger, consolidation or transfer);
- (iii) Temporary Cash Investments, Investment Grade Securities or Cash Equivalents;
- (iv) receivables owing to the Company or any Restricted Subsidiary, if created or acquired in the ordinary course of business;
- (v) any securities or other Investments received as consideration in, or retained in connection with, sales or other dispositions of property or assets, including Asset Dispositions made in compliance with Section 411;
- (vi) securities or other Investments received in settlement of debts created in the ordinary course of business and owing to, or of other claims asserted by, the Company or any Restricted Subsidiary, or as a result of foreclosure, perfection or enforcement of any Lien, or in satisfaction of judgments, including in connection with any bankruptcy proceeding or other reorganization of another Person;
- (vii) Investments in existence or made pursuant to legally binding written commitments in existence on the Issue Date, and in each case any extension, modification, replacement, reinvestment or renewal thereof; provided that the amount of any such Investment may be increased in such extension, modification, replacement, reinvestment or renewal only (x) as required by the terms of such Investment or binding commitment as in existence on the Issue Date or (y) as otherwise permitted by this Indenture;
- (viii) Currency Agreements, Interest Rate Agreements, Commodities Agreements and related Hedging Obligations, which obligations are Incurred in compliance with Section 407;
- (ix) pledges or deposits (x) with respect to leases or utilities provided to third parties in the ordinary course of business or (y) otherwise described in the definition of “Permitted Liens” or made in connection with Liens permitted under Section 413;
- (x) (1) Investments in or by any Receivables Subsidiary, or in connection with a Financing Disposition by, to, in or in favor of any Receivables Subsidiary, including Investments of funds held in accounts permitted or required by the arrangements governing such Financing Disposition or any related Indebtedness, or (2) any promissory note issued by the Company;
- (xi) bonds secured by assets leased to and operated by the Company or any Restricted Subsidiary that were issued in connection with the financing of such assets so long as the Company or any Restricted Subsidiary may obtain title to such assets at any time by paying a nominal fee, canceling such bonds and terminating the transaction;

- (xii) the Notes;
- (xiii) any Investment to the extent made using Capital Stock of the Company (other than Disqualified Stock) or Junior Capital as consideration;
- (xiv) Management Advances;
- (xv) Investments in Related Businesses in an aggregate amount outstanding at any time not to exceed an amount equal to the greater of \$50.0 million and 1.25% of Consolidated Tangible Assets;
- (xvi) any transaction to the extent it constitutes an Investment that is permitted by and made in accordance with Section 412(b) (except transactions described in clauses (i), (v) and (vi) of Section 412(b)), including any Investment pursuant to any transaction described in Section 412(b)(ii) (whether or not any Person party thereto is at any time an Affiliate of the Company);
- (xvii) any Investment by any Captive Insurance Subsidiary in connection with its provision of insurance to the Company or its Subsidiaries which Investment is made in the ordinary course of business of such Captive Insurance Subsidiary or by reason of applicable law, rule, regulation or order, or is required or approved by any regulatory authority having jurisdiction over such Captive Insurance Subsidiary or its business, as applicable;
- (xviii) other Investments in an aggregate amount outstanding at any time not to exceed an amount equal to the greater of \$50.0 million and 1.25% of Consolidated Tangible Assets;
- (xix) Investments consisting of or to finance purchases and acquisitions of inventory, supplies, materials, services or equipment or purchases of contract rights or licenses or leases of intellectual property in the ordinary course of business;
- (xx) advances in the form of a prepayment of expenses, so long as such expenses are being paid in accordance with customary trade terms of the Company or the Restricted Subsidiaries;
- (xxi) any Investment in any Subsidiary of the Company or any joint venture in connection with intercompany cash management arrangements or related activities arising in the ordinary course of business; and
- (xxii) any Investment acquired by the Company or any Restricted Subsidiary (x) in exchange for any other Investment or accounts receivable held by the Company or such Restricted Subsidiary in connection with or as a result of a bankruptcy, workout, reorganization or recapitalization of the issuer of such other Investment or accounts receivable, or (y) as a result of a foreclosure by the Company or any Restricted Subsidiary with respect to any secured Investment or other transfer of title with respect to any secured Investment in default.

If any Investment pursuant to clause (xv) or (xviii) above, or Section 409(b)(vii) or Section 409(b)(xii), as applicable, is made in any Person that is not a Restricted Subsidiary and such Person thereafter (A) becomes a Restricted Subsidiary or (B) is merged or consolidated into, or transfers or conveys all or substantially all of its assets to, or is liquidated into, the Company or a Restricted Subsidiary, then such Investment shall thereafter be deemed to have been made pursuant to clause (i) or (ii) above, respectively, and not clause (xv) or (xviii) above, or Section 409(b)(vii) or Section 409(b)(xi), as applicable.

“Permitted Liens” means:

- (a) Liens for taxes, assessments or other governmental charges not yet delinquent or the nonpayment of which in the aggregate would not reasonably be expected to have a material adverse effect on the Company and its Restricted Subsidiaries, taken as a whole, or that are being contested in good faith and by appropriate proceedings if adequate reserves with respect thereto are maintained on the books of the Company or a Subsidiary thereof, as the case may be, in accordance with GAAP;
- (b) Liens with respect to outstanding motor vehicle fines, and carriers’, warehousemen’s, mechanics’, landlords’, materialmen’s, repairmen’s or other like Liens arising in the ordinary course of business in respect of obligations that are not known to be overdue for a period of more than 60 days or that are bonded or that are being contested in good faith and by appropriate proceedings;
- (c) pledges, deposits or Liens in connection with workers’ compensation, professional liability insurance, insurance programs, unemployment insurance and other social security and other similar legislation or other insurance-related obligations (including, without limitation, pledges or deposits securing liability to insurance carriers under insurance or self-insurance arrangements);
- (d) pledges, deposits or Liens to secure the performance of bids, tenders, trade, government or other contracts (other than for borrowed money), obligations for utilities, leases, licenses, statutory obligations, completion guarantees, surety, judgment, appeal or performance bonds, other similar bonds, instruments or obligations, and other obligations of a like nature incurred in the ordinary course of business;
- (e) easements (including reciprocal easement agreements), rights-of-way, building, zoning and similar restrictions, utility agreements, covenants, reservations, restrictions, encroachments, charges, and other similar encumbrances or title defects incurred, or leases or subleases granted to others, in the ordinary course of business, which do not in the aggregate materially interfere with the ordinary conduct of the business of the Company and its Subsidiaries, taken as a whole;
- (f) Liens existing on, or provided for under written arrangements existing on, the Issue Date, or (in the case of any such Liens securing Indebtedness of the Company or any of its Subsidiaries existing or arising under written arrangements existing on the Issue Date) securing any Refinancing Indebtedness in respect of such Indebtedness (other than Indebtedness Incurred under Section 407(b)(i) and secured under clause (k)(1) of this definition) so long as the Lien securing such Refinancing Indebtedness is limited to all or part of the same property or assets (plus improvements, accessions, proceeds or dividends or distributions in respect thereof) that secured (or under such written arrangements would secure) the original Indebtedness;
- (g) (i) mortgages, liens, security interests, restrictions, encumbrances or any other matters of record that have been placed by any developer, landlord or other third party on property over which the Company or any Restricted Subsidiary of the Company has easement rights or on any leased property and subordination or similar agreements relating thereto and (ii) any condemnation or eminent domain proceedings affecting any real property;
- (h) Liens securing Indebtedness or other obligations (including Liens securing any Obligations in respect thereof) consisting of Hedging Obligations, Bank Products Obligations, Open Account Obligations, Purchase Money Obligations or Finance Lease Obligations Incurred in compliance with Section 407;

(i) Liens arising out of judgments, decrees, orders or awards in respect of which the Company or any Restricted Subsidiary shall in good faith be prosecuting an appeal or proceedings for review, which appeal or proceedings shall not have been finally terminated, or if the period within which such appeal or proceedings may be initiated shall not have expired;

(j) leases, subleases, licenses or sublicenses, covenants not to sue or other similar rights granted to or from third parties (including, for the avoidance of doubt, with respect to intellectual property);

(k) Liens securing Indebtedness (including Liens securing any Obligations in respect thereof) consisting of (1) Indebtedness Incurred in compliance with Section 407(b)(i), (b)(iii) (other than Refinancing Indebtedness Incurred in respect of Indebtedness described in Section 407(a)), (b)(iv), (b)(v), (b)(vii), (b)(viii) (other than Section 407(b)(viii)(H)), (b)(xi), (b)(xiii) or (b)(xv), (2) Indebtedness of any Restricted Subsidiary that is not a Subsidiary Guarantor, or (3) obligations in respect of Management Advances or Management Guarantees; and in each case under the foregoing clauses (1) through (3) Liens securing any Guarantee of any thereof;

(l) Liens existing on property or assets of a Person at, or provided for under written arrangements existing at, the time such Person becomes a Subsidiary of the Company (or at the time the Company or a Restricted Subsidiary acquires such property or assets, including any acquisition by means of a merger or consolidation with or into the Company or any Restricted Subsidiary); provided, however, that such Liens and arrangements are not created in connection with, or in contemplation of, such other Person becoming such a Subsidiary (or such acquisition of such property or assets), and that such Liens are limited to all or part of the same property or assets (plus improvements, accessions, proceeds or dividends or distributions in respect thereof) that secured (or, under the written arrangements under which such Liens arose, could secure) the obligations to which such Liens relate; provided, further, that for purposes of this clause (l), if a Person other than the Company is the Successor Company with respect thereto, any Subsidiary thereof shall be deemed to become a Subsidiary of the Company, and any property or assets of such Person or any such Subsidiary shall be deemed acquired by the Company or a Restricted Subsidiary, as the case may be, when such Person becomes such Successor Company;

(m) Liens on Capital Stock, Indebtedness or other securities of an Unrestricted Subsidiary or any joint venture that is not a Subsidiary of the Company that secure Indebtedness or other obligations of such Unrestricted Subsidiary or joint venture, respectively;

(n) any encumbrance or restriction (including, but not limited to, pursuant to put and call agreements or buy/sell arrangements) with respect to Capital Stock of any joint venture or similar arrangement pursuant to any joint venture or similar agreement;

(o) Liens securing Indebtedness (including Liens securing any Obligations in respect thereof) consisting of Refinancing Indebtedness Incurred in respect of any Indebtedness (other than Indebtedness Incurred under Section 407(b)(i) and secured under clause (k)(1) of this definition) secured by, or securing any refinancing, refunding, extension, renewal or replacement (in whole or in part) of any other obligation secured by, any other Permitted Liens; provided that any such new Lien is limited to all or part of the same property or assets (plus improvements, accessions, proceeds or dividends or distributions in respect thereof) that secured (or, under the written arrangements under which the original Lien arose, could secure) the obligations to which such Liens relate;

(p) Liens (1) arising by operation of law (or by agreement to the same effect) in the ordinary course of business, (2) on property or assets under construction (and related rights) in favor of a contractor or developer or arising from progress or partial payments by a third party relating to such property or assets, (3) on receivables (including related rights), (4) on cash set aside at the time of the Incurrence of any Indebtedness or government securities purchased with such cash, in either case to the extent that such cash or government securities prefund the payment of interest on such Indebtedness and are held in an escrow account or similar arrangement to be applied for such purpose, (5) securing or arising by reason of any netting or set-off arrangement entered into in the ordinary course of banking or other trading activities (including in connection with purchase orders and other agreements with customers), (6) in favor of the Company or any Subsidiary (other than Liens on property or assets of the Company or any Subsidiary Guarantor in favor of any Subsidiary that is not a Subsidiary Guarantor), (7) arising out of conditional sale, title retention, consignment or similar arrangements for the sale of goods entered into in the ordinary course of business, (8) on inventory or other goods and proceeds securing obligations in respect of bankers' acceptances issued or created to facilitate the purchase, shipment or storage of such inventory or other goods, (9) relating to pooled deposit or sweep accounts to permit satisfaction of overdraft, cash pooling or similar obligations incurred in the ordinary course of business, (10) attaching to commodity trading or other brokerage accounts incurred in the ordinary course of business, (11) arising in connection with repurchase agreements permitted under Section 407 on assets that are the subject of such repurchase agreements, or (12) in favor of any Receivables Subsidiary in connection with any Financing Disposition;

(q) other Liens securing Indebtedness or other obligations that in the aggregate at any time outstanding do not exceed an amount equal to the greater of \$100.0 million and 2.5% of Consolidated Tangible Assets at the time of Incurrence of such Indebtedness or other obligations; and

(r) Liens securing Indebtedness (including Liens securing any Obligations in respect thereof) or other obligations of, or in favor of, any Receivables Subsidiary, or in connection with a Specified Receivables Facility or otherwise Incurred pursuant to Section 407(b)(ix).

For purposes of determining compliance with this definition, (u) a Lien need not be incurred solely by reference to one category of Permitted Liens described in this definition but may be incurred under any combination of such categories (including in part under one such category and in part under any other such category), (v) in the event that a Lien (or any portion thereof) meets the criteria of one or more of such categories of Permitted Liens, the Company shall, in its sole discretion, classify or reclassify such Lien (or any portion thereof) in any manner that complies with this definition, (w) the principal amount of Indebtedness secured by a Lien outstanding under any category of Permitted Liens shall be determined after giving effect to the application of proceeds of any such Indebtedness to refinance any such other Indebtedness, (x) any Lien securing Indebtedness that was permitted to secure such Indebtedness at the time of the Incurrence of such Indebtedness shall also be permitted to secure any increase in the amount of such Indebtedness in connection with the accrual of interest, the accretion of accreted value, the payment of interest in the form of additional Indebtedness and the payment of dividends on Capital Stock constituting Indebtedness in the form of additional shares of the same class of Capital Stock, (y) if any Indebtedness or other obligation is secured by any Lien outstanding under any category of Permitted Liens measured by reference to a percentage of Consolidated Tangible Assets at the time of incurrence of such Indebtedness or other obligations, and is refinanced by any Indebtedness or other obligation secured by any Lien incurred by reference to such category of Permitted Liens, and such refinancing would cause the percentage of Consolidated Tangible Assets to be exceeded if calculated based on the Consolidated Tangible Assets on the date of such refinancing, such percentage of Consolidated Tangible Assets shall not be deemed to be exceeded (and such refinancing Lien shall be deemed permitted) so long as the principal amount of such refinancing Indebtedness or other obligation does not exceed an amount equal to the principal amount of such Indebtedness or other obligation being refinanced, plus the aggregate amount of fees, underwriting discounts, premiums and other costs and expenses (including accrued and unpaid interest) incurred or payable in connection with such refinancing and (z) if any Indebtedness or other obligation is secured by any Lien outstanding under any category of Permitted Liens measured by reference to a dollar amount, and is refinanced by any Indebtedness or other obligation secured by any Lien incurred by reference to such category of Permitted Liens, and such refinancing would cause such dollar amount to be exceeded, such dollar amount shall not be deemed to be exceeded (and such refinancing Lien shall be deemed permitted) so long as the principal amount of such refinancing Indebtedness or other obligation does not exceed an amount equal to the principal amount of such Indebtedness being refinanced, plus the aggregate amount of fees, underwriting discounts, premiums and other costs and expenses (including accrued and unpaid interest) incurred or payable in connection with such refinancing.

“Person” means any natural person, corporation, limited liability company, unlimited liability corporation, trust, joint venture, association, company, partnership, Governmental Authority or other entity.

“Place of Payment” means a city or any political subdivision thereof in which any Paying Agent appointed pursuant to Article III is located.

“Predecessor Notes” of any particular Note means every previous Note evidencing all or a portion of the same debt as that evidenced by such particular Note; and, for the purposes of this definition, any Note authenticated and delivered under Section 306 in lieu of a mutilated, lost, destroyed or stolen Note shall be deemed to evidence the same debt as the mutilated, lost, destroyed or stolen Note.

“Preferred Stock” as applied to the Capital Stock of any corporation or company means Capital Stock of any class or classes (however designated) that by its terms is preferred as to the payment of dividends, or as to the distribution of assets upon any voluntary or involuntary liquidation or dissolution of such corporation or company, over Capital Stock of any other class of such corporation or company.

“Purchase Money Obligations” means any Indebtedness Incurred to finance or refinance the acquisition, leasing, construction or improvement of property (real or personal) or assets, and whether acquired through the direct acquisition of such property or assets or the acquisition of the Capital Stock of any Person owning such property or assets, or otherwise.

“QIB” means a “qualified institutional buyer,” as that term is defined in Rule 144A.

“Rating Agency” means Moody’s or S&P or, if Moody’s or S&P or both shall not make a rating on the Notes publicly available, a nationally recognized statistical rating agency or agencies, as the case may be, selected by the Company which shall be substituted for Moody’s or S&P or both, as the case may be.

“Receivable” means a right to receive payment pursuant to an arrangement with another Person pursuant to which such other Person is obligated to pay, as determined in accordance with GAAP.

“Receivables Facility” means any of one or more transactions pursuant to which the Company or any of the Restricted Subsidiaries sells or conveys Receivables Facility Assets to a Receivables Subsidiary that borrows or issues debt on a secured basis against Receivables Facility Assets.

“Receivables Facility Assets” means (a) Accounts and, in each case, any related assets and rights (including any collateral securing such Accounts, any contract rights in respect of such Accounts, proceeds collected on such Accounts, lockbox accounts into which such proceeds are collected and related records) customarily transferred in connection with similar receivables financing or securitization transactions and/or (b) Capital Stock issued by any Receivables Subsidiary;

“Receivables Facility Guarantee” means (i) any guarantee of performance and related indemnification entered into by the Company or any Restricted Subsidiary in respect of the obligations of a seller or servicer of Receivables Facility Assets in a Receivables Facility or (ii) any other guarantee of performance entered into by the Company or any Restricted Subsidiary which the Company has determined in good faith to be customary in a Receivables Facility.

“Receivables Subsidiary” means a Subsidiary (x) formed as a special purpose entity for the purpose of facilitating or entering into one or more Specified Receivables Facilities and (y) engaged only in activities reasonably related or incidental to Specified Receivables Facilities (it being understood and agreed that any entity formed solely for the purpose of holding any bank account into which collections or other proceeds of Receivables Facility Assets are paid shall satisfy the requirement in clause (y) above).

“Redemption Date,” when used with respect to any Note to be redeemed or purchased (other than pursuant to a Special Mandatory Redemption), means the date fixed for such redemption or purchase by or pursuant to this Indenture and the Notes.

“refinance” means refinance, refund, replace, renew, repay, modify, restate, defer, substitute, exchange, supplement, reissue, resell or extend (including pursuant to any defeasance or discharge mechanism); and the terms “refinances,” “refinanced” and “refinancing” as used for any purpose in this Indenture shall have a correlative meaning.

“Refinancing Indebtedness” means Indebtedness that is Incurred to refinance any Indebtedness (or unutilized commitment in respect of Indebtedness) existing on the date of this Indenture or Incurred (or established) in compliance with this Indenture (including Indebtedness of the Company that refinances Indebtedness of any Restricted Subsidiary (to the extent permitted in this Indenture) and Indebtedness of any Restricted Subsidiary that refinances Indebtedness of the Company or of another Restricted Subsidiary) including Indebtedness that refinances Refinancing Indebtedness, and Indebtedness Incurred pursuant to a commitment that refinances any Indebtedness or unutilized commitment; provided, that (1) if the Indebtedness being refinanced is Subordinated Obligations or Guarantor Subordinated Obligations, the Refinancing Indebtedness has a final Stated Maturity at the time such Refinancing Indebtedness is Incurred that is equal to or greater than the final Stated Maturity of the Indebtedness being refinanced (or if shorter, of the Notes), (2) such Refinancing Indebtedness is Incurred in an aggregate principal amount (or if issued with original issue discount, an aggregate issue price) that is equal to or less than the sum of (x) the aggregate principal amount then outstanding of the Indebtedness being refinanced, plus (y) an amount equal to any unutilized commitment relating to the Indebtedness being refinanced or otherwise then outstanding under a Credit Facility or other financing arrangement being refinanced to the extent the unutilized commitment being refinanced could be drawn in compliance with Section 407 immediately prior to such refinancing, plus (z) fees, underwriting discounts, premiums and other costs and expenses (including accrued and unpaid interest) Incurred or payable in connection with such refinancing and (3) Refinancing Indebtedness shall not include (x) Indebtedness of a Restricted Subsidiary that is not a Subsidiary Guarantor that refinances Indebtedness of the Company or a Subsidiary Guarantor that could not have been initially Incurred by such Restricted Subsidiary pursuant to Section 407 or (y) Indebtedness of the Company or a Restricted Subsidiary that refinances Indebtedness of an Unrestricted Subsidiary.

“Regular Record Date” for the interest payable on any applicable Interest Payment Date means July 1 and January 1 (whether or not a Business Day) immediately preceding such Interest Payment Date.

“Regulated Bank” means a commercial bank with a consolidated combined capital surplus of at least \$5,000,000,000 that is (i) a U.S. depository institution the deposits of which are insured by the Federal Deposit Insurance Corporation; (ii) a corporation organized under section 25A of the U.S. Federal Reserve Act of 1913; (iii) a branch, agency or commercial lending company of a foreign bank operating pursuant to approval by and under the supervision of the Board of Governors under 12 CFR part 211; (iv) a non-U.S. branch of a foreign bank managed and controlled by a U.S. branch referred to in clause (iii); or (v) any other U.S. or non U.S. depository institution or any branch, agency or similar office thereof supervised by a bank regulatory authority in any jurisdiction.

“Regulation S” means Regulation S under the Securities Act.

“Regulation S Certificate” means a certificate substantially in the form attached hereto as Exhibit D.

“Related Business” means those businesses in which the Company or any of its Subsidiaries is engaged on the Escrow Release Date, or that are similar, related, complementary, incidental or ancillary thereto or extensions, developments or expansions thereof.

“Relevant Period” has the meaning assigned to such term in the definition of “Below Investment Grade Rating Event”.

“Representative” means, with respect to any Person, such Person’s designated agent.

“Resale Restriction Termination Date” means, with respect to any Note, the date that is one year (or such other period as may hereafter be provided under Rule 144 under the Securities Act or any successor provision thereto as permitting the resale by non-affiliates of Restricted Securities without restriction) after the later of the original issue date in respect of such Note and the last date on which the Company or any Affiliate of the Company was the owner of such Note (or any Predecessor Note thereto).

“Restricted Payment Transaction” means any Restricted Payment permitted pursuant to Section 409, any Permitted Payment, any Permitted Investment, or any transaction specifically excluded from the definition of the term “Restricted Payment” (including pursuant to the exception contained in clause (i) of such definition and the parenthetical exclusions contained in clauses (ii) and (iii) of such definition).

“Restricted Period” means the 40-day distribution compliance period as defined in Regulation S.

“Restricted Security” has the meaning assigned to such term in Rule 144(a)(3) under the Securities Act; provided, however, that the Trustee shall be entitled to receive, at its request, and conclusively rely on an Opinion of Counsel with respect to whether any Note constitutes a Restricted Security.

“Restricted Subsidiary” means any Subsidiary of the Company other than an Unrestricted Subsidiary as of the Escrow Release Date.

“Restructuring” means each of the transactions that collectively constitute the Restructuring (as defined in the Separation and Distribution Agreement).

“Rule 144A” means Rule 144A under the Securities Act.

“Screened Affiliate” means any Affiliate of a Holder (i) that makes investment decisions independently from such Holder and any other Affiliate of such Holder that is not a Screened Affiliate, (ii) that has in place customary information screens between it and such Holder and any other Affiliate of such Holder that is not a Screened Affiliate and such screens prohibit the sharing of information with respect to the Company or its Subsidiaries, (iii) whose investment policies are not directed by such Holder or any other Affiliate of such Holder that is acting in concert with such Holder in connection with its investment in the Notes, and (iv) whose investment decisions are not influenced by the investment decisions of such Holder or any other Affiliate of such Holder that is acting in concert with such Holder in connection with its investment in the Notes.

“SEC” means the United States Securities and Exchange Commission.

“Securities Act” means the Securities Act of 1933, as amended from time to time.

“Senior Credit Agreements” means, collectively, the ABL Credit Agreement and the Senior Term Agreement.

“Senior Credit Facilities” means, collectively, the ABL Facility and the Senior Term Facility.

“Senior Indebtedness” means any Indebtedness of the Company or any Restricted Subsidiary other than, (x) in the case of the Company, Subordinated Obligations and (y) in the case of any Subsidiary Guarantor, Guarantor Subordinated Obligations.

“Senior Term Agreement” means the Term Loan Credit Agreement, to be entered into on or around the Escrow Release Date, among the Company, certain Subsidiaries of the Company, the Term Loan Agent and the other Term Loan Secured Parties, as such agreement may be amended, restated, supplemented, waived or otherwise modified from time to time or refunded, refinanced, restructured, replaced, renewed, repaid, increased or extended from time to time (whether in whole or in part, whether with the original administrative agent and lenders or other agents and lenders or otherwise, and whether provided under the original Senior Term Agreement or one or more other credit agreements or otherwise), except to the extent such agreement, instrument or document expressly provides that it is not intended to be and is not a Senior Term Agreement under this Indenture. Any reference to the Senior Term Agreement hereunder shall be deemed a reference to each Senior Term Agreement then in existence.

“Senior Term Facility” means the collective reference to the Senior Term Agreement, any Loan Documents (as defined therein), any notes and letters of credit issued pursuant thereto and any guarantee and collateral agreement, patent and trademark security agreement, mortgages, letter of credit applications and other guarantees, pledge agreements, security agreements and collateral documents, and other instruments and documents, executed and delivered pursuant to or in connection with any of the foregoing, in each case as the same may be amended, supplemented, waived or otherwise modified from time to time, or refunded, refinanced, restructured, replaced, renewed, repaid, increased or extended from time to time (whether in whole or in part, whether with the original agent and lenders or other agents and lenders or otherwise, and whether provided under the original Senior Term Agreement or one or more other credit agreements, indentures (including this Indenture) or financing agreements or otherwise, except to the extent unless such agreement, instrument or document expressly provides that it is not intended to be and is not a Senior Term Facility. Without limiting the generality of the foregoing, the term “Senior Term Facility” shall include any agreement (i) changing the maturity of any Indebtedness Incurred thereunder or contemplated thereby, (ii) adding Subsidiaries of the Company as additional borrowers or guarantors thereunder, (iii) increasing the amount of Indebtedness Incurred thereunder or available to be borrowed thereunder or (iv) otherwise altering the terms and conditions thereof.

“Separation” means the Restructuring and the Distribution.

“Separation and Distribution Agreement” means the Separation and Distribution Agreement between L Brands, Inc. and the Company, to be dated on or prior to the Escrow Release Date.

“Short Derivative Instrument” means a Derivative Instrument (i) the value of which generally decreases, and/or the payment or delivery obligations under which generally increase, with positive changes to the Performance References and/or (ii) the value of which generally increases, and/or the payment or delivery obligations under which generally decrease, with negative changes to the Performance References.

“Significant Subsidiary” means any Restricted Subsidiary that would be a “significant subsidiary” of the Company within the meaning of Rule 1-02 under Regulation S-X promulgated by the SEC, as such Regulation is in effect on the Issue Date.

“Special Purpose Financing Fees” means distributions or payments made directly or by means of discounts with respect to any participation interest issued or sold in connection with, and other fees paid to a Person that is not a Restricted Subsidiary in connection with, any Specified Receivables Facility.

“Special Record Date” for the payment of any Defaulted Interest means a date fixed by the Trustee pursuant to Section 307.

“Specified Receivables Facility” means any Receivables Facility that meets the following conditions: (a) the Company shall have determined in good faith that such Receivables Facility (including financing terms, covenants, termination events and other provisions) is in the aggregate economically fair, reasonable and beneficial to the Company; (b) all sales or other conveyances of Receivables Facility Assets by the Company or applicable Restricted Subsidiary to any Receivables Subsidiary are made for fair market value; (c) the financing terms, covenants, termination events and other provisions thereof shall be on market terms (as determined by the Company in good faith) and may include Standard Receivables Undertakings; and (d) the obligations under such Receivables Facility shall not be guaranteed by, or secured by assets of, the Company or any of its Restricted Subsidiaries, other than a Receivables Subsidiary (it being agreed that the foregoing shall not prohibit Standard Receivables Undertakings, or precautionary financing statements or similar filings, in respect of Receivables Facility Assets).

“Standard Receivables Undertakings” means any Receivables Facility Guarantee and/or any representations, warranties, covenants and indemnities entered into by the Company or any Restricted Subsidiary which the Company has determined in good faith to be customary in a Receivables Facility, including, without limitation, those relating to the servicing of the assets of a Receivables Subsidiary.

“Stated Maturity” means, with respect to any Indebtedness, the date specified in such Indebtedness as the fixed date on which the payment of principal of such Indebtedness is due and payable, including pursuant to any mandatory redemption provision (but excluding any provision providing for the repurchase or repayment of such Indebtedness at the option of the holder thereof upon the happening of any contingency).

“Subordinated Obligations” means any Indebtedness of the Company (whether outstanding on the date of this Indenture or thereafter Incurred) that is expressly subordinated in right of payment to the Notes pursuant to a written agreement.

“Subsidiary” of any Person means any corporation, association, partnership or other business entity of which more than 50.0% of the total voting power of shares of Capital Stock or other equity interests (including partnership interests) entitled (without regard to the occurrence of any contingency) to vote in the election of directors, managers or trustees thereof is at the time owned or controlled, directly or indirectly, by (i) such Person or (ii) one or more Subsidiaries of such Person.

“Subsidiary Guarantee” means any guarantee of the Notes that may from time to time be entered into by a Restricted Subsidiary of the Company on the Escrow Release Date or after the Escrow Release Date pursuant to Section 414. As used in this Indenture, “Subsidiary Guarantee” refers to a Subsidiary Guarantee of the Notes.

“Subsidiary Guarantor” means any Restricted Subsidiary of the Company that enters into a Subsidiary Guarantee, in each case, unless and until such Subsidiary is released from such Subsidiary Guarantee in accordance with the terms of this Indenture.

“S&P” means S&P Global, Inc., a division of The McGraw-Hill Companies, Inc., and its successors.

“Tax Matters Agreement” means the Tax Matters Agreement between L Brands, Inc. and the Company, to be dated on or prior to the Escrow Release Date.

“Temporary Cash Investments” means any of the following: (i) any investment in (x) direct obligations of the United States of America, Canada, a member state of the European Union or any country in whose currency funds are being held pending their application in the making of an investment or capital expenditure by the Company or a Restricted Subsidiary in that country or with such funds, or any agency or instrumentality of any thereof, or obligations Guaranteed by the United States of America or a member state of the European Union or any country in whose currency funds are being held pending their application in the making of an investment or capital expenditure by the Company or a Restricted Subsidiary in that country or with such funds, or any agency or instrumentality of any of the foregoing, or obligations guaranteed by any of the foregoing or (y) direct obligations of any foreign country recognized by the United States of America rated at least “A” by S&P or “A-1” by Moody’s (or, in either case, the equivalent of such rating by such organization or, if no rating of S&P or Moody’s then exists, the equivalent of such rating by any nationally recognized rating organization), (ii) overnight bank deposits, and investments in time deposit accounts, certificates of deposit, bankers’ acceptances and money market deposits (or, with respect to foreign banks, similar instruments) maturing not more than one year after the date of acquisition thereof issued by (x) any bank or other institutional lender under a Credit Facility or any affiliate thereof or (y) a bank or trust company that is organized under the laws of the United States of America, any state thereof or any foreign country recognized by the United States of America having capital and surplus aggregating in excess of \$250.0 million (or the foreign currency equivalent thereof) and whose long term debt is rated at least “A” by S&P or “A-1” by Moody’s (or, in either case, the equivalent of such rating by such organization or, if no rating of S&P or Moody’s then exists, the equivalent of such rating by any nationally recognized rating organization) at the time such Investment is made, (iii) repurchase obligations for underlying securities or instruments of the types described in clause (i) or (ii) above entered into with a bank meeting the qualifications described in clause (ii) above, (iv) Investments in commercial paper, maturing not more than 24 months after the date of acquisition, issued by a Person (other than that of the Company or any of its Subsidiaries), with a rating at the time as of which any Investment therein is made of “P-2” (or higher) according to Moody’s or “A-2” (or higher) according to S&P (or, in either case, the equivalent of such rating by such organization or, if no rating of S&P or Moody’s then exists, the equivalent of such rating by any nationally recognized rating organization), (v) Investments in securities maturing not more than 24 months after the date of acquisition issued or fully guaranteed by any state, commonwealth or territory of the United States of America, or by any political subdivision or taxing authority thereof, and rated at least “BBB-” by S&P or “Baa3” by Moody’s (or, in either case, the equivalent of such rating by such organization or, if no rating of S&P or Moody’s then exists, the equivalent of such rating by any nationally recognized rating organization), (vi) Indebtedness or Preferred Stock (other than of the Company or any of its Subsidiaries) having a rating of “A” or higher by S&P or “A2” or higher by Moody’s (or, in either case, the equivalent of such rating by such organization or, if no rating of S&P or Moody’s then exists, the equivalent of such rating by any nationally recognized rating organization), (vii) investment funds investing 95.0% of their assets in securities of the type described in clauses (i) through (vi) above (which funds may also hold cash pending investment and/or distribution), (viii) any money market deposit accounts issued or offered by a domestic commercial bank or a commercial bank organized and located in a country recognized by the United States of America, in each case, having capital and surplus in excess of \$250.0 million (or the foreign currency equivalent thereof), or investments in money market funds subject to the risk limiting conditions of Rule 2a-7 (or any successor rule) of the SEC under the Investment Company Act of 1940, as amended, and (ix) similar investments approved by the Board of Directors in the ordinary course of business.

“Term Loan Agent” means JPMorgan Chase Bank, N.A., in its capacity as administrative agent under the Senior Term Agreement and the collateral agent for the Term Loan Secured Parties under the Senior Term Agreement and Term Loan Collateral Documents, together with its successors and permitted assigns under the Senior Term Agreement and the Term Loan Collateral Documents.

“Term Loan Bank Products Affiliate” means any lender under the Senior Term Agreement or any Affiliate of any such lender that has entered into a Bank Products Agreement with the Company or any Subsidiary of the Company with the obligations of the Company or any such Subsidiary of the Company thereunder being secured by one or more Term Loan Collateral Documents.

“Term Loan Collateral Agreement” means the Guarantee and Collateral Agreement, to be entered into on or around the Escrow Release Date, among the Company, certain of its Subsidiaries identified therein as grantors and the Term Loan Agent, together with the documents related thereto (including any supplements thereto), as amended, restated, supplemented or otherwise modified from time to time.

“Term Loan Collateral Documents” means the Term Loan Collateral Agreement, the ABL Intercreditor Agreement, the intellectual property security agreements, the mortgages and each other agreement, instrument or other document entered into in favor of the Term Loan Secured Parties for purposes of securing the Term Loan Obligations (including the guarantees thereof), as the same may be amended, restated, supplemented or otherwise modified from time to time.

“Term Loan Documents” means the Senior Term Agreement, the related guarantees, the Term Loan Collateral Documents, the Loan Documents (as defined in the Senior Term Agreement), any Bank Products Agreements between the Company or any Subsidiary of the Company and any lender under the Senior Term Agreement (or affiliate thereof), any Hedging Agreements between the Company or any Subsidiary of the Company and any lender under the Senior Term Agreement (or affiliate thereof), those other ancillary agreements as to which the Term Loan Agent or any lender under the Senior Term Agreement is a party or a beneficiary and all other agreements, instruments, documents and certificates, now or hereafter executed by or on behalf of the Company or any Subsidiary of the Company or any of their respective Affiliates, and delivered to the Term Loan Agent, in connection with any of the foregoing, in each case as the same may be amended, modified or supplemented from time to time.

“Term Loan Hedging Affiliate” means any lender under the Senior Term Agreement or any Affiliate of any lender under the Senior Term Agreement that has entered into a Hedging Agreement with the Company or any Subsidiary of the Company, with the obligations of the Company or any such Subsidiary thereunder being secured by one or more Term Loan Collateral Documents.

“Term Loan Obligations” shall mean all obligations of every nature of the Company and any Subsidiary of the Company from time to time owed to the Term Loan Agent, the lenders under the Senior Term Agreement or any of them, any Term Loan Bank Products Affiliates or any Term Loan Hedging Affiliates, under any Term Loan Document, whether for principal, interest, fees, expenses (including interest, fees, and expenses which, but for the filing of a petition in bankruptcy with respect to the Company or any Subsidiary of the Company, would have accrued on any Term Loan Obligation, whether or not a claim is allowed against the Company or any such Subsidiary of the Company for such interest, fees, and expenses in the related bankruptcy proceeding), reimbursement of amounts drawn under letters of credit, payments for early termination of Hedging Agreements, indemnification or otherwise, and all other amounts owing or due under the terms of the Term Loan Documents, as amended, restated, modified, renewed, refunded, replaced or refinanced in whole or in part from time to time.

“Term Loan Secured Parties” means (a) the holders of Term Loan Obligations, (b) the Representative(s) with respect thereto and (c) the successors and permitted assigns of each of the foregoing.

“TIA” means the Trust Indenture Act of 1939 (15 U.S.C. §§77aaa-77bbb) as in effect on the date of this Indenture, except as otherwise provided herein.

“Trademarks” means the following: (a) all trademarks (including service marks), common law marks, trade names, trade dress, logos, slogans and other indicia of origin, and the registrations and applications for registration thereof and the goodwill of the business symbolized by the foregoing; (b) all renewals of the foregoing; (c) all income, royalties, damages and payments now or hereafter due or payable under any of the foregoing, including, without limitation, damages or payments for past or future infringements thereof; (d) the right to sue for past, present and future infringements thereof; and (e) all domestic rights corresponding to any of the foregoing.

“Trade Payables” means, with respect to any Person, any accounts payable or any indebtedness or monetary obligation to trade creditors created, assumed or guaranteed by such Person arising in the ordinary course of business in connection with the acquisition of goods or services.

“Transaction Documents” means the Separation and Distribution Agreement, Transition Services Agreements, Tax Matters Agreement, Employee Matters Agreement, Domestic Transportation Services Agreement, and any other instruments, assignment, documents and agreements executed in connection with the implementation of the transactions contemplated by any of the foregoing.

“Transactions” means (1) (A) the Separation, (B) any other transactions contemplated by, or pursuant to, the Transaction Documents or otherwise in connection with the Separation (including any cancelation or termination of Indebtedness, agreements, arrangements, commitments or understandings, including intercompany accounts payables, receivables or Indebtedness, between the Company and any of its Subsidiaries, on the one hand, and L Brands, Inc. or any of its Subsidiaries (other than the Company or its Subsidiaries), on the other hand, and making certain intercompany contributions and dividend payments) and (C) any other transactions pursuant to agreements or arrangements in effect on the Escrow Release Date on substantially the terms described in the Offering Memorandum or any amendment, modification, addition or supplement thereto or replacement thereof, as long as the terms of such agreement or arrangement, as so amended, modified, added, supplemented or replaced, are not materially more disadvantageous to the Holders when taken as a whole compared to the applicable agreements as described in the Offering Memorandum (as determined in good faith by the Company), (2) the issuance of the Notes, (3) the entering into of the Senior Credit Agreements and the borrowing of the loans thereunder and (4) the payment of fees or expenses incurred or paid the Company or any Restricted Subsidiary in connection with the foregoing.

“Transition Services Agreements” means the L Brands to VS Transition Services Agreement and the VS to L Brands Transition Services Agreement (each as described in the Form 10) between L Brands, Inc. or one or more of its Affiliates, on the one hand, and the Company or one or more of its Affiliates, on the other hand, to be dated on or prior to the Escrow Release Date.

“Treasury Rate” means, with respect to a Redemption Date, the weekly average rounded to the nearest 1/100th of a percentage point (for the most recently completed week for which such information is available as of the date that is two Business Days prior to such Redemption Date) of the yield to maturity at the time of computation of United States Treasury securities with a constant maturity (as compiled and published in the Federal Reserve Statistical Release H.15 with respect to each applicable day during such week (or, if such Statistical Release is no longer published, any publicly available source of similar market data)) most nearly equal to the period from such Redemption Date to July 15, 2024; provided, however, that if the period from the Redemption Date to such date is not equal to the constant maturity of a United States Treasury security for which such yield is given, the Treasury Rate shall be obtained by linear interpolation (calculated to the nearest one-twelfth of a year) from the weekly average yields of United States Treasury securities for which such yields are given, except that if the period from the Redemption Date to such date is less than one year, the weekly average yield on actually traded United States Treasury securities adjusted to a constant maturity of one year shall be used.

“Trust Officer” means any corporate trust officer or any other officer or assistant officer of the Trustee customarily performing functions similar to those performed by the persons who at the time shall be such corporate trust officers who shall have direct responsibility for the administration of this Indenture, or any other officer of the Trustee to whom a corporate trust matter is referred because of his or her knowledge of and familiarity with the particular subject.

“Trustee” means the party named as such in this Indenture until a successor replaces it and, thereafter, means the successor.

“Uniform Commercial Code” means the Uniform Commercial Code as in effect in the state of New York from time to time.

“Unrestricted Subsidiary” means (i) Retail Transportation Company and each of its Subsidiaries, (ii) any Subsidiary of the Company that at the time of determination is an Unrestricted Subsidiary, as designated by the Board of Directors in the manner provided below, and (iii) any Subsidiary of an Unrestricted Subsidiary. The Board of Directors may designate any Subsidiary of the Company (including any newly acquired or newly formed Subsidiary of the Company) to be an Unrestricted Subsidiary unless such Subsidiary or any of its Subsidiaries owns any Capital Stock or Indebtedness of, or owns or holds any Lien on any property of, the Company or any other Restricted Subsidiary of the Company that is not a Subsidiary of the Subsidiary to be so designated; provided, that (A) the Subsidiary to be so designated has total consolidated assets of \$1,000 or less or (B) if such Subsidiary has consolidated assets greater than \$1,000, then such designation would be permitted under Section 409. The Board of Directors may designate any Unrestricted Subsidiary to be a Restricted Subsidiary; provided, that immediately after giving effect to such designation (x) the Company could Incur at least \$1.00 of additional Indebtedness under Section 407(a) or (y) the Consolidated Coverage Ratio would be greater than it was immediately prior to giving effect to such designation or (z) such Subsidiary shall be a Receivables Subsidiary with no Indebtedness outstanding other than Indebtedness that can be Incurred (and upon such designation shall be deemed to be Incurred and outstanding) pursuant to Section 407(b)(ix). Any such designation by the Board of Directors shall be evidenced to the Trustee by promptly filing with the Trustee a copy of the resolution of the Company’s Board of Directors giving effect to such designation and an Officer’s Certificate of the Company certifying that such designation complied with the foregoing provisions.

“U.S. Government Obligation” means (x) any security that is (i) a direct obligation of the United States of America for the payment of which the full faith and credit of the United States of America is pledged or (ii) an obligation of a Person controlled or supervised by and acting as an agency or instrumentality of the United States of America the payment of which is unconditionally guaranteed as a full faith and credit obligation by the United States of America, which, in either case under the preceding clause (i) or (ii) is not callable or redeemable at the option of the issuer thereof, and (y) any depositary receipt issued by a bank (as defined in Section 3(a)(2) of the Securities Act) as custodian with respect to any U.S. Government Obligation that is specified in clause (x) above and held by such bank for the account of the holder of such depositary receipt, or with respect to any specific payment of principal of or interest on any U.S. Government Obligation that is so specified and held, provided that (except as required by law) such custodian is not authorized to make any deduction from the amount payable to the holder of such depositary receipt from any amount received by the custodian in respect of the U.S. Government Obligation or the specific payment of principal or interest evidenced by such depositary receipt.

“VS Transaction” means (i) the Separation of the Spin Business (each as defined in the Form 10) from L Brands, Inc. as described in the Form 10, (ii) the Distribution (as defined in the Separation and Distribution Agreement), (iii) the payment of the Special Cash Payment (as defined in the Separation and Distribution Agreement), (iv) the consummation of the other ancillary transactions described in the Separation and Distribution Agreement and the Form 10 (including the Restructuring) and (v) the payment of fees and expenses incurred in connection with the foregoing.

“Wholly Owned Domestic Restricted Subsidiary” means as to any Person, any Wholly Owned Domestic Subsidiary of such Person that is not an Unrestricted Subsidiary.

“Wholly Owned Domestic Subsidiary” means as to any Person, any Domestic Subsidiary of such Person, and of which such Person owns, directly or indirectly through one or more Wholly Owned Domestic Subsidiaries, all of the Capital Stock of such Domestic Subsidiary.

Section 102. Other Definitions.

<u>Term</u>	<u>Defined in Section</u>
“Act”	108
“Affiliate Transaction”	412
“Agent Members”	312
“Amendment”	410
“Authentication Order”	303
“Bankruptcy Law”	601
“Certificate of Beneficial Ownership”	313
“Change of Control Offer”	415
“Covenant Defeasance”	1203
“Custodian”	601
“Declined Excess Proceeds”	411
“Defaulted Interest”	307
“Defeasance”	1202
“Defeased Notes”	1201
“Directing Holder	608
“Discharge”	101
“Event of Default”	601
“Excess Proceeds”	411
“Expiration Date”	108

Term	Defined in Section
"Global Notes"	201
"Initial Agreement"	410
"Initial Lien"	413
"LCT Election"	123
"LCT Test Date"	123
"Material Intellectual Property"	418
"Note Register" and "Note Registrar"	305
"Noteholder Direction"	608
"Notice of Default"	601
"Offer"	411
"Permanent Regulation S Global Notes"	201
"Permitted Payment"	409
"Physical Notes"	201
"Position Representation"	608
"Private Placement Legend"	203
"Ratio Tested Committed Amount"	407
Refinancing Agreement"	410
"Refunding Capital Stock"	409
"Regulation S Global Notes"	201
"Regulation S Note Exchange Date"	313
"Regulation S Physical Notes"	201
"Reporting Date"	405
"Restricted Payment"	409
"Reversion Time"	416
"Rule 144A Global Notes"	201
"Rule 144A Physical Notes"	201
"Special Mandatory Redemption"	1010
"Special Mandatory Redemption Date"	1010
"Special Mandatory Redemption Price"	1010
"Subsidiary Guaranteed Obligations"	1301
"Successor Company"	501
"Suspended Covenants"	416
"Suspension Date"	416
"Suspension Period"	416
"Treasury Capital Stock"	409
"Verification Covenant"	608

Section 103. Rules of Construction. For all purposes of this Indenture, except as otherwise expressly provided or unless the context otherwise requires:

- (1) the terms defined in this Indenture have the meanings assigned to them in this Indenture;
- (2) "or" is not exclusive;
- (3) all accounting terms not otherwise defined herein have the meanings assigned to them in accordance with GAAP;

(4) the words “herein,” “hereof” and “hereunder” and other words of similar import refer to this Indenture as a whole and not to any particular Article, Section or other subdivision;

(5) all references to “\$” or “dollars” shall refer to the lawful currency of the United States of America;

(6) the words “include,” “included” and “including,” as used herein, shall be deemed in each case to be followed by the phrase “without limitation,” if not expressly followed by such phrase or the phrase “but not limited to”;

(7) words in the singular include the plural, and words in the plural include the singular;

(8) references to sections of, or rules under, the Securities Act shall be deemed to include substitute, replacement or successor sections or rules adopted by the SEC from time to time;

(9) any reference to a Section, Article or clause refers to such Section, Article or clause of this Indenture; and

(10) notwithstanding any provision of this Indenture, no provision of the TIA shall apply or be incorporated by reference into this Indenture or the Notes, except as specifically set forth in this Indenture.

Section 104. [Reserved].

Section 105. [Reserved].

Section 106. Compliance Certificates and Opinions. Upon any application or request by the Company or by any other obligor upon the Notes (including any Subsidiary Guarantor) to the Trustee to take any action under any provision of this Indenture, the Company or such other obligor (including any Subsidiary Guarantor), as the case may be, shall furnish to the Trustee such certificates and opinions as may be required under this Indenture. Each such certificate or opinion shall be given in the form of one or more Officer’s Certificates, if to be given by an Officer, or an Opinion of Counsel, if to be given by counsel, and shall comply with the requirements of this Indenture. Notwithstanding the foregoing, in the case of any such request or application as to which the furnishing of any Officer’s Certificate or Opinion of Counsel is specifically required by any provision of this Indenture relating to such particular request or application, no additional certificate or opinion need be furnished.

Every certificate or opinion with respect to compliance with a condition or covenant provided for in this Indenture (except for certificates provided for in Section 406) shall include:

(1) a statement that the individual signing such certificate or opinion has read such covenant or condition, as applicable, and the definitions herein relating thereto;

(2) a brief statement as to the nature and scope of the examination or investigation upon which the statements or opinions contained in such certificate or opinion are based;

(3) a statement that, in the opinion of such individual, he or she made such examination or investigation as is necessary to enable him or her to express an informed opinion as to whether or not such covenant or condition, as applicable, has been complied with; and

- (4) a statement as to whether, in the opinion of such individual, such condition or covenant, as applicable, has been complied with.

Section 107. Form of Documents Delivered to Trustee. In any case where several matters are required to be certified by, or covered by an opinion of, any specified Person, it is not necessary that all such matters be certified by, or covered by the opinion of, only one such Person, or that they be so certified or covered by only one document, but one such Person may certify or give an opinion with respect to some matters and one or more other such Persons as to other matters, and any such Person may certify or give an opinion as to such matters in one or several documents.

Any certificate or opinion of an Officer may be based, insofar as it relates to legal matters, upon a certificate or opinion of, or representations by, counsel, unless such Officer knows that the certificate or opinion or representations with respect to the matters upon which his certificate or opinion is based are erroneous. Any such certificate or opinion of counsel may be based, insofar as it relates to factual matters, upon a certificate or opinion of, or representations by, an Officer or Officers to the effect that the information with respect to such factual matters is in the possession of the Company, unless such counsel knows that the certificate or opinion or representations with respect to such matters are erroneous.

Where any Person is required to make, give or execute two or more applications, requests, consents, certificates, statements, opinions or other instruments under this Indenture, they may, but need not, be consolidated and form one instrument.

Section 108. Acts of Noteholders; Record Dates. (a) Any request, demand, authorization, direction, notice, consent, waiver or other action provided by this Indenture to be given or taken by Holders may be embodied in and evidenced by one or more instruments of substantially similar tenor signed by such Holders in person or by an agent duly appointed in writing; and, except as herein otherwise expressly provided, such action shall become effective when such instrument or instruments are delivered to the Trustee, and, where it is hereby expressly required, to the Company, as the case may be. Such instrument or instruments (and the action embodied therein and evidenced thereby) are herein sometimes referred to as the "Act" of the Holders signing such instrument or instruments. Proof of execution of any such instrument or of a writing appointing any such agent shall be sufficient for any purpose of this Indenture and (subject to Section 701) conclusive in favor of the Trustee, the Company, and any other obligor upon the Notes, if made in the manner provided in this Section 108.

(b) The fact and date of the execution by any Person of any such instrument or writing may be proved by the affidavit of a witness of such execution or by the certificate of any notary public or other officer authorized by law to take acknowledgments of deeds, certifying that the individual signing such instrument or writing acknowledged to him the execution thereof. Where such execution is by an officer of a corporation or a member of a partnership or other legal entity other than an individual, on behalf of such corporation or partnership or entity, such certificate or affidavit shall also constitute sufficient proof of such Person's authority. The fact and date of the execution of any such instrument or writing, or the authority of the person executing the same, may also be proved in any other manner that the Trustee deems sufficient.

- (c) The ownership of Notes shall be proved by the Note Register.

(d) Any request, demand, authorization, direction, notice, consent, waiver or other action by the Holder of any Note shall bind the Holder of every Note issued upon the transfer thereof or in exchange therefor or in lieu thereof, in respect of anything done, suffered or omitted to be done by the Trustee, the Company or any other obligor upon the Notes in reliance thereon, whether or not notation of such action is made upon such Note.

(e) (i) The Company may set any day as a record date for the purpose of determining the Holders of Outstanding Notes entitled to give, make or take any request, demand, authorization, direction, notice, consent, waiver or other action provided or permitted by this Indenture to be given, made or taken by Holders of Notes, provided that the Company may not set a record date for, and the provisions of this paragraph shall not apply with respect to, the giving or making of any notice, declaration, request or direction referred to in the next paragraph. If any record date is set pursuant to this paragraph, the Holders of Outstanding Notes on such record date (or their duly designated proxies), and no other Holders, shall be entitled to take the relevant action, whether or not such Persons remain Holders after such record date; provided that no such action shall be effective hereunder unless taken on or prior to the applicable Expiration Date by Holders of the requisite principal amount of Outstanding Notes on such record date. Nothing in this paragraph shall be construed to prevent the Company from setting a new record date for any action for which a record date has previously been set pursuant to this paragraph (whereupon the record date previously set shall automatically and with no action by any Person be cancelled and of no effect), and nothing in this paragraph shall be construed to render ineffective any action taken by Holders of the requisite principal amount of Outstanding Notes on the date such action is taken. Promptly after any record date is set pursuant to this paragraph, the Company, at its expense, shall cause notice of such record date, the proposed action by Holders and the applicable Expiration Date to be given to the Trustee in writing and to each Holder of Notes in the manner set forth in Section 110.

(ii) The Trustee may set any day as a record date for the purpose of determining the Holders of Outstanding Notes entitled to join in the giving or making of (A) any Notice of Default, (B) any declaration of acceleration referred to in Section 602, (C) any request to institute proceedings referred to in Section 607(ii) or (D) any direction referred to in Section 612, in each case with respect to Notes. If any record date is set pursuant to this paragraph, the Holders of Outstanding Notes on such record date, and no other Holders, shall be entitled to join in such notice, declaration, request or direction, whether or not such Holders remain Holders after such record date; provided that no such action shall be effective hereunder unless taken on or prior to the applicable Expiration Date by Holders of the requisite principal amount of Outstanding Notes on such record date. Nothing in this paragraph shall be construed to prevent the Trustee from setting a new record date for any action for which a record date has previously been set pursuant to this paragraph (whereupon the record date previously set shall automatically and with no action by any Person be cancelled and of no effect), and nothing in this paragraph shall be construed to render ineffective any action taken by Holders of the requisite principal amount of Outstanding Notes on the date such action is taken. Promptly after any record date is set pursuant to this paragraph, the Trustee, at the Company's expense, shall cause notice of such record date, the proposed action by Holders and the applicable Expiration Date to be given to the Company in writing and to each Holder of Notes in the manner set forth in Section 110.

(iii) With respect to any record date set pursuant to this Section 108, the party hereto that sets such record dates may designate any day as the "Expiration Date" and from time to time may change the Expiration Date to any earlier or later day; provided that no such change shall be effective unless notice of the proposed new Expiration Date is given to the Company or the Trustee, whichever such party is not setting a record date pursuant to this Section 108(e) in writing, and to each Holder of Notes in the manner set forth in Section 110, on or prior to the existing Expiration Date. If an Expiration Date is not designated with respect to any record date set pursuant to this Section 108, the party hereto that set such record date shall be deemed to have initially designated the 180th day after such record date as the Expiration Date with respect thereto, subject to its right to change the Expiration Date as provided in this paragraph. Notwithstanding the foregoing, no Expiration Date shall be later than the 180th day after the applicable record date.

(iv) Without limiting the foregoing, a Holder entitled hereunder to take any action hereunder with regard to any particular Note may do so with regard to all or any part of the principal amount of such Note or by one or more duly appointed agents each of which may do so pursuant to such appointment with regard to all or any part of such principal amount.

(v) Without limiting the generality of the foregoing, a Holder, including the Depositary, that is the Holder of a Global Note, may make, give or take, by a proxy or proxies duly appointed in writing, any request, demand, authorization, direction, notice, consent, waiver or other action provided in this Indenture to be made, given or taken by Holders, and the Depositary, as the Holder of a Global Note, may provide its proxy or proxies to the beneficial owners of interests in any such Global Note through such depositary's standing instructions and customary practices.

(vi) The Company may fix a record date for the purpose of determining the persons who are beneficial owners of interests in any Global Note held by the Depositary entitled under the procedures of such depositary to make, give or take, by a proxy or proxies duly appointed in writing, any request, demand, authorization, direction, notice, consent, waiver or other action provided in this Indenture to be made, given or taken by Holders. If such a record date is fixed, the Holders on such record date or their duly appointed proxy or proxies, and only such persons, shall be entitled to make, give or take such request, demand, authorization direction, notice consent, waiver or other action, whether or not such Holders remain Holders after such record date. No such request, demand, authorization, direction, notice, consent, waiver or other action shall be valid or effective if made, given or taken more than 90 days after such record date.

Section 109. Notices, Etc., to Trustee and Company. Any request, demand, authorization, direction, notice, consent, waiver or Act of Holders or other document provided or permitted by this Indenture to be made upon, given or furnished to, or filed with,

(1) the Trustee by any Holder or by the Company or by any other obligor upon the Notes shall be sufficient for every purpose hereunder if made, given, furnished or filed in writing to or with the Trustee at 10 W Broad St., CN-OH-BD12, Columbus, OH 43215. Attention: Scott R. Miller, Vice President (telephone: 614-849-3402; email: scott.miller6@usbank.com) or at any other address furnished in writing to the Company by the Trustee,

(2) the Company by the Trustee or by any Holder shall be sufficient for every purpose hereunder if in writing and mailed, first class postage prepaid, to the Company at 4 Limited Parkway East, Reynoldsburg, Ohio 43068 or at any other address furnished in writing to the Trustee by the Company,

(3) the Company or the Trustee, by notice to the others, may designate additional or different addresses for subsequent notices or communications.

Section 110. Notices to Holders; Waiver. Where this Indenture provides for notice to Holders of any event, such notice shall be sufficiently given (unless otherwise herein expressly provided) if in writing and mailed, first class postage prepaid, or by overnight air courier guaranteeing next day delivery, to each Holder, at such Holder's address as it appears in the Note Register, not later than the latest date, and not earlier than the earliest date, prescribed for the giving of such notice. In any case where notice to Holders is given by mail, neither the failure to mail such notice, nor any defect in any notice so mailed, to any particular Holder shall affect the sufficiency of such notice with respect to other Holders.

Where this Indenture provides for notice in any manner, such notice may be waived in writing by the Person entitled to receive such notice, either before or after the event, and such waiver shall be the equivalent of such notice. Waivers of notice by Holders shall be filed with the Trustee, but such filing shall not be a condition precedent to the validity of any action taken in reliance upon such waiver.

In case, by reason of the suspension of regular mail service, or by reason of any other cause, it shall be impossible to mail notice of any event as required by any provision of this Indenture, then such notification as shall be made with the approval of the Trustee (such approval not to be unreasonably withheld) shall constitute a sufficient notification for every purpose hereunder.

Notwithstanding any other provision of this Indenture or any Note, where this Indenture or any Note provides for notice of any event (including any notice of redemption) to a Holder of a Global Note (whether by mail or otherwise), such notice shall be sufficiently given if given to the Depository for such Note (or its designee) pursuant to the customary procedures of such Depository (including delivery by electronic mail).

Section 111. Effect of Headings and Table of Contents. The Article and Section headings herein and the Table of Contents are for convenience only and shall not affect the construction hereof.

Section 112. Successors and Assigns. All covenants and agreements in this Indenture by the Company shall bind its respective successors and assigns, whether so expressed or not. All agreements of the Trustee in this Indenture shall bind their respective successors.

Section 113. Separability Clause. In case any provision in this Indenture or in the Notes shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

Section 114. Benefits of Indenture. Nothing in this Indenture or in the Notes, express or implied, shall give to any Person, other than the parties hereto and their successors hereunder, any Paying Agent and the Holders, any benefit or any legal or equitable right, remedy or claim under this Indenture.

Section 115. Governing Law. THIS INDENTURE, THE NOTES AND THE SUBSIDIARY GUARANTEES SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK. THE TRUSTEE, THE COMPANY, ANY OTHER OBLIGOR IN RESPECT OF THE NOTES, EACH SUBSIDIARY GUARANTOR AND (BY THEIR ACCEPTANCE OF THE NOTES) THE HOLDERS AGREE TO SUBMIT TO THE JURISDICTION OF ANY UNITED STATES FEDERAL OR STATE COURT LOCATED IN THE BOROUGH OF MANHATTAN, IN THE CITY OF NEW YORK IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS INDENTURE OR THE NOTES.

Section 116. Waiver of Trial by Jury. Each of the parties hereto hereby waives the right to trial by jury with respect to any litigation directly or indirectly arising out of, under or in connection with this Indenture.

Section 117. Legal Holidays. In any case where any Interest Payment Date, Redemption Date or Stated Maturity of any Note shall not be a Business Day at any Place of Payment, then (notwithstanding any other provision of this Indenture or of the Notes) payment of interest or principal and premium (if any) need not be made at such Place of Payment on such date, but may be made on the next succeeding Business Day at such Place of Payment with the same force and effect as if made on the Interest Payment Date or Redemption Date, or at the Stated Maturity, and no interest shall accrue on such payment for the intervening period.

Section 118. No Personal Liability of Directors, Managers, Officers, Employees, Incorporators and Stockholders. No past, present or future director, manager, officer, employee, incorporator, member, partner or stockholder of the Company, any Subsidiary Guarantor or any Subsidiary of any thereof, in their respective capacities as such, shall have any liability for any obligation of the Company or any Subsidiary Guarantor under the Note Documents, or for any claim based on, in respect of, or by reason of, any such obligation or its creation. Each Noteholder, by accepting the Notes, waives and releases all such liability. The waiver and release are part of the consideration for issuance of the Notes.

Section 119. Exhibits and Schedules. All exhibits and schedules attached hereto are by this reference made a part hereof with the same effect as if herein set forth in full.

Section 120. Counterparts. This Indenture may be executed in any number of counterparts, each of which shall be an original; but such counterparts shall together constitute but one and the same instrument. Delivery of an executed counterpart of this Indenture by facsimile, electronically in portable document format (including any electronic signature covered by the U.S. federal ESIGN Act of 2000, Uniform Electronic Transactions Act, the Electronic Signatures and Records Act or other applicable law, *e.g.*, www.docuSign.com) or in any other format will be effective as delivery of a manually executed counterpart. The Company agrees to assume all risks arising out of the use of using electronic signatures and electronic methods to submit communications to the Trustee, including without limitation the risk of Trustee acting on unauthorized instructions, and the risk of interception and misuse by third parties. Trustee shall not have any duty to confirm that the person sending any notice instruction or other communication (a “Notice”) by electronic transmission (including by e-mail, facsimile transmission, web portal or other electronic methods) is, in fact, a person authorized to do so. Electronic signatures believed by Trustee to comply with the ESIGN Act of 2000 or other applicable law (including electronic images of handwritten signatures and digital signatures provided by DocuSign, Orbit, Adobe Sign or any other digital signature provider acceptable to Trustee) shall be deemed original signatures for all purposes. Notwithstanding the foregoing, Trustee may in any instance and in its sole discretion require that an original document bearing a manual signature be delivered to Trustee in lieu of, or in addition to, any such electronic Notice.

Section 121. Force Majeure. To the extent permitted by the TIA, in no event shall the Trustee be responsible or liable for any failure or delay in the performance of its obligations hereunder arising out of or caused by, directly or indirectly, forces beyond its control, including, without limitation, strikes, work stoppages, accidents, acts of war or terrorism, civil or military disturbances, nuclear or natural catastrophes or acts of God, and interruptions, loss or malfunctions of utilities, communications or computer (software and hardware) services (it being understood that the Trustee shall use reasonable best efforts which are consistent with accepted practices in the banking industry to resume performance as soon as practicable under the circumstances).

Section 122. USA PATRIOT Act. The parties hereto acknowledge that in accordance with Section 326 of the USA PATRIOT Act, the Trustee, like all financial institutions and in order to help fight the funding of terrorism and money laundering, is required to obtain, verify, and record information that identifies each person or legal entity that establishes a relationship or opens an account with the Trustee. The parties to this Indenture agree that they will provide the Trustee (acting in any capacity hereunder) with such information as it may reasonably request in order for the Trustee to satisfy the requirements of the USA PATRIOT Act.

Section 123. Limited Condition Transaction and Incurrence-Based Amounts.

(a) In connection with any action being taken in connection with a Limited Condition Transaction, for purposes of determining compliance with any provision of this Indenture which requires that no Default, Event of Default or specified Event of Default, as applicable, has occurred, is continuing or would result from any such action, as applicable, such condition shall, at the option of the Company, be deemed satisfied, so long as no Default, Event of Default or specified Event of Default, as applicable, exists on the date the definitive agreements for such Limited Condition Transaction are entered into or irrevocable notice of redemption, repurchase, defeasance, satisfaction and discharge or repayment of Indebtedness, Disqualified Stock or Preferred Stock is given. For the avoidance of doubt, if the Company has exercised its option under the first sentence of this Section 123, and any Default, Event of Default or specified Event of Default, as applicable, occurs following the date the definitive agreements for the applicable Limited Condition Transaction were entered into or irrevocable notice of redemption, repurchase, defeasance, satisfaction and discharge or repayment of Indebtedness, Disqualified Stock or Preferred Stock is given and prior to the consummation of such Limited Condition Transaction, any such Default, Event of Default or specified Event of Default, as applicable, shall be deemed to not have occurred or be continuing for purposes of determining whether any action being taken in connection with such Limited Condition Transaction is permitted hereunder.

In connection with any action being taken in connection with a Limited Condition Transaction, for purposes of:

- (i) determining compliance with any provision of this Indenture which requires the calculation of the Consolidated Coverage Ratio, the Consolidated Secured Leverage Ratio or the Consolidated Total Leverage Ratio; or
- (ii) testing baskets set forth in this Indenture (including baskets measured as a percentage of Consolidated Tangible Assets);

in each case, at the option of the Company (the Company's election to exercise such option in connection with any Limited Condition Transaction, an "LCT Election"), the date of determination of whether any such action is permitted hereunder, shall be deemed to be the date the definitive agreements for such Limited Condition Transaction are entered into or irrevocable notice of redemption, repurchase, defeasance, satisfaction and discharge or repayment of Indebtedness, Disqualified Stock or Preferred Stock is given, as applicable (the "LCT Test Date"), and if, after giving pro forma effect to the Limited Condition Transaction and the other transactions to be entered into in connection therewith (including any Incurrence or discharge of Indebtedness and the use of proceeds of such Incurrence) as if they had occurred at the beginning of the most recent four consecutive fiscal quarters ending prior to the LCT Test Date for which consolidated financial statements of the Company are available, the Company could have taken such action on the relevant LCT Test Date in compliance with such ratio, basket or amount, such ratio, basket or amount shall be deemed to have been complied with. For the avoidance of doubt, if the Company has made an LCT Election and any of the ratios, baskets or amounts for which compliance was determined or tested as of the LCT Test Date are exceeded as a result of fluctuations in any such ratio, basket or amount, including due to fluctuations in Consolidated EBITDA or Consolidated Tangible Assets of the Company or the Person subject to such Limited Condition Transaction or any applicable currency exchange rate, at or prior to the consummation of the relevant transaction or action, such baskets, ratios or amounts will not be deemed to have been exceeded as a result of such fluctuations. If the Company has made an LCT Election for any Limited Condition Transaction, then in connection with any subsequent calculation of any ratio, basket or amount with respect to the Incurrence of Indebtedness or Liens, or the making of Restricted Payments, Asset Dispositions, mergers, the conveyance, lease or other transfer of all or substantially all of the assets of the Company or the designation of an Unrestricted Subsidiary on or following the relevant LCT Test Date and prior to the earlier of the date on which such Limited Condition Transaction is consummated or the definitive agreement for such Limited Condition Transaction is terminated or expires without consummation of such Limited Condition Transaction, any such ratio, basket or amount shall be calculated on a pro forma basis assuming such Limited Condition Transaction and other transactions in connection therewith (including any Incurrence or discharge of Indebtedness and the use of proceeds thereof) have been consummated.

(b) Notwithstanding anything to the contrary herein, unless the Company otherwise elects, with respect to any amounts incurred or transactions entered into (or consummated) in reliance on a provision of this Indenture that does not require compliance with a financial ratio or financial test (including any Consolidated Secured Leverage Ratio test, and/or any Consolidated Coverage Ratio test) (any such amounts, the “Fixed Amounts”) substantially concurrently with any amounts incurred or transactions entered into (or consummated) in reliance on a provision of this Indenture that requires compliance with a financial ratio or financial test (including any Consolidated Secured Leverage Ratio test, and/or any Consolidated Coverage Ratio test) (any such amounts, the “Incurrence-Based Amounts”) it is understood and agreed that (A) the incurrence of the Incurrence-Based Amount shall be calculated first without giving effect to any Fixed Amount but giving full pro forma effect to the use of proceeds of such Fixed Amount and the related transactions and (B) the incurrence of the Fixed Amount shall be calculated thereafter. Unless the Company elects otherwise, the Company shall be deemed to have used amounts under an Incurrence-Based Amount then available to the Company prior to utilization of any amount under a Fixed Amount then available to the Company.

ARTICLE II

NOTE FORMS

Section 201. Forms Generally. The Initial Notes and the Trustee’s certificate of authentication relating thereto shall be in substantially the forms set forth, or referenced, in this Article II and Exhibit A attached hereto (as such forms may be modified in accordance with Section 301). Any Additional Notes and the Trustee’s certificate of authentication relating thereto shall be in substantially the forms set forth, or referenced, in this Article II and Exhibit A attached hereto (as such forms may be modified in accordance with Section 301). Exhibit A is hereby incorporated in and expressly made a part of this Indenture. The Notes may have such appropriate insertions, omissions, substitutions, notations, legends, endorsements, identifications and other variations as are required or permitted by law, stock exchange rule or depositary rule or usage, agreements to which the Company is subject, if any, or other customary usage, or as may consistently herewith be determined by the Officers of the Company executing such Notes, as evidenced by such execution (provided always that any such notation, legend, endorsement, identification or variation is in a form acceptable to the Company). Each Note shall be dated the date of its authentication. The terms of the Notes set forth in Exhibit A are part of the terms of this Indenture. Any portion of the text of any Note may be set forth on the reverse thereof, with an appropriate reference thereto on the face of the Note.

Notes offered and sold to persons reasonably believed to be qualified institutional buyers in reliance on Rule 144A shall, unless the Company otherwise notifies the Trustee in writing, be issued in the form of one or more permanent global Notes substantially in the form attached hereto as Exhibit A (as such form may be modified in accordance with Section 301), except as otherwise permitted herein. Such Global Notes shall be referred to collectively herein as the “Rule 144A Global Notes,” and shall be deposited with the Trustee, as custodian for the Depositary or its nominee, for credit to an account of an Agent Member, and shall be duly executed by the Company and authenticated by the Trustee as hereinafter provided. The aggregate principal amount of a Rule 144A Global Note may from time to time be increased or decreased by adjustments made on the records of the Trustee, as custodian for the Depositary or its nominee, as hereinafter provided.

Notes offered and sold in offshore transactions in reliance on Regulation S under the Securities Act shall, unless the Company otherwise notifies the Trustee in writing, be issued in the form of one or more global Notes substantially in the form attached hereto as Exhibit A (as such form may be modified in accordance with Section 301), except as otherwise permitted herein. Such Global Notes shall be referred to herein as the “Regulation S Global Notes,” and shall be deposited with the Trustee, as custodian for the Depositary or its nominee for the accounts of designated Agent Members holding on behalf of Euroclear or Clearstream and shall be duly executed by the Company and authenticated by the Trustee as hereinafter provided. The aggregate principal amount of a Regulation S Global Note may from time to time be increased or decreased by adjustments made in the records of the Trustee, as custodian for the Depositary or its nominee, as hereinafter provided.

Subject to the limitations on the issuance of certificated Notes set forth in Sections 312 and 313, Notes issued pursuant to Section 305 in exchange for or upon transfer of beneficial interests (x) in a Rule 144A Global Note shall be in the form of permanent certificated Notes substantially in the form attached hereto as Exhibit A (as such form may be modified in accordance with Section 301) (the “Rule 144A Physical Notes”) or (y) in a Regulation S Global Note (if any), on or after the Regulation S Note Exchange Date with respect to such Regulation S Global Note, shall be in the form of permanent certificated Notes substantially in the form attached hereto as Exhibit A (as such form may be modified in accordance with Section 301) (the “Regulation S Physical Notes”), respectively, as hereinafter provided.

The Rule 144A Physical Notes and Regulation S Physical Notes shall be construed to include any certificated Notes issued in respect thereof pursuant to Section 304, 305, 306 or 1008, and the Rule 144A Global Notes and Regulation S Global Notes shall be construed to include any global Notes issued in respect thereof pursuant to Section 304, 305, 306 or 1008. The Rule 144A Physical Notes and the Regulation S Physical Notes, together with any other certificated Notes issued and authenticated pursuant to this Indenture, are sometimes collectively herein referred to as the “Physical Notes.” The Rule 144A Global Notes and the Regulation S Global Notes, together with any other global Notes that are issued and authenticated pursuant to this Indenture, are sometimes collectively referred to as the “Global Notes.”

Section 202. Form of Trustee’s Certificate of Authentication. The Notes will have endorsed thereon a Trustee’s certificate of authentication in substantially the following form:

This is one of the Notes referred to in the within-mentioned Indenture.

as Trustee

By: _____
Authorized Officer

Dated:

If an appointment of an Authenticating Agent is made pursuant to Section 714, the Notes may have endorsed thereon, in lieu of the Trustee’s certificate of authentication, an alternative certificate of authentication in substantially the following form:

This is one of the Notes referred to in the within-mentioned Indenture.

[NAME]

as Trustee

By: _____
As Authenticating Agent

By: _____
Authorized Officer

Dated:

Section 203. Restrictive and Global Note Legends. Each Global Note and Physical Note (and all Notes issued in exchange therefor or substitution thereof) shall bear the following legend set forth below (the "Private Placement Legend") on the face thereof until the Private Placement Legend is removed or not required in accordance with Section 313(4):

"THIS NOTE HAS NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), OR THE SECURITIES LAWS OF ANY STATE OR OTHER JURISDICTION, AND, ACCORDINGLY, MAY NOT BE OFFERED OR SOLD WITHIN THE UNITED STATES OR TO, OR FOR THE ACCOUNT OR BENEFIT OF, U.S. PERSONS EXCEPT AS SET FORTH BELOW. EACH PURCHASER OF THIS NOTE IS HEREBY NOTIFIED THAT THE SELLER OF THIS NOTE MAY BE RELYING ON THE EXEMPTION FROM THE PROVISIONS OF SECTION 5 OF THE SECURITIES ACT PROVIDED BY RULE 144A, REGULATION S OR ANOTHER EXEMPTION THEREUNDER.

BY ITS ACCEPTANCE HEREOF, THE HOLDER OF THIS NOTE (1) REPRESENTS THAT (A) IT IS A "QUALIFIED INSTITUTIONAL BUYER" (AS DEFINED IN RULE 144A UNDER THE SECURITIES ACT), (B) IT IS NOT A U.S. PERSON AND IS ACQUIRING THIS NOTE IN AN OFFSHORE TRANSACTION IN COMPLIANCE WITH REGULATION S UNDER THE SECURITIES ACT OR (C) IT IS AN "INSTITUTIONAL" ACCREDITED INVESTOR (AS DEFINED IN RULE 501(a)(1), (2), (3) OR (7) UNDER REGULATION D PROMULGATED UNDER THE SECURITIES ACT (AN "ACCREDITED INVESTOR") AND (2) AGREES ON ITS OWN BEHALF AND ON BEHALF OF ANY INVESTOR ACCOUNT FOR WHICH IT HAS PURCHASED NOTES, THAT IT WILL NOT WITHIN [ONE YEAR—FOR NOTES ISSUED PURSUANT TO RULE 144A][40 DAYS—FOR NOTES ISSUED IN OFFSHORE TRANSACTIONS PURSUANT TO REGULATION S] AFTER THE LATER OF THE DATE OF THE ORIGINAL ISSUANCE OF THIS NOTE AND THE DATE ON WHICH THE COMPANY OR ANY OF ITS AFFILIATES OWNED THIS NOTE, OFFER, RESELL OR OTHERWISE TRANSFER THIS NOTE EXCEPT (X) (I) TO THE COMPANY OR ANY SUBSIDIARY THEREOF, (II) FOR SO LONG AS THIS NOTE IS ELIGIBLE FOR RESALE PURSUANT TO RULE 144A UNDER THE SECURITIES ACT INSIDE THE UNITED STATES TO A PERSON WHOM THE SELLER REASONABLY BELIEVES IS A QUALIFIED INSTITUTIONAL BUYER IN COMPLIANCE WITH RULE 144A UNDER THE SECURITIES ACT, (III) INSIDE THE UNITED STATES TO AN ACCREDITED INVESTOR THAT IS ACQUIRING THE NOTES FOR ITS OWN ACCOUNT OR FOR THE ACCOUNT OF SUCH AN ACCREDITED INVESTOR, IN EACH CASE IN A MINIMUM PRINCIPAL AMOUNT OF THE NOTES OF \$250,000, FOR INVESTMENT PURPOSES AND NOT WITH A VIEW TO OR FOR THE OFFER OR SALE IN CONNECTION WITH ANY DISTRIBUTION IN VIOLATION OF THE SECURITIES ACT, AND THAT PRIOR TO SUCH TRANSFER, FURNISHES (OR HAS FURNISHED ON ITS BEHALF BY A U.S. BROKER DEALER) TO THE TRUSTEE A SIGNED LETTER CONTAINING CERTAIN REPRESENTATIONS AND AGREEMENTS RELATING TO THE RESTRICTIONS ON TRANSFER OF THIS NOTE (THE FORM OF WHICH LETTER CAN BE OBTAINED FROM THE TRUSTEE FOR THIS NOTE), (IV) OUTSIDE THE UNITED STATES IN AN OFFSHORE TRANSACTION IN COMPLIANCE WITH REGULATION S UNDER THE SECURITIES ACT (IF AVAILABLE), (V) PURSUANT TO THE EXEMPTION FROM REGISTRATION PROVIDED BY RULE 144 UNDER THE SECURITIES ACT (IF AVAILABLE), (VI) IN ACCORDANCE WITH ANOTHER EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT (AND BASED UPON AN OPINION OF COUNSEL IF THE COMPANY SO REQUESTS) OR (VII) PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT AND (Y) IN ACCORDANCE WITH ALL APPLICABLE SECURITIES LAWS OF THE STATES OF THE UNITED STATES AND OTHER JURISDICTIONS. BY ITS ACCEPTANCE HEREOF, THE HOLDER OF THIS NOTE FURTHER AGREES THAT IT WILL GIVE TO EACH PERSON TO WHOM THIS NOTE IS TRANSFERRED A NOTICE SUBSTANTIALLY TO THE EFFECT OF THIS LEGEND IN CONNECTION WITH ANY TRANSFER OF THIS NOTE PURSUANT TO SUBCLAUSES (III) TO (VI) OF CLAUSE (X) ABOVE, AND THAT, THE HOLDER MUST, PRIOR TO SUCH TRANSFER, FURNISH TO THE TRUSTEE AND THE COMPANY SUCH CERTIFICATIONS, LEGAL OPINIONS OR OTHER INFORMATION AS EITHER OF THEM MAY REASONABLY REQUIRE TO CONFIRM THAT SUCH TRANSFER IS BEING MADE PURSUANT TO AN EXEMPTION FROM, OR IN A TRANSACTION NOT SUBJECT TO, THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT."

Each Global Note, whether or not an Initial Note, shall also bear the following legend on the face thereof:

“UNLESS THIS CERTIFICATE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY, A NEW YORK CORPORATION (“DTC”) TO THE COMPANY OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY CERTIFICATE ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR IN SUCH OTHER NAME AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC (AND ANY PAYMENT IS MADE TO CEDE & CO. OR TO SUCH OTHER ENTITY AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL INASMUCH AS THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN.

TRANSFERS OF THIS GLOBAL NOTE SHALL BE LIMITED TO TRANSFERS IN WHOLE, BUT NOT IN PART, TO NOMINEES OF CEDE & CO. OR TO A SUCCESSOR THEREOF OR SUCH SUCCESSOR’S NOMINEE AND TRANSFERS OF PORTIONS OF THIS GLOBAL NOTE SHALL BE LIMITED TO TRANSFERS MADE IN ACCORDANCE WITH THE RESTRICTIONS SET FORTH IN SECTIONS 312 AND 313 OF THE INDENTURE (AS DEFINED HEREIN).”

Each Regulation S Global Note shall also bear the following legend on the face thereof:

“BY ITS ACQUISITION HEREOF, THE HOLDER HEREOF REPRESENTS THAT IT IS NOT A U.S. PERSON NOR IS IT PURCHASING FOR THE ACCOUNT OF A U.S. PERSON AND IS ACQUIRING THIS NOTE IN AN OFFSHORE TRANSACTION IN ACCORDANCE WITH REGULATION S UNDER THE SECURITIES ACT. AS USED HEREIN, THE TERMS “OFFSHORE TRANSACTION,” “UNITED STATES” AND “U.S. PERSON” HAVE THE MEANINGS GIVEN TO THEM BY REGULATION S UNDER THE SECURITIES ACT.”

Each Note issued with OID will contain a legend substantially to the following effect:

THIS NOTE IS ISSUED WITH ORIGINAL ISSUE DISCOUNT FOR PURPOSES OF SECTION 1271 ET SEQ. OF THE INTERNAL REVENUE CODE. A HOLDER MAY OBTAIN THE ISSUE PRICE, AMOUNT OF ORIGINAL ISSUE DISCOUNT, ISSUE DATE AND YIELD TO MATURITY FOR SUCH NOTE BY SUBMITTING A WRITTEN REQUEST FOR SUCH INFORMATION TO: VICTORIA'S SECRET & CO., 4 LIMITED PARKWAY EAST, REYNOLDSBURG, OHIO 43068."

ARTICLE III

THE NOTES

Section 301. General Terms; Additional Notes. All Notes will vote (or consent) as a class with the other Notes and otherwise be treated as a single class of Notes for all purposes of this Indenture. Each Note will bear interest at a rate of 4.625% per annum from the Issue Date or from the most recent date to which interest has been paid or provided for, payable semi-annually on January 15 and July 15 of each year (each such date, an "Interest Payment Date"), commencing January 15, 2022 to Holders of record as of the close of business on January 1 and July 1, whether or not a Business Day, immediately preceding each Interest Payment Date.

Additional Notes ranking *pari passu* with the Initial Notes may be created and issued from time to time by the Company without notice to or consent of the Holders and shall be consolidated with and form a single class with the Initial Notes and shall have the same terms as to status, redemption or otherwise as the Initial Notes other than with respect to the date of issuance and, if applicable, original interest accrual date and original interest payment date; *provided* that the Company's ability to issue Additional Notes shall be subject to the Company's compliance with Section 407 hereof. Any Additional Notes may be issued with the benefit of an indenture supplemental to this Indenture; *provided further, however*, that in the event any Additional Notes are not fungible with the Initial Notes for U.S. federal income tax purposes, such non-fungible notes will be issued with a separate CUSIP number or ISIN so they are distinguishable from the Initial Notes.

The terms and provisions contained in the Notes will constitute, and are hereby expressly made, a part of this Indenture and the Company, the Subsidiary Guarantors and the Trustee expressly agree to such terms and provisions and to be bound thereby. However, to the extent any provision of any Note conflicts with the express provisions of this Indenture, the provisions of this Indenture shall govern and be controlling.

Section 302. Denominations. The Notes shall be issuable only in fully registered form, without coupons, and only in minimum denominations of \$2,000 and integral multiples of \$1,000 in excess thereof.

Section 303. Execution, Authentication and Delivery and Dating. The Notes shall be executed on behalf of the Company by one Officer of the Company. The signature of any such Officer on the Notes may be manual or by facsimile.

Notes bearing the manual or facsimile signature of an individual who was at any time an Officer of the Company shall bind the Company, notwithstanding that such individual has ceased to hold such office prior to the authentication and delivery of such Notes or did not hold such office at the date of such Notes.

At any time and from time to time after the execution and delivery of this Indenture, the Company may deliver Notes executed by the Company to the Trustee for authentication; and the Trustee shall authenticate and deliver (i) Initial Notes for original issue in the aggregate principal amount not to exceed \$600.0 million and (ii) subject to Section 407, Additional Notes from time to time for original issue in aggregate principal amounts specified by the Company (which shall have identical terms as the Initial Notes, other than with respect to the date of issuance and, if applicable, original interest accrual date and original interest payment date), in each case specified in clauses (i) and (ii) above, upon a written order of the Company in the form of an Officer's Certificate of the Company (an "Authentication Order"). Such Authentication Order shall specify the amount of Notes to be authenticated and the date on which the Notes are to be authenticated, the "CUSIP", "ISIN", "Common Code" or other similar identification numbers of such Notes, if any, whether the Notes are to be Initial Notes or Additional Notes, the issue price (in the case of Additional Notes) and whether the Notes are to be issued as one or more Global Notes or Physical Notes and such other information as the Company may include or the Trustee may reasonably request.

All Notes shall be dated the date of their authentication.

No Note shall be entitled to any benefit under this Indenture or be valid or obligatory for any purpose, unless there appears on such Note a certificate of authentication substantially in the form provided for herein executed by the Trustee by manual signature, and such certificate upon any Note shall be conclusive evidence, and the only evidence, that such Note has been duly authenticated and delivered hereunder.

Section 304. Temporary Notes. Until definitive Notes are ready for delivery, the Company may prepare and upon receipt of an Authentication Order the Trustee shall authenticate temporary Notes. Temporary Notes shall be substantially in the form of definitive Notes but may have variations that the Company considers appropriate for temporary Notes. If temporary Notes are issued, the Company will cause definitive Notes to be prepared without unreasonable delay. After the preparation of definitive Notes, the temporary Notes shall be exchangeable for definitive Notes upon surrender of the temporary Notes at the office or agency of the Company in a Place of Payment, without charge to the Holder. Upon surrender for cancellation of any one or more temporary Notes, the Company shall execute and upon receipt of an Authentication Order the Trustee shall authenticate and deliver in exchange therefor a like principal amount of definitive Notes of authorized denominations. Until so exchanged the temporary Notes shall in all respects be entitled to the same benefits under this Indenture as definitive Notes.

Section 305. Note Registrar and Paying Agent. The Company shall cause to be kept at the Corporate Trust Office of the Trustee a register (the register maintained in such office and in any other office or agency of the Company in a Place of Payment being herein sometimes collectively referred to as the "Note Register") in which, subject to such reasonable regulations as it may prescribe, such Company shall provide for the registration of Notes and of transfers of Notes. The Company may have one or more co-registrars. The term "Note Registrar" includes any co-registrars.

The Company initially appoints the Trustee as "Note Registrar" and "Paying Agent" in connection with the Notes, until such time as it has resigned or a successor has been appointed. The Company may have one or more additional paying agents, and the term "Paying Agent" shall include any additional Paying Agent. The Company may change the Paying Agent or Note Registrar without prior notice to the Holders of Notes. The Company may enter into an appropriate agency agreement with any Note Registrar or Paying Agent not a party to this Indenture. Any such agency agreement shall implement the provisions of this Indenture that relate to such agent. The Company shall notify the Trustee in writing of the name and address of any such agent. If the Company fails to appoint or maintain a Note Registrar or Paying Agent, the Trustee shall act as such and shall be entitled to appropriate compensation therefor pursuant to Section 707. The Company or any wholly-owned Domestic Subsidiary of the Company may act as Paying Agent (except for purposes of Section 1103 or Section 1205) or Note Registrar.

Upon surrender for transfer of any Note at the office or agency of the Company in a Place of Payment, in compliance with all applicable requirements of this Indenture and applicable law, the Company shall execute, and the Trustee shall authenticate and deliver, in the name of the designated transferee or transferees, one or more new Notes, of any authorized denominations and of a like aggregate principal amount.

At the option of the Holder, Notes may be exchanged for other Notes of any authorized denominations and of a like aggregate principal amount, upon surrender of the Notes to be exchanged at such office or agency. Whenever any Notes are so surrendered for exchange, the Company shall execute, and the Trustee shall authenticate and deliver, the Notes that the Holder making the exchange is entitled to receive.

All Notes issued upon any transfer or exchange of Notes shall be the valid obligations of the Company, evidencing the same debt, and entitled to the same benefits under this Indenture, as the Notes surrendered upon such transfer or exchange.

Every Note presented or surrendered for transfer or exchange shall be duly endorsed, or be accompanied by a written instrument of transfer in form satisfactory to the Company duly executed, by the Holder thereof or such Holder's attorney duly authorized in writing.

No service charge shall be made for any registration, transfer or exchange of Notes, but the Company may require payment of a sum sufficient to cover any transfer tax or other governmental charge that may be imposed in connection therewith.

The Company shall not be required (i) to issue, transfer or exchange any Note during a period beginning at the opening of business 15 Business Days before the day of the mailing of a notice of redemption (or purchase) of Notes selected for redemption (or purchase) under Section 1004 and ending at the close of business on the day of such mailing or (ii) to transfer or exchange any Note so selected for redemption (or purchase) in whole or in part.

Section 306. Mutilated, Destroyed, Lost and Stolen Notes. If a mutilated Note is surrendered to the Note Registrar or if the Holder of a Note claims that the Note has been lost, destroyed or wrongfully taken, the Company shall issue and the Trustee shall authenticate a replacement Note if the requirements of Section 8-405 of the Uniform Commercial Code are met, such that the Holder (a) notifies the Company or the Trustee within a reasonable time after such Holder has notice of such loss, destruction or wrongful taking and the Note Registrar does not register a transfer prior to receiving such notification, (b) makes such request to the Company or the Trustee prior to the Note being acquired by a protected purchaser as defined in Section 8-303 of the Uniform Commercial Code and (c) satisfies any other reasonable requirements of the Company. If required by the Trustee or the Company, such Holder shall furnish an indemnity bond sufficient in the judgment of (i) the Trustee to protect the Trustee and (ii) the Company to protect the Company, the Trustee, a Paying Agent and the Note Registrar, from any loss that any of them may suffer if a Note is replaced.

In case any such mutilated, destroyed, lost or stolen Note has become or is about to become due and payable, the Company in its discretion may, instead of issuing a new Note, pay such Note.

Upon the issuance of any new Note under this Section 306, the Company may require the payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation thereto and any other expenses (including the fees and expenses of the Trustee) connected therewith.

Every new Note issued pursuant to this Section 306 in lieu of any destroyed, lost or stolen Note shall constitute an original additional contractual obligation of the Company, whether or not the destroyed, lost or stolen Note shall be at any time enforceable by anyone, and shall be entitled to all the benefits of this Indenture equally and ratably with any and all other Notes duly issued hereunder.

The provisions of this Section 306 are exclusive and shall preclude (to the extent lawful) all other rights and remedies with respect to the replacement or payment of mutilated, destroyed, lost or stolen Notes.

Section 307. Payment of Interest Rights Preserved. Interest on any Note that is payable, and is punctually paid or duly provided for, on any Interest Payment Date shall be paid to the Person in whose name that Note (or one or more Predecessor Notes) is registered at the close of business on the Regular Record Date.

Any interest on any Note that is payable, but is not punctually paid or duly provided for, on any Interest Payment Date (herein called "Defaulted Interest") shall forthwith cease to be payable to the registered Holder on the relevant Regular Record Date by virtue of having been such Holder; and such Defaulted Interest may be paid by the Company, at its election, as provided in clause (1) or clause (2) below:

(1) The Company may elect to make payment of any Defaulted Interest to the Persons in whose names the Notes (or their respective Predecessor Notes) are registered at the close of business on a Special Record Date for the payment of such Defaulted Interest, which shall be fixed in the following manner. The Company shall notify the Trustee and Paying Agent in writing of the amount of Defaulted Interest proposed to be paid on each Note and the date of the proposed payment, and the Company shall deposit with the Trustee or Paying Agent an amount of money equal to the aggregate amount proposed to be paid in respect of such Defaulted Interest or shall make arrangements reasonably satisfactory to the Trustee or Paying Agent for such deposit prior to the date of the proposed payment, such money when deposited to be held in trust for the benefit of the Persons entitled to such Defaulted Interest as provided in this clause (1). Thereupon the Trustee shall fix a Special Record Date for the payment of such Defaulted Interest which shall be not more than 15 nor less than 10 days prior to the date of the proposed payment and not less than 10 days after the receipt by the Trustee and the Paying Agent of the notice of the proposed payment. The Trustee shall promptly notify the Company of such Special Record Date and, in the name and at the expense of the Company, shall cause notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor to be mailed, first class postage prepaid, to each Holder at such Holder's address as it appears in the Note Register, not less than 10 days prior to such Special Record Date. Notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor having been so mailed, such Defaulted Interest shall be paid to the Persons in whose names the Notes (or their respective Predecessor Notes) are registered on such Special Record Date and shall no longer be payable pursuant to the following clause (2).

(2) The Company may make payment of any Defaulted Interest in any other lawful manner not inconsistent with the requirements of any securities exchange on which the Notes may be listed, and upon such notice as may be required by such exchange.

Subject to the foregoing provisions of this Section 307, each Note delivered under this Indenture upon transfer of or in exchange for or in lieu of any other Note shall carry the rights to interest accrued and unpaid, and to accrue, that were carried by such other Note.

Section 308. Persons Deemed Owners. The Company, any Subsidiary Guarantor, the Trustee, the Paying Agent and any agent of any of them may treat the Person in whose name any Note is registered as the owner of such Note for the purpose of receiving payment of principal of (and premium, if any), and (subject to Section 307) interest on, such Note and for all other purposes whatsoever, whether or not such Note be overdue, and neither the Company, any Subsidiary Guarantor, the Trustee, the Paying Agent nor any agent of any of them shall be affected by notice to the contrary.

Section 309. Cancellation. All Notes surrendered for payment, redemption, transfer, exchange or conversion shall, if surrendered to any Person other than the Trustee, be delivered to the Trustee and, if not already cancelled, shall be promptly cancelled by it. The Company may at any time deliver to the Trustee for cancellation any Notes previously authenticated and delivered hereunder that the Company may have acquired in any manner whatsoever, and all Notes so delivered shall be promptly cancelled by the Trustee. No Notes shall be authenticated in lieu of or in exchange for any Notes cancelled as provided in this Section 309, except as expressly permitted by this Indenture. All cancelled Notes held by the Trustee shall be disposed of by the Trustee in accordance with its customary procedures (subject to the record retention requirements of the Exchange Act).

Section 310. Computation of Interest. Interest on the Notes shall be computed on the basis of a 360-day year of twelve 30-day months.

Section 311. CUSIP Numbers, ISINs, Etc. The Company in issuing Notes may use “CUSIP” numbers, ISINs and “Common Code” numbers (if then generally in use), and if so, the Trustee may use the CUSIP numbers, ISINs and “Common Code” numbers in notices of redemption or exchange as a convenience to Holders; provided, however, that any such notice may state that no representation is made as to the correctness or accuracy of such numbers printed in the notice or on the Notes; that reliance may be placed only on the other identification numbers printed on the Notes; and that any redemption shall not be affected by any defect in or omission of such numbers.

Section 312. Book-Entry Provisions for Global Notes. (a) Each Global Note initially shall (i) be registered in the name of the Depository for such Global Note or the nominee of such Depository, in each case for credit to the account of an Agent Member, and (ii) be delivered to the Trustee as custodian for such Depository. None of the Company, any agent of the Company or the Trustee shall have any responsibility or liability for any aspect of the records relating to or payments made on account of beneficial ownership interests of a Global Note, or for maintaining, supervising or reviewing any records relating to such beneficial ownership interests.

(b) Members of, or participants in, the Depository (“Agent Members”) shall have no rights under this Indenture with respect to any Global Note held on their behalf by the Depository, or its custodian, or under such Global Notes. The Depository may be treated by the Company, any other obligor upon the Notes, the Trustee and any agent of any of them as the absolute owner of the Global Notes for all purposes whatsoever. Notwithstanding the foregoing, nothing herein shall prevent the Company, any other obligor upon the Notes, the Trustee or any agent of any of them from giving effect to any written certification, proxy or other authorization furnished by the Depository or impair, as between the Depository and its Agent Members, the operation of customary practices governing the exercise of the rights of a beneficial owner of any Note. The Holder of a Global Note may grant proxies and otherwise authorize any Person, including Agent Members and Persons that may hold interests through Agent Members, to take any action that a Holder is entitled to take under this Indenture or the Notes.

(c) Transfers of a Global Note shall be limited to transfers of such Global Note in whole, but, subject to the immediately succeeding sentence, not in part, to the Depository, its successors or their respective nominees. Interests of beneficial owners in a Global Note may not be transferred or exchanged for Physical Notes unless (i) the Company has consented thereto in writing, or such transfer or exchange is made pursuant to the next sentence, and (ii) such transfer or exchange is in accordance with the applicable rules and procedures of the Depository and the provisions of [Section 305](#) and [Section 313](#). Subject to the limitation on issuance of Physical Notes set forth in [Section 313\(3\)](#), Physical Notes shall be transferred to all beneficial owners in exchange for their beneficial interests in the relevant Global Note, if (i) the Depository notifies the Company at any time that it is unwilling or unable to continue as Depository for the Global Notes and a successor depository is not appointed within 120 days; (ii) the Depository ceases to be registered as a “Clearing Agency” under the Exchange Act and a successor depository is not appointed within 120 days; (iii) the Company, at its option, notifies the Trustee that it elects to cause the issuance of Physical Notes; or (iv) an Event of Default shall have occurred and be continuing with respect to the Notes and the Trustee has received a written request from the Depository to issue Physical Notes.

(d) In connection with any transfer or exchange of a portion of the beneficial interest in any Global Note to beneficial owners for Physical Notes pursuant to [Section 312\(c\)](#), the Note Registrar shall record on its books and records the date and a decrease in the principal amount of such Global Note in an amount equal to the beneficial interest in the Global Note being transferred, and the Company shall execute, and upon receipt of an Authentication Order the Trustee shall authenticate and deliver, one or more Physical Notes of like principal amount of authorized denominations.

(e) In connection with a transfer of an entire Global Note to beneficial owners for Physical Notes pursuant to [Section 312\(c\)](#), the applicable Global Note shall be deemed to be surrendered to the Trustee for cancellation, and the Company shall execute, and upon receipt of an Authentication Order the Trustee shall authenticate and deliver, to each beneficial owner identified by the Depository, in exchange for its beneficial interest in the applicable Global Note, an equal aggregate principal amount of Rule 144A Physical Notes (in the case of any Rule 144A Global Note) or Regulation S Physical Notes (in the case of any Regulation S Global Note), as the case may be, of authorized denominations.

(f) The transfer and exchange of a Global Note or beneficial interests therein shall be effected through the Depository, in accordance with this Indenture (including applicable restrictions on transfer set forth in [Section 313](#)) and the procedures therefor of the Depository. Any beneficial interest in one of the Global Notes that is transferred to a Person who takes delivery in the form of an interest in a different Global Note will, upon transfer, cease to be an interest in such Global Note and become an interest in the other Global Note and, accordingly, will thereafter be subject to all transfer restrictions, if any, and other procedures applicable to beneficial interests in such other Global Note for as long as it remains such an interest. A transferor of a beneficial interest in a Global Note shall deliver to the Note Registrar a written order given in accordance with the Depository’s procedures containing information regarding the participant account of the Depository to be credited with a beneficial interest in the relevant Global Note. Subject to [Section 313](#), the Note Registrar shall, in accordance with such instructions, instruct the Depository to credit to the account of the Person specified in such instructions a beneficial interest in such Global Note and to debit the account of the Person making the transfer the beneficial interest in the Global Note being transferred.

(g) Any Physical Note delivered in exchange for an interest in a Global Note pursuant to [Section 312\(c\)](#) shall, unless such exchange is made on or after the Resale Restriction Termination Date applicable to such Note and except as otherwise provided in [Section 203](#) and [Section 313](#), bear the Private Placement Legend.

(h) Notwithstanding the foregoing, through the Restricted Period, a beneficial interest in a Regulation S Global Note may be held only through designated Agent Members holding on behalf of Euroclear or Clearstream unless delivery is made in accordance with the applicable provisions of Section 313.

Section 313. Special Transfer Provisions.

(1) Transfers to Non-U.S. Persons. The following provisions shall apply with respect to the registration of any proposed transfer of a Note that is a Restricted Security to any Non-U.S. Person: The Note Registrar shall register such transfer if it complies with all other applicable requirements of this Indenture (including Section 305) and,

(a) if (x) such transfer is after the relevant Resale Restriction Termination Date with respect to such Note or (y) the proposed transferor has delivered to the Note Registrar and the Company and the Trustee a Regulation S Certificate and, unless otherwise agreed by the Company, an opinion of counsel, certifications and other information satisfactory to the Company, and

(b) if the proposed transferor is or is acting through an Agent Member holding a beneficial interest in a Global Note, upon receipt by the Note Registrar and the Company and the Trustee of (x) the certificate, opinion, certifications and other information, if any, required by clause (a) above and (y) written instructions given in accordance with the procedures of the Note Registrar and of the Depositary;

whereupon (i) the Note Registrar shall reflect on its books and records the date and (if the transfer does not involve a transfer of any Outstanding Physical Note) a decrease in the principal amount of the relevant Global Note in an amount equal to the principal amount of the beneficial interest in the relevant Global Note to be transferred, and (ii) either (A) if the proposed transferee is or is acting through an Agent Member holding a beneficial interest in a relevant Regulation S Global Note, the Note Registrar shall reflect on its books and records the date and an increase in the principal amount of such Regulation S Global Note in an amount equal to the principal amount of the beneficial interest being so transferred or (B) otherwise the Company shall execute and (upon receipt of an Authentication Order) the Trustee shall authenticate and deliver one or more Physical Notes of like amount.

(2) Transfers to QIBs. The following provisions shall apply with respect to the registration of any proposed transfer of a Note that is a Restricted Security to a QIB (excluding transfers to Non-U.S. Persons): The Note Registrar shall register such transfer if it complies with all other applicable requirements of this Indenture (including Section 305) and,

(a) if such transfer is being made by a proposed transferor who has checked the box provided for on the form of such Note stating, or has otherwise certified to the Note Registrar and the Company and the Trustee in writing, that the sale has been made in compliance with the provisions of Rule 144A to a transferee who has signed the certification provided for on the form of such Note stating, or has otherwise certified to Note Registrar and the Company and the Trustee in writing, that it is purchasing such Note for its own account or an account with respect to which it exercises sole investment discretion and that it and any such account is a QIB within the meaning of Rule 144A, and is aware that the sale to it is being made in reliance on Rule 144A and acknowledges that it has received such information regarding the Company as it has requested pursuant to Rule 144A or has determined not to request such information and that it is aware that the transferor is relying upon its foregoing representations in order to claim the exemption from registration provided by Rule 144A; and

(b) if the proposed transferee is an Agent Member, and the Note to be transferred consists of a Physical Note that after transfer is to be evidenced by an interest in a Global Note or consists of a beneficial interest in a Global Note that after the transfer is to be evidenced by an interest in a different Global Note, upon receipt by the Note Registrar of written instructions given in accordance with the Depository's and the Note Registrar's procedures, whereupon the Note Registrar shall reflect on its books and records the date and an increase in the principal amount of the transferee Global Note in an amount equal to the principal amount of the Physical Note or such beneficial interest in such transferor Global Note to be transferred, and the Trustee shall cancel the Physical Note so transferred or reflect on its books and records the date and a decrease in the principal amount of such transferor Global Note, as the case may be.

(3) Limitation on Issuance of Physical Notes. No Physical Note shall be exchanged for a beneficial interest in any Global Note, except in accordance with Section 312 and this Section 313.

A beneficial owner of an interest in a Regulation S Global Note shall not be permitted to exchange such interest for a Physical Note until a date, which must be after the end of the Restricted Period, on which the Company receives a certificate of beneficial ownership substantially in the form attached hereto as Exhibit C from such beneficial owner (a "Certificate of Beneficial Ownership"). Such date, as it relates to a Regulation S Global Note, is herein referred to as the "Regulation S Note Exchange Date."

(4) Private Placement Legend. Upon the transfer, exchange or replacement of Notes not bearing the Private Placement Legend, the Note Registrar shall deliver Notes that do not bear the Private Placement Legend. Upon the transfer, exchange or replacement of Notes bearing the Private Placement Legend, the Note Registrar shall deliver only Notes that bear the Private Placement Legend unless (i) the requested transfer is after the relevant Resale Restriction Termination Date with respect to such Notes, (ii) upon written request of the Company after there is delivered to the Note Registrar an opinion of counsel (which opinion and counsel are satisfactory to the Company) to the effect that neither such legend nor the related restrictions on transfer are required in order to maintain compliance with the provisions of the Securities Act, (iii) with respect to a Regulation S Global Note (on or after the Regulation S Note Exchange Date with respect to such Regulation S Global Note) or Regulation S Physical Note, in each case with the agreement of the Company, or (iv) such Notes are sold or exchanged pursuant to an effective registration statement under the Securities Act.

(5) Other Transfers. The Note Registrar shall effect and register, upon receipt of a written request from the Company to do so, a transfer not otherwise permitted by this Section 313, such registration to be done in accordance with the otherwise applicable provisions of this Section 313, upon the furnishing by the proposed transferor or transferee of a written opinion of counsel (which opinion and counsel are satisfactory to the Company) to the effect that, and such other certifications or information as the Company may require (including, in the case of a transfer to an Accredited Investor (as defined in Rule 501(a)(1), (2), (3) or (7) under Regulation D promulgated under the Securities Act), a certificate substantially in the form attached hereto as Exhibit F) to confirm that, the proposed transfer is being made pursuant to an exemption from, or in a transaction not subject to, the registration requirements of the Securities Act.

A Note that is a Restricted Security may not be transferred other than as provided in this Section 313. A beneficial interest in a Global Note that is a Restricted Security may not be exchanged for a beneficial interest in another Global Note other than through a transfer in compliance with this Section 313.

(6) General. By its acceptance of any Note bearing the Private Placement Legend, each Holder of such a Note acknowledges the restrictions on transfer of such Note set forth in this Indenture and in the Private Placement Legend and agrees that it will transfer such Note only as provided in this Indenture.

The Note Registrar shall retain copies of all letters, notices and other written communications received pursuant to Section 312 or this Section 313 (including all Notes received for transfer pursuant to this Section 313). The Company shall have the right to require the applicable Note Registrar to deliver to the Company, at the Company's expense, copies of all such letters, notices or other written communications at any reasonable time upon the giving of reasonable written notice to the Note Registrar.

In connection with any transfer of any Note, the Trustee, the Note Registrar and the Company shall be entitled to receive, shall be under no duty to inquire into, may conclusively presume the correctness of, and shall be fully protected in relying upon the certificates, opinions and other information referred to herein (or in the forms provided herein, attached hereto or to the Notes, or otherwise) received from any Holder and any transferee of any Note regarding the validity, legality and due authorization of any such transfer, the eligibility of the transferee to receive such Note and any other facts and circumstances related to such transfer.

ARTICLE IV

COVENANTS

Section 401. Payment of Principal, Premium and Interest. The Company shall duly and punctually pay the principal of (and premium, if any) and interest on the Notes in accordance with the terms of such Notes and this Indenture. Principal amount (and premium, if any) and interest on the Notes shall be considered paid on the date due if the Company shall have deposited with the Paying Agent (if other than the Company or another wholly-owned Domestic Subsidiary of the Company) as of 12:00 p.m. New York City time on the due date money in immediately available funds and designated for and sufficient to pay all principal amount (and premium, if any) and interest then due. At the option of the Company, payment of interest on such Note may be made through the Paying Agent by wire transfer of immediately available funds to the account designated to the Company by the Person entitled thereto or by check mailed to the address of the Person entitled thereto as such address shall appear in the Note Register.

Section 402. Maintenance of Office or Agency. (a) The Company shall maintain in the United States an office or agency where such Notes may be presented or surrendered for payment, where such Notes may be surrendered for transfer or exchange and where notices and demands to or upon the Company in respect of such Notes and this Indenture may be served. The Company shall give prompt written notice to the Trustee of the location, and of any change in the location, of such office or agency. If at any time the Company shall fail to maintain such office or agency or shall fail to furnish the Trustee with the address thereof, such presentations, surrenders, notices and demands may be made or served to the Trustee; provided, however, that with respect to payments on the Notes and any exchange, transfer, or other surrender of the Notes, the Corporate Trust Office shall mean the corporate trust operations office of the Trustee in St. Paul, Minnesota or such other office or location designated by the Trustee by written notice; provided, further, that no service of legal process may be made against the Company at any office of the Trustee.

(b) The Company may also from time to time designate one or more other offices or agencies where the Notes may be presented or surrendered for any or all purposes and may from time to time rescind such designations.

The Company hereby designates the Corporate Trust Office of the Trustee, as one such office or agency of the Company in accordance with Section 305.

Section 403. Money for Payments to Be Held in Trust. If the Company shall at any time act as Paying Agent, it shall, on or before 12:00 p.m., New York City time, on each due date of the principal of (and premium, if any) or interest on, any of such Notes, segregate and hold in trust for the benefit of the Persons entitled thereto a sum sufficient to pay the principal (and premium, if any) or interest so becoming due until such sums shall be paid to such Persons or otherwise disposed of as herein provided, and shall promptly notify the Trustee in writing of its action or failure so to act.

If the Company is not acting as Paying Agent, it shall, on or prior to 12:00 p.m., New York City time, on each due date of the principal of (and premium, if any) or interest on, such Notes, deposit with a Paying Agent a sum sufficient to pay the principal (and premium, if any) or interest, so becoming due, such sum to be held in trust for the benefit of the Persons entitled to such principal, premium or interest, and (unless such Paying Agent is the Trustee) the Company shall promptly notify the Trustee in writing of its action or failure so to act.

If the Company is not acting as Paying Agent, the Company shall cause any Paying Agent other than the Trustee to execute and deliver to the Trustee an instrument in which such Paying Agent shall agree with the Trustee, subject to the provisions of this Section 403, that such Paying Agent shall:

- (1) hold all sums held by it for the payment of principal of (and premium, if any) or interest on the Notes in trust for the benefit of the Persons entitled thereto until such sums shall be paid to such Persons or otherwise disposed of as herein provided;
- (2) give the Trustee notice of any default by the Company (or any other obligor upon the Notes) in the making of any such payment of principal (and premium, if any) or interest;
- (3) at any time during the continuance of any such default, upon the written request of the Trustee, forthwith pay to the Trustee all sums so held in trust by such Paying Agent; and
- (4) acknowledge, accept and agree to comply in all respects with the provisions of this Indenture relating to the duties, rights and liabilities of such Paying Agent.

The Company may at any time, for the purpose of obtaining the satisfaction and discharge of such Notes, this Indenture or for any other purpose, pay, or by Company Order direct any Paying Agent to pay, to the Trustee all sums held in trust by the Company or such Paying Agent, such sums to be held by the Trustee upon the same trusts as those upon which such sums were held by the Company or such Paying Agent; and, upon such payment by any Paying Agent to the Trustee, such Paying Agent shall be released from all further liability with respect to such money.

Any money deposited with the Trustee or any Paying Agent, or then held by the Company, in trust for the payment of principal of (and premium, if any) or interest on any Note and remaining unclaimed for two years after such principal (and premium, if any) or interest has become due and payable shall be paid to the Company on Company Request, or (if then held by the Company) shall be discharged from such trust; and the Holder of such Note shall thereafter, as an unsecured general creditor, look only to the Company for payment thereof unless an applicable abandoned property law designates another Person, and all liability of the Trustee or such Paying Agent with respect to such trust money, and all liability of the Company as trustee thereof, shall thereupon cease.

Section 404. [Reserved].

Section 405. Reports. Whether or not required by the rules and regulations of the SEC, so long as any Notes are outstanding, from and after the Escrow Release Date the Company will file with the SEC (unless the SEC will not accept such filings) and furnish to the Noteholders all quarterly and annual financial information, and within 15 days of the dates, that would be required to be contained in a filing with the SEC on Forms 10-Q and 10-K (including pursuant to any extension authorized by the SEC, rule, regulation or executive order).

In addition, to the extent not satisfied by the foregoing, the Company will furnish to Holders of the Notes and prospective investors in the Notes, upon their request, the information required to be delivered pursuant to Rule 144A(d)(4).

The Company will be deemed to have satisfied the requirements of the first paragraph of this Section 405 if any Parent Entity furnishes or makes available information regarding the Parent Entity of the type otherwise so required with respect to the Company and such Parent Entity is subject to the reporting requirements of Section 13(a) or 15(d) of the Exchange Act and has filed reports required under Section 13(a) or 15(d) of the Exchange Act with the SEC via EDGAR (or successor) filing system and such reports are publicly available, in each case provided that the same is accompanied by information describing the non-equity differences between the financial information relating to such Parent Entity and its Subsidiaries, on the one hand, and the financial information relating to the Company and its Subsidiaries, on the other hand (as determined by the Company in good faith, which determination shall be conclusive) and for the avoidance of doubt need not be audited or compliant with Regulation S-X.

Delivery of reports, information and documents to the Trustee is for informational purposes only and the Trustee's receipt of such shall not constitute constructive notice of any information contained therein or determinable from information contained therein, including the Company's compliance with any of its covenants hereunder (as to which the Trustee is entitled to rely exclusively on an Officer's Certificate). The Trustee shall have no liability or responsibility for the filing, timeliness, or content of such reports. The Trustee shall further not be obligated to monitor or confirm, on a continuing basis or otherwise, any reports or other documents filed with the SEC or posted to any website or to participate in any conference calls.

Section 406. Statement as to Default. The Company shall deliver to the Trustee, within 120 days after the end of each fiscal year of the Company commencing with the Company's fiscal year ending January 29, 2022, an Officer's Certificate to the effect that to the best knowledge of the signer thereof (on behalf of the Company) the Company is or is not in default in the performance and observance of any of the terms, provisions and conditions of this Indenture applicable to the Company (without regard to any period of grace or requirement of notice provided hereunder) and, if the Company shall be in default, specifying all such defaults and the nature and status thereof of which such signer may have knowledge.

Section 407. Limitation on Indebtedness. (a) The Company will not, and will not permit any Restricted Subsidiary to, Incur any Indebtedness; provided, however, that the Company or any Restricted Subsidiary may Incur Indebtedness if on the date of the Incurrence of such Indebtedness, after giving effect to the Incurrence thereof, the Consolidated Coverage Ratio would be equal to or greater than 2.00:1.00.

(b) Notwithstanding the foregoing Section 407(a), the Company and its Restricted Subsidiaries may Incur the following Indebtedness:

(i) Indebtedness (I) Incurred (including but not limited to in respect of letters of credit or bankers' acceptances issued or created thereunder) and (without limiting the foregoing), in each case, any Refinancing Indebtedness in respect thereof, in a maximum principal amount at any time outstanding not exceeding in the aggregate the amount equal to (A) \$500.0 million, plus (B) the greater of (x) \$1.0 billion and (y) 100.0% of Consolidated EBITDA for the period of the most recent four consecutive fiscal quarters of the Company ending prior to the date of such determination for which consolidated financial statements of the Company are available, plus (C) the greater of (x) \$750.0 million and (y) an amount equal to the Borrowing Base (plus, in the event of any refinancing of any such Indebtedness, the aggregate amount of fees, underwriting discounts, premiums and other costs and expenses (including accrued and unpaid interest) Incurred or payable in connection with such refinancing) plus (II) in an unlimited amount, if on the date of the Incurrence of such Indebtedness (other than, for the avoidance of doubt, any Refinancing Indebtedness in respect of Indebtedness Incurred in reliance on this clause (II)), after giving effect to such Incurrence (or, at the Company's option, on the date of the initial borrowing of such Indebtedness or entry into the definitive agreement providing the commitment to fund such Indebtedness after giving pro forma effect to the Incurrence of the entire committed amount of such Indebtedness (such committed amount, a "Ratio Tested Committed Amount"), in which case such Ratio Tested Committed Amount may thereafter be borrowed and reborrowed, in whole or in part, from time to time, without further compliance with this clause) the Consolidated Secured Leverage Ratio would be equal to or less than 1.50:1.00; and (in the case of this subclause (II)) any Refinancing Indebtedness with respect to any such Indebtedness (or Ratio Tested Committed Amount);

(ii) Indebtedness (A) of any Restricted Subsidiary to the Company, or (B) of the Company or any Restricted Subsidiary to any Restricted Subsidiary; provided that, in the case of this Section 407(b)(ii), any subsequent issuance or transfer of any Capital Stock of such Restricted Subsidiary to which such Indebtedness is owed, or other event, that results in such Restricted Subsidiary ceasing to be a Restricted Subsidiary or any other subsequent transfer of such Indebtedness (except to the Company or a Restricted Subsidiary) will be deemed, in each case, an Incurrence of such Indebtedness by the issuer thereof not permitted by this Section 407(b)(ii);

(iii) Indebtedness represented by the Notes (other than Additional Notes), any Indebtedness (other than the Indebtedness described in Section 407(b)(i)(I) above) outstanding (or Incurred pursuant to any commitment outstanding) on the Issue Date and any Refinancing Indebtedness Incurred in respect of any Indebtedness (or unutilized commitments) described in this Section 407(b)(iii) or Section 407(a) above;

(iv) Purchase Money Obligations and Finance Lease Obligations, and in each case any Refinancing Indebtedness with respect thereto, (A) outstanding on the Issue Date and (B) in an additional aggregate principal amount at any time outstanding not exceeding an amount equal to the greater of \$140.0 million and 3.5% of Consolidated Tangible Assets;

(v) Indebtedness (A) supported by a letter of credit issued pursuant to any Credit Facility in a principal amount not exceeding the face amount of such letter of credit or (B) consisting of accommodation guarantees for the benefit of trade creditors of the Company or any of its Restricted Subsidiaries;

(vi) (A) Guarantees by the Company or any Restricted Subsidiary of Indebtedness or any other obligation or liability of the Company or any Restricted Subsidiary (other than any Indebtedness Incurred by the Company or such Restricted Subsidiary, as the case may be, in violation of this Section 407), or (B) without limiting Section 413, Indebtedness of the Company or any Restricted Subsidiary arising by reason of any Lien granted by or applicable to such Person securing Indebtedness of the Company or any Restricted Subsidiary (other than any Indebtedness Incurred by the Company or such Restricted Subsidiary, as the case may be, in violation of this Section 407);

(vii) Indebtedness of the Company or any Restricted Subsidiary (A) arising from the honoring of a check, draft or similar instrument of such Person drawn against insufficient funds in the ordinary course of business, or (B) consisting of guarantees, indemnities, obligations in respect of earnouts or other purchase price adjustments, or similar obligations, Incurred in connection with the acquisition or disposition of any business, assets or Person;

(viii) Indebtedness of the Company or any Restricted Subsidiary in respect of (A) letters of credit, bankers' acceptances or other similar instruments or obligations issued, or relating to liabilities or obligations incurred, in the ordinary course of business (including those issued to governmental entities in connection with self-insurance under applicable workers' compensation statutes), (B) completion guarantees, surety, judgment, appeal or performance bonds, or other similar bonds, instruments or obligations, provided, or relating to liabilities or obligations incurred, in the ordinary course of business, including in respect of liabilities or obligations of franchisees, (C) Hedging Obligations, (D) Management Guarantees or Management Indebtedness, (E) the financing of insurance premiums in the ordinary course of business, (F) take-or-pay obligations under supply arrangements incurred in the ordinary course of business, (G) netting, overdraft protection and other arrangements arising under standard business terms of any bank at which the Company or any Restricted Subsidiary maintains an overdraft, cash pooling or other similar facility or arrangement, (H) Junior Capital, (I) Bank Products Obligations or (J) Open Account Obligations;

(ix) Indebtedness (A) of a Receivables Subsidiary secured by a Lien on all or part of the assets disposed of in, or otherwise Incurred in connection with, a Financing Disposition or (B) otherwise Incurred in connection with a Specified Receivables Facility in an aggregate principal amount at any time outstanding under this this Section 407(b)(ix) not exceeding an amount equal to the greater of \$120.0 million and 60.0% of the aggregate accounts excluded from the definition of "Eligible Accounts" under the ABL Facility as such definition is in effect on the Escrow Release Date; provided that (1) such Indebtedness is not recourse to the Company or any Restricted Subsidiary that is not a Receivables Subsidiary (other than with respect to Standard Receivables Undertakings); (2) in the event such Indebtedness shall become recourse to the Company or any Restricted Subsidiary that is not a Receivables Subsidiary (other than with respect to Standard Receivables Undertakings), such Indebtedness will be deemed to be, and must be classified by the Company as, Incurred at such time (or at the time initially Incurred) under one or more of the other provisions of this Section 407 for so long as such Indebtedness shall be so recourse; and (3) in the event that at any time thereafter such Indebtedness shall comply with the provisions of the preceding subclause (1), the Company may re-classify such Indebtedness in whole or in part as Incurred under this Section 407(b)(ix);

(x) Contribution Indebtedness and any Refinancing Indebtedness with respect thereto;

(xi) Indebtedness of (A) the Company or any Restricted Subsidiary Incurred to finance or refinance, or otherwise Incurred in connection with, any acquisition of assets (including Capital Stock), business or Person, or any merger or consolidation of any Person with or into the Company or any Restricted Subsidiary, or (B) any Person that is acquired by or merged or consolidated with or into the Company or any Restricted Subsidiary (including Indebtedness thereof Incurred in connection with any such acquisition, merger or consolidation); provided that on the date of such acquisition, merger or consolidation, after giving effect thereto, (x) in the case of any such Indebtedness that is secured by a Lien, either (1) the Consolidated Secured Leverage Ratio would be equal to or less than 1.50:1.00 or (2) the Consolidated Secured Leverage Ratio would be equal to or be less than the Consolidated Secured Leverage Ratio immediately prior to giving effect thereto, or (y) in the case of any such Indebtedness that is unsecured, either (1) the Consolidated Coverage Ratio would be equal to or greater than 2.00:1.00 or (2) the Consolidated Coverage Ratio would be equal to or be greater than the Consolidated Coverage Ratio immediately prior to giving effect thereto; and any Refinancing Indebtedness with respect to any such Indebtedness;

(xii) Indebtedness of the Company or any Restricted Subsidiary in an aggregate principal amount at any time outstanding not exceeding an amount equal to the greater of \$240.0 million and 6.0% of Consolidated Tangible Assets;

(xiii) Indebtedness of the Company or any Restricted Subsidiary Incurred as consideration in connection with any acquisition of assets (including Capital Stock), business or Person, or any merger or consolidation of any Person with or into the Company or any Restricted Subsidiary, and any Refinancing Indebtedness with respect thereto, in an aggregate principal amount at any time outstanding not exceeding an amount equal to the greater of \$100.0 million and 2.5% of Consolidated Tangible Assets;

(xiv) Indebtedness issuable upon the conversion or exchange of shares of Disqualified Stock issued in accordance with Section 407(a), and any Refinancing Indebtedness with respect thereto;

(xv) Indebtedness of any Foreign Subsidiary in an aggregate principal amount at any time outstanding not exceeding an amount equal to the greater of \$200.0 million and 5.0% of Consolidated Tangible Assets;

(xvi) Indebtedness of any Restricted Subsidiary that is not a Guarantor in an aggregate principal amount at any time outstanding not exceeding \$200.0 million; and

(xvii) Indebtedness existing on the Escrow Release Date.

(c) For purposes of determining compliance with, and the outstanding principal amount of any particular Indebtedness Incurred pursuant to and in compliance with, this Section 407, (i) any other obligation of the obligor on such Indebtedness (or of any other Person who could have Incurred such Indebtedness under this Section 407) arising under any Guarantee, Lien or letter of credit, bankers' acceptance or other similar instrument or obligation supporting such Indebtedness shall be disregarded to the extent that such Guarantee, Lien or letter of credit, bankers' acceptance or other similar instrument or obligation secures the principal amount of such Indebtedness; (ii) in the event that Indebtedness meets the criteria of more than one of the types of Indebtedness described in Section 407(a) or (b) above, the Company, in its sole discretion, shall classify or reclassify such item of Indebtedness and may include the amount and type of such Indebtedness in Section 407(a) or one or more of the clauses or subclauses of Section 407(b) above (including in part under one such clause or subclause and in part under another such clause or subclause); provided that (if the Company shall so determine) any Indebtedness Incurred pursuant to Section 407(b)(iv), 407(b)(ix), 407(b)(xii), 407(b)(xiii), 407(b)(xv), 407(b)(xvi) or **Error! Reference source not found.** shall cease to be deemed Incurred or outstanding for purposes of such clause but shall be deemed Incurred for the purposes of Section 407(a) or Section 407(b)(i)(I) from and after the first date on which the Company or any Restricted Subsidiary could have Incurred such Indebtedness under Section 407(a) or Section 407(b)(i)(I), as applicable, without reliance on such clause; (iii) the amount of Indebtedness issued at a price that is less than the principal amount thereof shall be equal to the amount of the liability in respect thereof determined in accordance with GAAP; (iv) the principal amount of Indebtedness outstanding under any clause of Section 407(b) above shall be determined after giving effect to the application of proceeds of any such Indebtedness to refinance any such other Indebtedness; (v) if any Indebtedness is Incurred to refinance Indebtedness initially Incurred (or, Indebtedness Incurred to refinance Indebtedness initially Incurred) in reliance on any provision of Section 407(b) above measured by reference to a percentage of Consolidated Tangible Assets at the time of Incurrence, and such refinancing would cause such percentage of Consolidated Tangible Assets to be exceeded if calculated based on the Consolidated Tangible Assets on the date of such refinancing, such percentage of Consolidated Tangible Assets shall not be deemed to be exceeded (and such refinancing Indebtedness shall be deemed permitted) so long as the principal amount of such refinancing Indebtedness does not exceed an amount equal to the principal amount of such Indebtedness being refinanced, plus the aggregate amount of fees, underwriting discounts, premiums and other costs and expenses (including accrued and unpaid interest) Incurred or payable in connection with such refinancing; and (vi) if any Indebtedness is Incurred to refinance Indebtedness initially Incurred (or, Indebtedness Incurred to refinance Indebtedness initially Incurred) in reliance on any provision of Section 407(b) above measured by a dollar amount, such dollar amount shall not be deemed to be exceeded (and such refinancing Indebtedness shall be deemed permitted) to the extent the principal amount of such newly Incurred Indebtedness does not exceed the principal amount of such Indebtedness being refinanced, plus the aggregate amount of fees, underwriting discounts, premiums and other costs and expenses (including accrued and unpaid interest) Incurred or payable in connection with such refinancing. Notwithstanding anything herein to the contrary, Indebtedness outstanding on the Escrow Release Date under the Senior Credit Facilities shall be classified as Incurred under Section 407(b)(i)(I), and may not later be reclassified.

(d) For purposes of determining compliance with any provision of Section 407(b) (or any category of Permitted Liens described in the definition thereof) measured by a dollar amount or by reference to a percentage of Consolidated Tangible Assets, in each case, for the Incurrence of Indebtedness or Liens securing Indebtedness denominated in a foreign currency, the dollar equivalent principal amount of such Indebtedness Incurred pursuant thereto shall be calculated based on the relevant currency exchange rate in effect on the date that such Indebtedness was Incurred, in the case of term Indebtedness, or first committed, in the case of revolving or deferred draw Indebtedness; provided that (x) the dollar equivalent principal amount of any such Indebtedness outstanding on the Issue Date shall be calculated based on the relevant currency exchange rate in effect on the Issue Date, (y) if such Indebtedness is Incurred to refinance other Indebtedness denominated in a foreign currency (or in a different currency from such Indebtedness so being Incurred), and such refinancing would cause the applicable provision of Section 407(b) (or category of Permitted Liens) measured by a dollar amount or by reference to a percentage of Consolidated Tangible Assets, as applicable, to be exceeded if calculated at the relevant currency exchange rate in effect on the date of such refinancing, such provision of Section 407(b) (or category of Permitted Liens) measured by a dollar amount or by reference to a percentage of Consolidated Tangible Assets, as applicable, shall be deemed not to have been exceeded so long as the principal amount of such Refinancing Indebtedness does not exceed (i) the outstanding or committed principal amount (whichever is higher) of such Indebtedness being refinanced plus (ii) the aggregate amount of fees, underwriting discounts, premiums and other costs and expenses (including accrued and unpaid interest) Incurred or payable in connection with such refinancing and (z) the dollar equivalent principal amount of Indebtedness denominated in a foreign currency shall be calculated based on the relevant currency exchange rate in effect on, at the Company's option, (A) the Issue Date, (B) any date on which such rate is calculated for any purpose under the definitive documentation governing such Indebtedness, or (C) the date of such Incurrence. The principal amount of any Indebtedness Incurred to refinance other Indebtedness, if Incurred in a different currency from the Indebtedness being refinanced, shall be calculated based on the currency exchange rate applicable to the currencies in which such respective Indebtedness is denominated that is in effect on the date of such refinancing.

Section 408. [Reserved].

Section 409. Limitation on Restricted Payments. (a) The Company shall not, and shall not permit any Restricted Subsidiary, directly or indirectly, to (i) declare or pay any dividend or make any distribution on or in respect of its Capital Stock (including any such payment in connection with any merger or consolidation to which the Company is a party) except (x) dividends or distributions payable solely in its Capital Stock (other than Disqualified Stock) and (y) dividends or distributions payable to the Company or any Restricted Subsidiary (and, in the case of any such Restricted Subsidiary making such dividend or distribution, to holders of its Capital Stock on no more than a pro rata basis, measured by the number of shares owned of the applicable class), (ii) purchase, redeem, retire or otherwise acquire for value any Capital Stock of the Company held by Persons other than the Company or a Restricted Subsidiary (other than any acquisition of Capital Stock deemed to occur upon the exercise of options if such Capital Stock represents a portion of the exercise price thereof), (iii) voluntarily purchase, repurchase, redeem, defease or otherwise voluntarily acquire or retire for value, prior to scheduled maturity, scheduled repayment or scheduled sinking fund payment, any Subordinated Obligations (other than a purchase, repurchase, redemption, defeasance or other acquisition or retirement for value in anticipation of satisfying a sinking fund obligation, principal installment or final maturity, in each case due within one year of the date of such purchase, repurchase, redemption, defeasance or other acquisition or retirement) or (iv) make any Investment (other than a Permitted Investment) in any Person (any such dividend, distribution, purchase, repurchase, redemption, defeasance, other acquisition or retirement or Investment being herein referred to as a "Restricted Payment"), if at the time the Company or such Restricted Subsidiary makes such Restricted Payment after giving effect thereto:

- (1) an Event of Default shall have occurred and be continuing (or would result therefrom);
 - (2) the Company could not Incur at least an additional \$1.00 of Indebtedness pursuant to Section 407(a); or
 - (3) the aggregate amount of such Restricted Payment and all other Restricted Payments (the amount so expended, if other than in cash, to be as determined in good faith by the Board of Directors, whose determination shall be conclusive and evidenced by a resolution of the Board of Directors) declared or made subsequent to the Escrow Release Date and then outstanding would exceed, without duplication, the sum of:
 - (A) 50.0% of the Consolidated Net Income accrued during the period (treated as one accounting period) beginning on August 2, 2021 to the end of the most recent fiscal quarter ending prior to the date of such Restricted Payment for which consolidated financial statements of the Company are available (or, in case such Consolidated Net Income shall be a negative number, zero);
 - (B) the aggregate Net Cash Proceeds and the fair value (as determined in good faith by the Company) of property or assets received (x) by the Company as capital contributions to the Company after the Escrow Release Date or from the issuance or sale (other than to a Restricted Subsidiary) of its Capital Stock (other than Disqualified Stock) after the Escrow Release Date (other than Excluded Contributions and Contribution Amounts) or (y) by the Company or any Restricted Subsidiary from the Incurrence by the Company or any Restricted Subsidiary after the Escrow Release Date of Indebtedness that shall have been converted into or exchanged for Capital Stock of the Company (other than Disqualified Stock) or Capital Stock of any Parent Entity, plus the amount of any cash and the fair value (as determined in good faith by the Company) of any property or assets, received by the Company or any Restricted Subsidiary upon such conversion or exchange;
 - (C) (i) the aggregate amount of cash and the fair value (as determined in good faith by the Company) of any property or assets received from dividends, distributions, interest payments, return of capital, repayments of Investments or other transfers of assets to the Company or any Restricted Subsidiary from any Unrestricted Subsidiary, including dividends or other distributions related to dividends or other distributions made pursuant to Section 409(b)(ix), plus (ii) the aggregate amount resulting from the redesignation of any Unrestricted Subsidiary as a Restricted Subsidiary (valued in each case as provided in the definition of "Investment"); and
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(D) in the case of any disposition or repayment of any Investment constituting a Restricted Payment (without duplication of any amount deducted in calculating the amount of Investments at any time outstanding included in the amount of Restricted Payments), the aggregate amount of cash and the fair value (as determined in good faith by the Company) of any property or assets received by the Company or a Restricted Subsidiary with respect to all such dispositions and repayments.

(b) The provisions of Section 409(a) do not prohibit any of the following (each, a “Permitted Payment”):

(i) (x) any purchase, redemption, repurchase, defeasance or other acquisition or retirement of Capital Stock of the Company (“Treasury Capital Stock”) or Subordinated Obligations made by exchange (including any such exchange pursuant to the exercise of a conversion right or privilege in connection with which cash is paid in lieu of the issuance of fractional shares) for, or out of the proceeds of the issuance or sale of, Capital Stock of the Company (other than Disqualified Stock and other than Capital Stock issued or sold to a Subsidiary) (“Refunding Capital Stock”) or a capital contribution to the Company, in each case other than Excluded Contributions and Contribution Amounts; provided that the Net Cash Proceeds from such issuance, sale or capital contribution shall be excluded in subsequent calculations under Section 409(a)(3)(B) and (y) if immediately prior to such acquisition or retirement of such Treasury Capital Stock, dividends thereon were permitted pursuant to Section 409(b)(xi), dividends on such Refunding Capital Stock in an aggregate amount per annum not exceeding the aggregate amount per annum of dividends so permitted on such Treasury Capital Stock;

(ii) any purchase, redemption, repurchase, defeasance or other acquisition or retirement of Subordinated Obligations (w) made by exchange for, or out of the proceeds of the Incurrence of, Indebtedness of the Company or any of its Restricted Subsidiaries or Refinancing Indebtedness Incurred in compliance with Section 407, (x) from Net Available Cash or an equivalent amount to the extent permitted by Section 411, (y) following the occurrence of a Change of Control (or other similar event described therein as a “change of control”), but only if the Company shall have complied with Section 415 and, if required, purchased all Notes tendered pursuant to the offer to repurchase all the Notes required thereby, prior to purchasing or repaying such Subordinated Obligations or (z) constituting Acquired Indebtedness;

(iii) any dividend paid or redemption made within 60 days after the date of declaration thereof or of the giving of notice thereof, as applicable, if at such date of declaration or the giving of such notice, such dividend or redemption would have complied with this Section 409;

(iv) Investments or other Restricted Payments in an aggregate amount outstanding at any time not to exceed the amount of Excluded Contributions;

(v) loans, advances, dividends or distributions by the Company to any Parent Entity to permit any Parent Entity to repurchase or otherwise acquire its Capital Stock (including any options, warrants or other rights in respect thereof), or payments by the Company to repurchase or otherwise acquire Capital Stock of the Company (including any options, warrants or other rights in respect thereof), in each case from current or former Management Investors or repurchases of equity from others to offset dilution from issuances of equity to such persons (including any repurchase or acquisition by reason of the Company retaining any Capital Stock, option, warrant or other right in respect of tax withholding obligations, and any related payment in respect of any such obligation), such payments, loans, advances, dividends or distributions not to exceed an amount (net of repayments of any such loans or advances) equal to (w) (1) \$50.0 million, plus (2) \$25.0 million multiplied by the number of calendar years that have commenced since the Issue Date, plus (x) the Net Cash Proceeds received by the Company since the Issue Date from, or as a capital contribution from, the issuance or sale to Management Investors of Capital Stock (including any options, warrants or other rights in respect thereof), to the extent such Net Cash Proceeds are not included in any calculation under Section 409(a)(3)(B)(x), plus (y) the cash proceeds of key man life insurance policies received by the Company or any Restricted Subsidiary since the Issue Date to the extent such cash proceeds are not included in any calculation under Section 409(a)(3)(A); provided that any cancellation of Indebtedness owing to the Company or any Restricted Subsidiary by any current or former Management Investor in connection with any repurchase or other acquisition of Capital Stock (including any options, warrants or other rights in respect thereof) from any Management Investor shall not constitute a Restricted Payment for purposes of this covenant or any other provision of this Indenture;

(vi) any Restricted Payments in an amount not to exceed in any fiscal year of the Company the greater of (x) \$280.0 million and (y) 6.0% of Market Capitalization;

(vii) Restricted Payments (including loans or advances) in an aggregate amount outstanding at any time not to exceed an amount (net of repayments of any such loans or advances) equal to the greater of \$120.0 million and 3.0% of Consolidated Tangible Assets;

(viii) loans, advances, dividends or distributions to any Parent Entity or other payments by the Company or any Restricted Subsidiary (A) to satisfy or permit any Parent Entity to satisfy obligations under any management agreements, (B) pursuant to any tax sharing agreement, or (C) to pay or permit any Parent Entity to pay (but without duplication) any Parent Entity Expenses or any related taxes;

(ix) payments by the Company, or loans, advances, dividends or distributions by the Company to any Parent Entity to make payments, to holders of Capital Stock of the Company in lieu of issuance of fractional shares of such Capital Stock;

(x) dividends or other distributions of, or Investments paid for or made with, Capital Stock, Indebtedness or other securities of Unrestricted Subsidiaries;

(xi) (A) dividends on any Designated Preferred Stock of the Company issued after the Issue Date; provided that at the time of such issuance and after giving effect thereto on a pro forma basis, the Consolidated Coverage Ratio would be equal to or greater than 2.00:1.00, (B) loans, advances, dividends or distributions to any Parent Entity to permit dividends on any Designated Preferred Stock of any Parent Entity issued on or after the Issue Date if the net proceeds of the issuance of such Designated Preferred Stock have been contributed to the Company or any of its Restricted Subsidiaries; provided that the aggregate amount of all loans, advances, dividends or distributions paid pursuant to this subclause (B) shall not exceed the net proceeds of such issuance of Designated Preferred Stock received by or contributed to the Company or any of its Restricted Subsidiaries or (C) any dividend on Refunding Capital Stock that is Preferred Stock; provided that at the time of the declaration of such dividend and after giving effect thereto on a pro forma basis, the Consolidated Coverage Ratio would be at least 2.00:1.00;

(xii) Investments in Unrestricted Subsidiaries or joint ventures in an aggregate amount outstanding at any time not exceeding an amount equal to the greater of \$100.0 million and 2.5% of Consolidated Tangible Assets;

(xiii) distributions or payments of Special Purpose Financing Fees;

(xiv) the declaration and payment of dividends to holders of any class or series of Disqualified Stock, or of any Preferred Stock of a Restricted Subsidiary, Incurred in accordance with the terms of Section 407;

(xv) Investments or other Restricted Payments in an aggregate amount outstanding at any time not to exceed an amount equal to Declined Excess Proceeds;

(xvi) any Restricted Payment; provided that on a pro forma basis after giving effect to such Restricted Payment the Consolidated Total Leverage Ratio would be equal to or less than 1.50:1.00;

(xvii) the distribution, as a dividend or otherwise, of shares of Capital Stock of, or Indebtedness owed to the Company or a Restricted Subsidiary by, Unrestricted Subsidiaries;

(xviii) payments or distributions to dissenting stockholders pursuant to applicable law, pursuant to or in connection with a consolidation, amalgamation, merger or transfer of all or substantially all of the assets of the Company and the Restricted Subsidiaries, taken as a whole, that complies with the covenant described under Section 501; provided that as a result of such consolidation, amalgamation, merger or transfer of assets, the Company shall have made a Change of Control Offer (if required by this Indenture) and all Notes tendered by Holders in connection with any such Change of Control Offer shall have been repurchased, redeemed or acquired for value; and

(xix) solely in connection with the consummation of the Separation, the Escrow Release Date Payment, the Escrow Release Date Distribution and any distribution, as a dividend, cash payment or otherwise, of all or any portion of the equity interests of the Spin Business (as defined in the Form 10) or any of the assets thereof;

provided that (A) in the case of clause (iii) of this Section 409(b), the net amount of any such Permitted Payment shall be included in subsequent calculations of the amount of Restricted Payments for purposes of Section 409(a), (B) in all cases other than pursuant to clause (A) immediately above, the net amount of any such Permitted Payment shall be excluded in subsequent calculations of the amount of Restricted Payments for purposes of Section 409(a), and (C) solely with respect to clauses (vi) and (xvi) of this Section 409(b), no Default or Event of Default shall have occurred and be continuing at the time of any such Permitted Payment after giving effect thereto. The Company, in its sole discretion, may classify any Investment or other Restricted Payment as being made in part under one of the clauses or subclauses of this Section 409, (or, in the case of any Investment, the clauses or subclauses of Permitted Investments) and in part under one or more other such clauses or subclauses (or, as applicable, clauses or subclauses).

Notwithstanding any other provision of this Indenture, this Indenture does not restrict any redemption or other payment by the Company or any Restricted Subsidiary made as a mandatory principal redemption or other payment in respect of Subordinated Obligations pursuant to an "AHYDO saver" provision of any agreement or instrument in respect of Subordinated Obligations, and the Company's determination in good faith of the amount of any such "AHYDO saver" mandatory principal redemption or other payment shall be conclusive and binding for all purposes under this Indenture.

Section 410. Limitation on Restrictions on Distributions from Restricted Subsidiaries. The Company will not, and will not permit any Restricted Subsidiary to, create or otherwise cause to exist or become effective any consensual encumbrance or restriction on the ability of any Restricted Subsidiary to (i) pay dividends or make any other distributions on its Capital Stock or pay any Indebtedness or other obligations owed to the Company, (ii) make any loans or advances to the Company or (iii) transfer any of its property or assets to the Company (provided that dividend or liquidation priority between classes of Capital Stock, or subordination of any obligation (including the application of any remedy bars thereto) to any other obligation, will not be deemed to constitute such an encumbrance or restriction), except any encumbrance or restriction:

(1) pursuant to an agreement or instrument in effect at or entered into on the Issue Date, any Credit Facility, this Indenture or the Notes;

(2) pursuant to any agreement or instrument of a Person, or relating to Indebtedness or Capital Stock of a Person, which Person is acquired by or merged or consolidated with or into the Company or any Restricted Subsidiary, or which agreement or instrument is assumed by the Company or any Restricted Subsidiary in connection with an acquisition of assets from such Person, or any other transaction entered into in connection with any such acquisition, merger or consolidation, as in effect at the time of such acquisition, merger, consolidation or transaction (except to the extent that such Indebtedness was incurred to finance, or otherwise in connection with, such acquisition, merger, consolidation or transaction); provided that for purposes of this clause (2), if a Person other than the Company is the Successor Company with respect thereto, any Subsidiary thereof or agreement or instrument of such Person or any such Subsidiary shall be deemed acquired or assumed, as the case may be, by the Company or a Restricted Subsidiary, as the case may be, when such Person becomes such Successor Company;

(3) pursuant to an agreement or instrument (a "Refinancing Agreement") effecting a refinancing of Indebtedness Incurred or outstanding pursuant or relating to, or that otherwise extends, renews, refunds, refinances or replaces, any agreement or instrument referred to in clause (1) or (2) of this Section 410 or this clause (3) (an "Initial Agreement") or that is, or is contained in, any amendment, supplement or other modification to an Initial Agreement or Refinancing Agreement (an "Amendment"); provided, however, that the encumbrances and restrictions contained in any such Refinancing Agreement or Amendment taken as a whole are not materially less favorable to the Holders of the Notes than encumbrances and restrictions contained in the Initial Agreement or Initial Agreements to which such Refinancing Agreement or Amendment relates (as determined in good faith by the Company);

(4) pursuant to customary provisions in joint venture agreements and other similar agreements entered into in the ordinary course of business;

(5) (A) pursuant to any agreement or instrument that restricts in a customary manner the assignment or transfer thereof, or the subletting, assignment or transfer of any property or asset subject thereto, (B) by virtue of any transfer of, agreement to transfer, option or right with respect to, or Lien on, any property or assets of the Company or any Restricted Subsidiary not otherwise prohibited by this Indenture, (C) contained in mortgages, pledges or other security agreements securing Indebtedness or other obligations of the Company or a Restricted Subsidiary to the extent restricting the transfer of the property or assets subject thereto, (D) pursuant to customary provisions restricting dispositions of real property interests set forth in any reciprocal easement agreements of the Company or any Restricted Subsidiary, (E) pursuant to Purchase Money Obligations that impose encumbrances or restrictions on the property or assets so acquired, (F) on cash or other deposits, net worth or inventory imposed by customers or suppliers under agreements entered into in the ordinary course of business, (G) pursuant to customary provisions contained in agreements and instruments entered into in the ordinary course of business (including but not limited to leases and licenses) or in joint venture and other similar agreements or in shareholder, partnership, limited liability company and other similar agreements in respect of non-wholly owned Restricted Subsidiaries, (H) that arises or is agreed to in the ordinary course of business and does not detract from the value of property or assets of the Company or any Restricted Subsidiary in any manner material to the Company or such Restricted Subsidiary, or (I) pursuant to Hedging Obligations, Bank Products Obligations or Open Account Obligations;

(6) with respect to any agreement for the direct or indirect disposition of Capital Stock, property or assets of any Person, property or assets, imposing restrictions with respect to such Person, Capital Stock, property or assets pending the closing of such sale or disposition;

(7) by reason of any applicable law, rule, regulation or order, or required by any regulatory authority having jurisdiction over the Company or any Restricted Subsidiary or any of their businesses, including any such law, rule, regulation, order or requirement applicable in connection with such Restricted Subsidiary's status (or the status of any Subsidiary of such Restricted Subsidiary) as a Captive Insurance Subsidiary; or

(8) pursuant to an agreement or instrument (A) relating to any Indebtedness permitted to be Incurred subsequent to the Issue Date pursuant to Section 407 (i) if the encumbrances and restrictions contained in any such agreement or instrument taken as a whole are not materially less favorable to the Holders of the Notes than the encumbrances and restrictions contained in the Initial Agreements (as determined in good faith by the Company) or (ii) if such encumbrance or restriction is not materially more disadvantageous to the Holders of the Notes than is customary in comparable financings (as determined in good faith by the Company) and either (x) the Company determines in good faith that such encumbrance or restriction will not materially affect the Company's ability to make principal or interest payments on the Notes or (y) such encumbrance or restriction applies only if a default occurs in respect of a payment or financial covenant relating to such Indebtedness, (B) relating to any sale of receivables by or Indebtedness of a Foreign Subsidiary or (C) relating to Indebtedness of or a Financing Disposition by or to or in favor of any Receivables Subsidiary.

Section 411. Limitation on Sales of Assets and Subsidiary Stock. (a) The Company will not, and will not permit any Restricted Subsidiary to, make any Asset Disposition unless:

(i) the Company or such Restricted Subsidiary receives consideration (including by way of relief from, or by any other Person assuming responsibility for, any liabilities, contingent or otherwise) at the time of such Asset Disposition at least equal to the Fair Market Value of the shares and assets subject to such Asset Disposition, as such Fair Market Value (on the date a legally binding commitment for such Asset Disposition was entered into) may be determined in good faith by the Company, whose determination shall be conclusive (including as to the value of all noncash consideration);

(ii) in the case of any Asset Disposition (or series of related Asset Dispositions) having a Fair Market Value (on the date a legally binding commitment for such Asset Disposition was entered into) of \$50.0 million or more, at least 75.0% of the consideration therefor (excluding, in the case of an Asset Disposition (or series of related Asset Dispositions), any consideration by way of relief from, or by any other Person assuming responsibility for, any liabilities, contingent or otherwise, that are not Indebtedness) for such Asset Disposition, together with all other Asset Dispositions since the Issue Date (on a cumulative basis) received by the Company or such Restricted Subsidiary is in the form of cash; and

(iii) an amount equal to 100.0% of the Net Available Cash from such Asset Disposition is applied by the Company (or any Restricted Subsidiary, as the case may be) as follows:

(A) first, either (x) to the extent the Company or such Restricted Subsidiary elects (or is required by the terms of any Senior Indebtedness of the Company or any Subsidiary Guarantor or any Indebtedness of a Restricted Subsidiary that is not a Subsidiary Guarantor), to prepay, repay or purchase any such Indebtedness or Obligations in respect thereof or (in the case of letters of credit, bankers' acceptances or other similar instruments) cash collateralize any such Indebtedness or Obligations in respect thereof (in each case other than Indebtedness owed to the Company or a Restricted Subsidiary) within 18 months after the later of the date of such Asset Disposition and the date of receipt of such Net Available Cash, or (y) to the extent the Company or such Restricted Subsidiary elects, to invest in Additional Assets (including by means of an investment in Additional Assets by a Restricted Subsidiary with an amount equal to Net Available Cash received by the Company or another Restricted Subsidiary) within 18 months from the later of the date of such Asset Disposition and the date of receipt of such Net Available Cash or, if such investment in Additional Assets is a project authorized by the Board of Directors that will take longer than such 18 months to complete, the period of time necessary to complete such project; provided that the Company and its Restricted Subsidiaries will be deemed to have reinvested such Net Available Cash if and to the extent that, within 18 months after the Asset Disposition that generated the Net Available Cash, the Company or such Restricted Subsidiary has entered into and not abandoned or rejected a binding agreement to consummate any such investment described in this clause (A) with the good faith expectation that such Net Available Cash will be applied to satisfy such commitment within 180 days of such commitment;

(B) second, to the extent of the balance of such Net Available Cash after application in accordance with clause (A) above (such balance, the "Excess Proceeds"), to make an offer to purchase Notes and (to the extent the Company or such Restricted Subsidiary elects, or is required by the terms thereof) to purchase, redeem, prepay or repay any other Senior Indebtedness of the Company or a Restricted Subsidiary, pursuant and subject to Section 411(b) and Section 411(c) and the agreements governing such other Indebtedness; provided, further, that, if after giving effect to such purchases, redemptions, prepayments or repayments, (x) the Consolidated Secured Leverage Ratio is equal to or less than 1.00:1.00 and greater than 0.75:1.00, only 50% and (y) the Consolidated Secured Leverage Ratio is equal to or less than 0.75:1.00, 0.00%, in each case, of such Excess Proceeds shall be required to be used to make such an offer; and

(C) third, to the extent of the balance of such Net Available Cash after application in accordance with clauses (A) and (B) above (the amount of such balance, "Declined Excess Proceeds"), to fund (to the extent consistent with any other applicable provision of this Indenture) any general corporate purpose (including but not limited to the repurchase, repayment or other acquisition or retirement of any Subordinated Obligations or the making of other Restricted Payments);

provided, however, that (1) in connection with any prepayment, repayment or purchase of Indebtedness pursuant to clause (A)(x) or (B) above, the Company or such Restricted Subsidiary will cause the related loan commitment (if any) to be permanently reduced in an amount equal to the principal amount so prepaid, repaid or purchased and (2) the Company (or any Restricted Subsidiary, as the case may be) may elect to invest in Additional Assets prior to receiving the Net Available Cash attributable to any given Asset Disposition (provided that such investment shall be made no earlier than the earliest of notice to the Trustee of the relevant Asset Disposition, execution of a definitive agreement for the relevant Asset Disposition, and consummation of the relevant Asset Disposition) and deem the amount so invested to be applied pursuant to and in accordance with clause (A)(y) above with respect to such Asset Disposition.

Notwithstanding the foregoing provision in Section 411(a)(iii), to the extent that repatriating any or all of the Net Available Cash from any Asset Disposition by a Foreign Subsidiary (x) would result in material adverse tax consequences to the Company or any of its Subsidiaries or (y) is prohibited or delayed by applicable local law from being repatriated to the United States (in the case of the foregoing clauses (x) and (y), as reasonably determined by the Company in good faith which determination shall be conclusive), the portion of such Net Available Cash so affected will not be required to be applied in compliance with clause (iii) of the first paragraph of this covenant, and such amounts may be retained by the applicable Foreign Subsidiary; provided that, in the case of this clause (y), the Company shall take commercially reasonable efforts to cause the applicable Foreign Subsidiary to take all actions reasonably required by the applicable local law, applicable organizational impediments or other impediment to permit such repatriation, and if such repatriation of any of such affected Net Available Cash can be achieved such repatriation will be promptly effected and such repatriated Net Available Cash will be applied (whether or not repatriation actually occurs) in compliance with clause (iii) of the first paragraph of this covenant. The time periods set forth in this covenant shall not start until such time as the Net Available Cash may be repatriated whether or not such repatriation actually occurs.

Notwithstanding the foregoing provisions of this Section 411, the Company and the Restricted Subsidiaries shall not be required to apply any Net Available Cash or equivalent amount in accordance with this Section 411 except to the extent that the aggregate Net Available Cash from all Asset Dispositions or equivalent amount that is not applied in accordance with this Section 411 exceeds \$30.0 million. If the aggregate principal amount of Notes and/or other Indebtedness of the Company or a Restricted Subsidiary validly tendered and not withdrawn (or otherwise subject to purchase, redemption or repayment) in connection with an offer pursuant to clause (B) above exceeds the Excess Proceeds, the Excess Proceeds will be apportioned between such Notes and such other Indebtedness of the Company or a Restricted Subsidiary, with the portion of the Excess Proceeds payable in respect of such Notes to equal the lesser of (x) the Excess Proceeds amount multiplied by a fraction, the numerator of which is the outstanding principal amount of such Notes and the denominator of which is the sum of the outstanding principal amount of the Notes and the outstanding principal amount of the relevant other Indebtedness of the Company or a Restricted Subsidiary, and (y) the aggregate principal amount of Notes validly tendered and not withdrawn.

For the purposes of Section 411(a)(ii), the following are deemed to be cash: (1) Temporary Cash Investments and Cash Equivalents; (2) the assumption of Indebtedness of the Company (other than Disqualified Stock of the Company) or any Restricted Subsidiary and the release of the Company or such Restricted Subsidiary from all liability on payment of the principal amount of such Indebtedness in connection with such Asset Disposition; (3) Indebtedness of any Restricted Subsidiary that is no longer a Restricted Subsidiary as a result of such Asset Disposition, to the extent that the Company and each other Restricted Subsidiary are released from any Guarantee of payment of the principal amount of such Indebtedness in connection with such Asset Disposition; (4) securities received by the Company or any Restricted Subsidiary from the transferee that are converted by the Company or such Restricted Subsidiary into cash within 180 days; (5) consideration consisting of Indebtedness of the Company or any Restricted Subsidiary; (6) Additional Assets; and (7) any Designated Noncash Consideration received by the Company or any of its Restricted Subsidiaries in an Asset Disposition having an aggregate Fair Market Value, taken together with all other Designated Noncash Consideration received pursuant to this clause, not to exceed an aggregate amount at any time outstanding equal to the greater of \$50.0 million and 1.25% of Consolidated Tangible Assets (with the Fair Market Value of each item of Designated Noncash Consideration being measured on the date a legally binding commitment for such disposition (or, if later, for the payment of such item) was entered into and without giving effect to subsequent changes in value).

(b) In the event of an Asset Disposition that requires the purchase of Notes pursuant to Section 411(a)(iii)(B), the Company will be required to purchase Notes validly tendered and not withdrawn pursuant to an offer by the Company for the Notes (the “Offer”) at a purchase price of 100.0% of their principal amount plus accrued and unpaid interest to the date of purchase in accordance with the procedures (including prorating among the Notes and other applicable Indebtedness) set forth in Section 411(c). If the aggregate purchase price of the Notes validly tendered and not withdrawn pursuant to the Offer is less than the Net Available Cash allotted to the purchase of Notes, the remaining Net Available Cash will be available to the Company and the Restricted Subsidiaries for use in accordance with Section 411(a)(iii)(B) (to repay other Senior Indebtedness of the Company or a Restricted Subsidiary) or Section 411(a)(iii)(C) and the amount of Excess Proceeds will be reset at zero. The Company shall not be required to make an Offer for Notes pursuant to this Section 411 if the Net Available Cash available therefor (after application of the proceeds as provided in Section 411(a)(iii)(A)) is less than \$50.0 million for any particular Asset Disposition (which lesser amounts shall be carried forward for purposes of determining whether an Offer is required with respect to the Net Available Cash from any subsequent Asset Disposition). No Note will be repurchased in part if less than \$2,000 in original principal amount of such Note would be left outstanding.

(c) The Company shall, not later than 45 days after the Company becomes obligated to make an Offer pursuant to this Section 411, mail or otherwise deliver in accordance with the applicable procedures of DTC a notice to each Holder with a copy to the Trustee stating: (1) that an Asset Disposition that requires the purchase of a portion of the Notes has occurred and that such Holder has the right (subject to the prorating described below) to require the Company to purchase a portion of such Holder’s Notes at a purchase price in cash equal to 100.0% of the principal amount thereof, *plus* accrued and unpaid interest, if any, to the date of purchase (subject to the right of Holders of record on a record date to receive interest on the relevant Interest Payment Date falling prior to or on the purchase date); (2) the repurchase date (which shall be no earlier than 10 days nor later than 60 days from the date such notice is mailed or delivered, except that such notice may be delivered more than 60 days prior to the purchase date if the purchase is delayed as provided in clause (5) of this Section 411(c)); (3) the instructions determined by the Company, consistent with this Section 411, that a Holder must follow in order to have its Notes purchased; (4) the amount of the Offer which amount may be contingent upon the Net Available Cash remaining following the application of Net Available Cash pursuant to Section 411(a)(iii)(A) and (5) if such notice is mailed or delivered prior to the date the Net Available Cash attributable to such Asset Disposition is received, that such offer is conditioned upon receipt of such Net Available Cash and that the purchase date may, in the Company’s discretion, be delayed until such time as the Net Available Cash is received. If, upon the expiration of the period for which the Offer remains open, the aggregate principal amount of Notes surrendered by Holders exceeds the amount of the Offer, the Company shall select the Notes to be purchased on a *pro rata* basis (with such adjustments as may be deemed appropriate by the Company so that only Notes in denominations of \$2,000 or integral multiples of \$1,000 in excess thereof shall be purchased).

(d) The Company will comply, to the extent applicable, with the requirements of Section 14(e) of the Exchange Act and any other securities laws or regulations in connection with the repurchase of Notes pursuant to this Section 411. To the extent that the provisions of any securities laws or regulations conflict with provisions of this Section 411, the Company will comply with the applicable securities laws and regulations and will not be deemed to have breached its obligations under this Section 411 by virtue thereof.

Section 412. Limitation on Transactions with Affiliates. (a) The Company will not, and will not permit any Restricted Subsidiary to, directly or indirectly, enter into or conduct any transaction or series of related transactions (including the purchase, sale, lease or exchange of any property or the rendering of any service) with any Affiliate of the Company (an "Affiliate Transaction") involving aggregate consideration in excess of the greater of \$20.0 million and 0.50% of Consolidated Tangible Assets unless (i) the terms of such Affiliate Transaction are not materially less favorable to the Company or such Restricted Subsidiary, as the case may be, than those that could be obtained at the time in a transaction with a Person who is not such an Affiliate and (ii) if such Affiliate Transaction involves aggregate consideration in excess of the greater of \$50.0 million and 1.25% of Consolidated Tangible Assets, the terms of such Affiliate Transaction have been approved by a majority of the Board of Directors. For purposes of this Section 412(a), any Affiliate Transaction shall be deemed to have satisfied the requirements set forth in this Section 412(a) if (x) such Affiliate Transaction is approved by a majority of the Disinterested Directors or (y) in the event there are no Disinterested Directors, a fairness opinion is provided by a nationally recognized appraisal or investment banking firm with respect to such Affiliate Transaction.

(b) The provisions of Section 412(a) will not apply to:

(i) any Restricted Payment Transaction;

(ii) (1) the entering into, maintaining or performance of any employment or consulting contract, collective bargaining agreement, benefit plan, program or arrangement, related trust agreement or any other similar arrangement for or with any current or former management member, employee, officer or director or consultant of or to the Company or any Restricted Subsidiary heretofore or hereafter entered into in the ordinary course of business, including vacation, health, insurance, deferred compensation, severance, retirement, savings or other similar plans, programs or arrangements, (2) payments, compensation, performance of indemnification or contribution obligations, the making or cancellation of loans in the ordinary course of business to any such management members, employees, officers, directors or consultants, (3) any issuance, grant or award of stock, options, other equity related interests or other securities, to any such management members, employees, officers, directors or consultants, (4) the payment of reasonable fees to directors of the Company or any of its Subsidiaries (as determined in good faith by the Company or such Subsidiary), or (5) any transaction with an officer or director of the Company or any of its Subsidiaries in the ordinary course of business, or (6) Management Advances and payments in respect thereof (or in reimbursement of any expenses referred to in the definition of such term);

(iii) any transaction between or among any of the Company, one or more Restricted Subsidiaries, or one or more Receivables Subsidiaries,

(iv) (A) any agreement or arrangement as in effect as of the Issue Date (or transactions pursuant thereto), (B) any other agreements or arrangements (or transactions pursuant thereto) as in effect on the Escrow Release Date (including the Transaction Documents) or pursuant to or in connection with the Transaction Documents (including the Transactions) or (C) any amendment, modification or supplement to the agreements referenced in clauses (A) or (B) above or any replacement thereof, as long as the terms of such agreement or arrangement, as so amended, modified, supplemented or replaced are not materially more disadvantageous to the Holders when taken as a whole when compared to the applicable agreements or arrangements as in effect on the Issue Date or as generally described in the Offering Memorandum, as applicable, as determined in good faith by the Company;

(v) any transaction in the ordinary course of business on terms that are fair to the Company and its Restricted Subsidiaries in the reasonable determination of the Board of Directors or senior management of the Company, or are not materially less favorable to the Company or the relevant Restricted Subsidiary than those that could be obtained at the time in a transaction with a Person who is not an Affiliate of the Company;

(vi) any transaction in the ordinary course of business, or approved by a majority of the Board of Directors, between the Company or any Restricted Subsidiary and any Affiliate of the Company controlled by the Company that is a joint venture or similar entity;

(vii) the Transactions and all transactions in connection therewith (including but not limited to the financing thereof), to the extent consistent with the descriptions thereof in the Offering Memorandum, and all fees and expenses paid or payable in connection with the Transactions;

(viii) any issuance or sale of Capital Stock (other than Disqualified Stock) of the Company or Junior Capital or any capital contribution to the Company;

(ix) any investment by any Affiliate of the Company in securities or term loans of the Company or any of its Restricted Subsidiaries (and payment of out-of-pocket expenses incurred by any such Affiliate in connection therewith) so long as such securities or term loans are being offered generally to investors (other than Affiliates of the Company) on the same or more favorable terms; and

(x) any transactions undertaken in connection with the VS Transaction, the Separation, the Escrow Release Date Payment or the Escrow Release Date Distribution.

Section 413. Limitation on Liens. The Company shall not, and shall not permit any Restricted Subsidiary to, directly or indirectly, create or permit to exist any Lien (the "Initial Lien") on any of its property or assets (including Capital Stock of any other Person), whether owned on the date of this Indenture or thereafter acquired, securing any Indebtedness, other than such Initial Lien if (a) the Notes and the Subsidiary Guarantees are equally and ratably secured with (or on a senior basis to, in the case such Initial Lien secures any Subordinated Obligations) the Obligations secured by such Initial Lien or (b) such Initial Lien is a Permitted Lien.

Any such Lien thereby created in favor of the Notes or any such Subsidiary Guarantee will be automatically and unconditionally released and discharged upon (i) the release and discharge of the Initial Lien to which it relates, (ii) in the case of any such Lien in favor of any such Subsidiary Guarantee, upon the termination and discharge of such Subsidiary Guarantee in accordance with the terms of Section 1303 or (iii) any sale, exchange or transfer (other than a transfer constituting a transfer of all or substantially all of the assets of the Company that is governed by Section 501) to any Person not an Affiliate of the Company of the property or assets secured by such Initial Lien, or of all of the Capital Stock held by the Company or any Restricted Subsidiary in, or all or substantially all the assets of, any Restricted Subsidiary creating such Initial Lien.

Section 414. Future Subsidiary Guarantors. After the Escrow Release Date, the Company will cause each Wholly Owned Domestic Restricted Subsidiary that is not a Subsidiary Guarantor and that (x) guarantees payment by the Company or any Subsidiary Guarantor of any Indebtedness of the Company or any Subsidiary Guarantor under any of the Senior Credit Facilities, (y) becomes a borrower under the ABL Facility or (z) becomes a primary obligor or guarantor in respect of any Material Indebtedness to execute and deliver to the Trustee within 30 days thereafter a supplemental indenture or other instrument pursuant to which such Wholly Owned Domestic Restricted Subsidiary will guarantee payment of the Notes, whereupon such Wholly Owned Domestic Restricted Subsidiary will become a Subsidiary Guarantor for all purposes under this Indenture. The Company will also have the right to cause any other Subsidiary to guarantee payment of the Notes. Subsidiary Guarantees will be subject to release and discharge under certain circumstances prior to payment in full of the Notes pursuant to Section 1303.

Section 415. Purchase of Notes Upon a Change of Control. (a) If a Change of Control occurs after the Escrow Release Date, unless the Company has exercised its right to redeem the Notes pursuant to Article X, Noteholders will have the right to require the Company to repurchase all or any part in an integral multiple of \$1,000 of such Noteholder's Notes (provided that no Note will be purchased in part if the remaining principal amount of such Note would be less than \$2,000) pursuant to the offer described below (the "Change of Control Offer") on the terms set forth in this Indenture. In the Change of Control Offer, the Company will be required to offer payment in cash equal to 101% of the aggregate principal amount of Notes repurchased plus accrued and unpaid interest, if any, on the Notes repurchased, to but excluding the date of purchase (the "Change of Control Payment"). Within 30 days following any Change of Control, or, at the Company's option, prior to any Change of Control, but after the public announcement of the Change of Control, the Company will be required to send a notice to Noteholders describing the transaction or transactions that constitute or may constitute the Change of Control and offering to repurchase the Notes on the date specified in the notice, which date will be no earlier than 30 days and no later than 60 days from the date such notice is sent (the "Change of Control Payment Date"), pursuant to the procedures required by this Indenture and described in such notice. The notice shall, if sent prior to the date of consummation of the Change of Control, state that the offer to purchase is conditioned on the Change of Control occurring on or prior to the payment date specified in the notice. The Company must comply with the requirements of Rule 14e-1 of the Exchange Act and any other securities laws and regulations thereunder to the extent those laws and regulations are applicable in connection with the repurchase of the Notes as a result of a Change of Control. To the extent that the provisions of any securities laws or regulations conflict with the Change of Control provisions of this Indenture, the Company will be required to comply with the applicable securities laws and regulations and will not be deemed to have breached its obligations under this Section 415 by virtue of such conflicts.

(b) On the Change of Control Payment Date, the Company will be required, to the extent lawful, to (i) accept for payment all Notes or portions of Notes properly tendered pursuant to the Change of Control Offer; (ii) deposit with the paying agent an amount equal to the Change of Control Payment in respect of all Notes or portions of Notes properly tendered; and (iii) deliver or cause to be delivered to the Trustee the Notes properly accepted together with an officers' certificate stating the aggregate principal amount of Notes or portions of Notes being purchased.

(c) The Company will not be required to make a Change of Control Offer upon a Change of Control if a third party makes the Change of Control Offer in the manner, at the times and otherwise in compliance with the requirements set forth in this Indenture applicable to a Change of Control Offer made by the Company and purchases all Notes validly tendered and not withdrawn under such Change of Control Offer.

(d) The Company will comply, to the extent applicable, with the requirements of Section 14(e) of the Exchange Act and any other securities laws or regulations in connection with the repurchase of Notes pursuant to this Section 415. To the extent that the provisions of any securities laws or regulations conflict with provisions of this Section 415, the Company will comply with the applicable securities laws and regulations and will not be deemed to have breached its obligations under this Section 415 by virtue thereof.

(e) A Change of Control Offer may be made in advance of a Change of Control, conditional upon such Change of Control, if a definitive agreement that if fully performed would result in a Change of Control is in effect at the time of making of the Change of Control Offer.

Section 416. Suspension of Covenants on Achievement of Investment Grade Rating. (a) If on any day following the Escrow Release Date (a) the Notes have Investment Grade Ratings from both Rating Agencies, and (b) no Default has occurred and is continuing under this Indenture (the occurrence of the events described in the foregoing clauses (a) and (b) being collectively referred to as a “Covenant Suspension Event”), then, beginning on that day (the “Suspension Date”) and subject to the provisions of the following paragraph, the covenants set forth in Section 407, Section 409, Section 410, Section 411, Section 412, Section 414, Section 501(a)(iii) and Section 501(a)(iv) (collectively, the “Suspended Covenants”) will be suspended. During any period that the foregoing covenants have been suspended, the Board of Directors may not designate any of its Subsidiaries as Unrestricted Subsidiaries unless such designation would have complied with Section 409 as if Section 409 would have been in effect during such period.

(b) If on any subsequent date one or both of the Rating Agencies downgrade the ratings assigned to the Notes below an Investment Grade Rating, the foregoing covenants will be reinstated as of and from the time at which the Company obtains actual knowledge of such rating decline (any such time, a “Reversion Time”). The period of time between the Suspension Date and the Reversion Time is referred to as the “Suspension Period.” Upon such reinstatement, all Indebtedness Incurred during the Suspension Period will be deemed to have been Incurred under the exception provided by Section 407(b)(iii). With respect to Restricted Payments made after any such reinstatement, the amount of Restricted Payments will be calculated as if Section 409 had been in effect prior to, but not during, the Suspension Period. For purposes of Section 411, upon the occurrence of the Reversion Time the amount of Net Available Cash not applied in accordance with such covenant will be deemed to be reset to zero. In addition, for purposes of Section 412, all agreements and arrangements entered into by the Company and any Restricted Subsidiary with an Affiliate of the Company during the Suspension Period prior to such Reversion Time will be deemed to have been entered into on or prior to the Issue Date, and for purposes of Section 410, all contracts entered into during the Suspension Period prior to such Reversion Time that contain any of the encumbrances or restrictions subject to such covenant will be deemed to have been existing on the Issue Date. The Subsidiary Guarantees of the Subsidiary Guarantors will be released during the Suspension Period. The Trustee shall not have any duty to monitor any Suspension Period or Reversion Time or to notify Holders of such.

(c) During the Suspension Period, any reference in the definitions of “Permitted Liens” and “Unrestricted Subsidiary” to Section 407 or any provision thereof shall be construed as if such covenant were in effect during the Suspension Period.

Notwithstanding that the Suspended Covenants may be reinstated, no Default or Event of Default will be deemed to have occurred as a result of any actions taken by the Company or any Subsidiary (including for the avoidance of doubt any failure to comply with the Suspended Covenants) or other events that occurred during any Suspension Period (or upon termination of the Suspension Period or after that time arising out of events that occurred or actions taken during the Suspension Period) and the Company and any Subsidiary will be permitted, without causing a Default or Event of Default or breach of any kind under this Indenture, to honor, comply with or otherwise perform any contractual commitments or obligations entered into during a Suspension Period following a Reversion Time and to consummate the transactions contemplated thereby.

(d) The Company shall deliver promptly to the Trustee an Officer's Certificate notifying it of the occurrence of any Suspension Date or any Reversion Time, but failure to so notify the Trustee shall not invalidate the occurrence of any Suspension Date or Reversion Time and shall not constitute a Default or Event of Default by the Company. The Trustee shall have no independent obligation to determine if a Suspension Period or Reversion Time has commenced or terminated or to notify Holders regarding the same.

Section 417. [Reserved].

Section 418. Additional Limitations on Intellectual Property Transfers. The Company shall not, and shall not permit any Restricted Subsidiary to, directly or indirectly, transfer the ownership of any intellectual property that the Company determines in good faith is material to the Company and its Restricted Subsidiaries taken as a whole ("Material Intellectual Property") to an Unrestricted Subsidiary except to the extent such Material Intellectual Property is related to the anticipated business activities to be conducted by such Unrestricted Subsidiary (as determined by the Company in good faith).

Section 419. Activities of the Company Prior to the Escrow Release. Prior to the Escrow Release Date, the Company's activities shall be limited to (i) issuing the Notes, (ii) issuing equity interests to, and receiving capital contributions from, L Brands, Inc. or any of its Subsidiaries and maintaining in effect the L Brands Commitment, (iii) Incurring Obligations solely for purposes of paying any Special Mandatory Redemption, (iv) performing its obligations in respect of the Notes under this Indenture and the Escrow Agreement, (v) consummating the Restructuring (including interim transactions required to effect the Restructuring in accordance with the Separation Agreement) or redeeming the Notes on the Special Mandatory Redemption Date, as applicable, (vi) directing the investment by the Escrow Agent of the amounts deposited in the Escrow Account as specified under the Escrow Agreement and (vii) conducting such other activities as are necessary or appropriate to carry out, or are incidental or related to, the activities described above, including borrowing under the Senior Credit Agreements in connection with the Separation as described in the Offering Memorandum. Prior to the Restructuring on the Escrow Release Date, the Company shall not Incur any Indebtedness (other than Obligations solely for purposes of paying any Special Mandatory Redemption) other than the Notes and Indebtedness under the Senior Credit Agreements or own, hold or otherwise have any interest in any assets other than the Escrowed Property and cash or the MMDA.

ARTICLE V

SUCCESSORS

Section 501. When the Company May Merge, Etc. (a) After the Escrow Release Date, the Company shall not consolidate with or merge with or into, or convey, lease or otherwise transfer other than for cash all or substantially all its assets to, any Person, unless:

(i) the resulting, surviving or transferee Person (the "Successor Company") will be a Person organized and existing under the laws of the United States of America, any State thereof or the District of Columbia and the Successor Company (if not the Company) will expressly assume all the obligations of the Company under the Notes and this Indenture by executing and delivering to the Trustee an Officer's Certificate, an Opinion of Counsel and a supplemental indenture or one or more other documents or instruments in form reasonably satisfactory to the Trustee;

(ii) immediately after giving effect to such transaction (and treating any Indebtedness that becomes an obligation of the Successor Company or any Restricted Subsidiary as a result of such transaction as having been Incurred by the Successor Company or such Restricted Subsidiary at the time of such transaction), no Default will have occurred and be continuing;

(iii) immediately after giving effect to such transaction, either (A) the Company (or, if applicable, the Successor Company with respect thereto) could incur at least \$1.00 of additional Indebtedness pursuant to Section 407(a) or (B) the Consolidated Coverage Ratio of the Company (or, if applicable, the Successor Company with respect thereto) would equal or exceed the Consolidated Coverage Ratio of the Company immediately prior to giving effect to such transaction;

(iv) each Subsidiary Guarantor (other than (x) any Subsidiary Guarantor that will be released from its obligations under its Subsidiary Guarantee in connection with such transaction and (y) any party to any such consolidation or merger) shall have delivered a supplemental indenture or other document or instrument in form reasonably satisfactory to the Trustee, confirming its Subsidiary Guarantee (other than any Subsidiary Guarantee that will be discharged or terminated in connection with such transaction); and

(v) the Company will have delivered to the Trustee an Officer's Certificate and an Opinion of Counsel, each to the effect that such consolidation, merger or transfer complies with the provisions described in this Section 501(a); provided that (x) in giving such opinion such counsel may rely on an Officer's Certificate as to compliance with the foregoing clauses (ii) and (iii) and as to any matters of fact, and (y) no Opinion of Counsel will be required for a consolidation, merger or transfer described in Section 501(b).

Any Indebtedness that becomes an obligation of the Company (or, if applicable, the Successor Company with respect thereto) or any Restricted Subsidiary (or that is deemed to be Incurred by any Restricted Subsidiary that becomes a Restricted Subsidiary) as a result of any such transaction undertaken in compliance with this Section 501, and any Refinancing Indebtedness with respect thereto, shall be deemed to have been Incurred in compliance with Section 407.

(b) Clauses (ii) and (iii) of Section 501(a) will not apply to any transaction in which the Company consolidates or merges with or into or transfers all or substantially all its properties and assets to (x) an Affiliate incorporated or organized for the purpose of reincorporating or reorganizing the Company in another jurisdiction or changing its legal structure to a corporation, limited liability company or other entity or (y) a Restricted Subsidiary of the Company so long as all assets of the Company and the Restricted Subsidiaries immediately prior to such transaction (other than Capital Stock of such Restricted Subsidiary) are owned by such Restricted Subsidiary and its Restricted Subsidiaries immediately after the consummation thereof. Section 501(a) will not apply to any transaction in which any Restricted Subsidiary consolidates with, merges into or transfers all or part of its assets to the Company.

For the avoidance of doubt, this Section 501 shall not prohibit, restrict or limit the Company's ability to consummate the Separation.

Section 502. Successor Company Substituted. Upon any transaction involving the Company in accordance with Section 501 in which the Company is not the Successor Company, the Successor Company will succeed to, and be substituted for, and may exercise every right and power of, the Company under the Note Documents, and thereafter the predecessor Company shall be relieved of all obligations and covenants under the Note Documents, except that the predecessor Company the case of a lease of all or substantially all its assets will not be released from the obligation to pay the principal of and interest on the Notes.

ARTICLE VI

REMEDIES

Section 601. Events of Default. An “Event of Default” means the occurrence of the following:

- (i) a default in any payment of interest on any Note when due, continued for a period of 30 days;
- (ii) a default in the payment of principal of any Note when due, whether at its Stated Maturity, upon optional redemption, Special Mandatory Redemption, required repurchase, declaration of acceleration or otherwise;
- (iii) the failure by the Company to comply with its obligations under Sections 501(a);
- (iv) the failure by the Company to comply for 30 days after the notice specified in the penultimate paragraph of this Section 601 with any of its obligations under Section 415 (other than a failure to purchase the Notes);
- (v) the failure by the Company to comply for (x) 180 days after the notice specified in the penultimate paragraph of this Section 601 with any of its obligations under Section 405 or (y) 60 days after the notice specified in the penultimate paragraph of this Section 601 with its other agreements contained in a Note Document;
- (vi) the failure by any Subsidiary Guarantor to comply for 45 days after the notice specified in the penultimate paragraph of this Section 601 with its obligations under its Subsidiary Guarantee;
- (vii) the failure by the Company or any Restricted Subsidiary to pay any Indebtedness for borrowed money (other than Indebtedness owed to the Company or any Restricted Subsidiary) within any applicable grace period after final maturity or the acceleration of any such Indebtedness by the holders thereof because of a default, if the total amount of such Indebtedness so unpaid or accelerated exceeds \$100.0 million or its foreign currency equivalent; provided that no Default or Event of Default will be deemed to occur with respect to any such Indebtedness that is paid or otherwise acquired or retired (or for which such failure to pay or acceleration is waived or rescinded) within 20 Business Days after such failure to pay or such acceleration;
- (viii) the taking of any of the following actions by the Company or a Significant Subsidiary, pursuant to or within the meaning of any Bankruptcy Law:
 - (A) the commencement of a voluntary case;
 - (B) the consent to the entry of an order for relief against it in an involuntary case;
 - (C) the consent to the appointment of a Custodian of it or for any substantial part of its property; or
 - (D) the making of a general assignment for the benefit of its creditors;

(ix) a court of competent jurisdiction enters an order or decree under any Bankruptcy Law that:

- (A) is for relief against the Company or any Significant Subsidiary in an involuntary case;
- (B) appoints a Custodian of the Company or any Significant Subsidiary or for any substantial part of its property; or
- (C) orders the winding up or liquidation of the Company or any Significant Subsidiary;

and the order or decree remains unstayed and in effect for 60 days;

(x) the rendering of any judgment or decree for the payment of money in an amount (net of any insurance or indemnity payments actually received in respect thereof prior to or within 90 days from the entry thereof, or to be received in respect thereof in the event any appeal thereof shall be unsuccessful) in excess of \$100.0 million or its foreign currency equivalent against the Company or a Significant Subsidiary that is not discharged, or bonded or insured by a third Person, if such judgment or decree remains outstanding for a period of 90 days following such judgment or decree and is not discharged, waived or stayed; or

(xi) the failure of any Subsidiary Guarantee by a Subsidiary Guarantor that is a Significant Subsidiary to be in full force and effect (except as contemplated by the terms thereof or of this Indenture) or the denial or disaffirmation in writing by any Subsidiary Guarantor that is a Significant Subsidiary of its obligations under this Indenture or any Subsidiary Guarantee (other than by reason of the termination of this Indenture or such Subsidiary Guarantee or the release of such Subsidiary Guarantee in accordance with such Subsidiary Guarantee or this Indenture), if such Default continues for 10 days.

The foregoing will constitute Events of Default whatever the reason for any such Event of Default and whether it is voluntary or involuntary or is effected by operation of law or pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body.

The term "Bankruptcy Law" means Title 11, United States Code, or any similar Federal, state or foreign law for the relief of debtors. The term "Custodian" means any receiver, trustee, assignee, liquidator, custodian or similar official under any Bankruptcy Law.

However, a Default under Section 601(iv), Section 601(v) or Section 601(vi) will not constitute an Event of Default until the Trustee or the Holders of at least 30.0% in principal amount of the Outstanding Notes notify the Company in writing of the Default and the Company does not cure such Default within 30 days after receipt of such notice. Such notice must specify the Default, demand that it be remedied and state that such notice is a "Notice of Default." When a Default or an Event of Default is cured, it ceases. Notwithstanding anything to the contrary set forth above, a notice of Default may not be given with respect to any action taken, and reported publicly or to Holders, more than two years prior to such notice of Default.

The Company shall deliver to the Trustee, within 30 days after the occurrence thereof, written notice in the form of an Officer's Certificate of any Event of Default under Section 601(vii) or Section 601(x) and any event that with the giving of notice or the lapse of time would become an Event of Default under Section 601(iv), Section 601(v) or Section 601(vi), its status and what action the Company is taking or proposes to take with respect thereto.

Section 602. Acceleration of Maturity; Rescission and Annulment. If an Event of Default (other than an Event of Default specified in Section 601(viii) or Section 601(ix) with respect to the Company) occurs and is continuing, the Trustee by written notice to the Company, or the Holders of at least 30.0% in principal amount of the Outstanding Notes by written notice to the Company and the Trustee, in either case specifying in such notice the respective Event of Default and that such notice is a “notice of acceleration,” may declare the principal of and accrued but unpaid interest on all the Notes to be due and payable. Upon the effectiveness of such a declaration, such principal and interest will be due and payable immediately.

If an Event of Default specified in Section 601(viii) or Section 601(ix) with respect to the Company occurs and is continuing, the principal of and accrued but unpaid interest on all the Outstanding Notes will *ipso facto* become immediately due and payable without any declaration or other act on the part of the Trustee or any Holder.

The Holders of a majority in principal amount of the Outstanding Notes by notice to the Company and the Trustee may rescind an acceleration and its consequences if the rescission would not conflict with any judgment or decree and if all existing Events of Default have been cured or waived except non-payment of principal or interest that has become due solely because of such acceleration. No such rescission shall affect any subsequent Default or impair any right consequent thereto.

Section 603. Other Remedies; Collection Suit by Trustee. If an Event of Default occurs and is continuing, the Trustee may, but is not obligated under this Section 603 to, pursue any available remedy to collect the payment of principal of or interest on the Notes or to enforce the performance of any provision of the Notes or this Indenture. If an Event of Default specified in Section 601(i) or 601(ii) occurs and is continuing, the Trustee may recover judgment in its own name and as trustee of an express trust against the Company for the whole amount then due and owing (together with interest on any unpaid interest to the extent lawful) and the amounts provided for in Section 707.

Section 604. Trustee May File Proofs of Claim. The Trustee may file such proofs of claim and other papers or documents as may be necessary or advisable in order to have the claims of the Trustee and the Holders allowed in any judicial proceedings relative to the Company or any other obligor upon the Notes, its creditors or its property and, unless prohibited by law or applicable regulations, may vote on behalf of the Holders in any election of a trustee in bankruptcy or other Person performing similar functions, and any Custodian in any such judicial proceeding is hereby authorized by each Holder to make payments to the Trustee and, in the event that the Trustee shall consent to the making of such payments directly to the Holders, to pay to the Trustee any amount due to it for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and its counsel, and any other amounts due the Trustee under Section 707.

No provision of this Indenture shall be deemed to authorize the Trustee to authorize or consent to or accept or adopt on behalf of any Holder any plan of reorganization, arrangement, adjustment or composition affecting the Notes or the rights of any Holder thereof or to authorize the Trustee to vote in respect of the claim of any Holder in any such proceeding.

Section 605. Trustee May Enforce Claims Without Possession of Notes. All rights of action and claims under this Indenture or the Notes may be prosecuted and enforced by the Trustee without the possession of any of the Notes or the production thereof in any proceeding relating thereto, and any such proceeding instituted by the Trustee shall be brought in its own name as trustee of an express trust, and any recovery of judgment shall, after provision for the payment of the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, be for the ratable benefit of the Holders of the Notes in respect of which such judgment has been recovered.

Section 606. Application of Money Collected. Any money or property collected by the Trustee pursuant to this Article VI shall be applied in the following order, at the date or dates fixed by the Trustee and, in case of the distribution of such money or property on account of principal (or premium, if any) or interest, upon presentation of the Notes and the notation thereon of the payment if only partially paid and upon surrender thereof if fully paid:

First: to the payment of all amounts due the Trustee under Section 707;

Second: to the payment in full of the Obligations in respect of the Notes (including the Subsidiary Guarantees) (the amounts so applied to be distributed among the holders of such Obligations pro rata in accordance with the amounts of the obligations owed to them on the date of such distribution); and

Third: to the Company or such other Subsidiary Guarantor, as applicable, their successors or assigns, or as a court of competent jurisdiction may otherwise direct.

Section 607. Limitation on Suits. No Holder may pursue any remedy with respect to this Indenture or the Notes unless:

- (i) such Holder has previously given the Trustee written notice that an Event of Default is continuing;
- (ii) Holders of at least 30.0% in principal amount of the Outstanding Notes have requested the Trustee in writing to pursue the remedy;
- (iii) such Holder or Holders have offered to the Trustee security or indemnity satisfactory to the Trustee against any loss, liability or expense;
- (iv) the Trustee has not complied with such request within 60 days after receipt of the request and the offer of security or indemnity; and
- (v) Holders of a majority in principal amount of the Outstanding Notes have not given the Trustee a written direction inconsistent with such request within such 60-day period.

A Holder may not use this Indenture to affect, disturb or prejudice the rights of another Holder, to obtain a preference or priority over another Holder or to enforce any right under this Indenture except in the manner herein provided and for the equal and ratable benefit of all Holders.

Section 608. Net Short Provisions.

Any notice of Default, notice of acceleration or instruction to the Trustee to provide a notice of Default, notice of acceleration or take any other action (a "Noteholder Direction") provided by any one or more Holders (each a "Directing Holder") must be accompanied by a written representation from each such Holder to the Company and the Trustee that such Holder is not (or, in the case such Holder is DTC or its nominee, that such Holder is being instructed solely by beneficial owners that have represented to such Holder that they are not) Net Short (a "Position Representation"), which representation, in the case of a Noteholder Direction relating to a notice of Default shall be deemed repeated at all times until the resulting Event of Default is cured or otherwise ceases to exist or the notes are accelerated. In addition, each Directing Holder must, at the time of providing a Noteholder Direction, covenant to provide the Company with such other information as the Company may reasonably request from time to time in order to verify the accuracy of such Holder's Position Representation within five Business Days of request therefor (a "Verification Covenant"). In any case in which the Holder is DTC or its nominee, any Position Representation or Verification Covenant required hereunder shall be provided by the beneficial owner of the Notes in lieu of DTC or its nominee. If, following the delivery of a Noteholder Direction, but prior to the acceleration of the Notes, the Company determines in good faith that there is a reasonable basis to believe a Directing Holder providing such Noteholder Direction was, at any relevant time, in breach of its Position Representation and provides to the Trustee evidence that the Company has filed papers with a court of competent jurisdiction seeking a determination that such Directing Holder was, at such time, in breach of its Position Representation, and seeking to invalidate any Event of Default that resulted from the applicable Noteholder Direction, the cure period with respect to such Event of Default shall be automatically stayed pending a final and non-appealable determination of a court of competent jurisdiction on such matter. If, following the delivery of a Noteholder Direction, but prior to acceleration of the Notes, the Company provides to the Trustee an Officer's Certificate stating that a Directing Holder failed to satisfy its Verification Covenant, the cure period with respect to any Event of Default that resulted from the applicable Noteholder Direction shall be automatically stayed pending satisfaction of such Verification Covenant. Any breach of the Position Representation shall result in such Holder's participation in such Noteholder Direction being disregarded; and, if, without the participation of such Holder, the percentage of Notes held by the remaining Holders that provided such Noteholder Direction would have been insufficient to validly provide such Noteholder Direction, such Noteholder Direction shall be void ab initio, with the effect that such Event of Default shall be deemed never to have occurred.

For the avoidance of doubt, the Trustee shall be entitled to conclusively rely without liability on any Noteholder Direction delivered to it in accordance with this Indenture, shall have no duty to inquire as to or investigate the accuracy of any Position Representation, enforce compliance with any Verification Covenant, verify any statements in any Officer's Certificate delivered to it, or otherwise make calculations, investigations or determinations with respect to Derivative Instruments, Net Shorts, Long Derivative Instruments, Short Derivative Instruments or otherwise and shall have no liability for ceasing to take any action or staying any remedy. The Trustee shall have no liability to the Company, any Holder or any other Person in acting in good faith on a Noteholder Direction or taking no action in good faith with respect thereto.

Section 609. Restoration of Rights and Remedies. If the Trustee or any Holder has instituted any proceeding to enforce any right or remedy under this Indenture or any Note and such proceeding has been discontinued or abandoned for any reason, or has been determined adversely to the Trustee or to such Holder, then and in every such case the Company, any other obligor upon the Notes, the Trustee and the Holders shall, subject to any determination in such proceeding, be restored severally and respectively to their former positions hereunder, and thereafter all rights and remedies of the Trustee and the Holders shall continue as though no such proceeding had been instituted.

Section 610. Rights and Remedies Cumulative. No right or remedy herein conferred upon or reserved to the Trustee or to the Holders is intended to be exclusive of any other right or remedy, and every right and remedy shall, to the extent permitted by law, be cumulative and in addition to every other right and remedy given hereunder or now or hereafter existing at law or in equity or otherwise. The assertion or employment of any right or remedy hereunder, or otherwise, shall not prevent the concurrent assertion or employment of any other appropriate right or remedy.

Section 611. Delay or Omission Not Waiver. No delay or omission of the Trustee or of any Holder of any Note to exercise any right or remedy accruing upon any Event of Default shall impair any such right or remedy or constitute a waiver of any such Event of Default or an acquiescence therein. Every right and remedy given by this Article VI or by law to the Trustee or to the Holders may be exercised from time to time, and as often as may be deemed expedient, by the Trustee or by the Holders, as the case may be.

Section 612. Control by Holders. The Holders of not less than a majority in aggregate principal amount of the Outstanding Notes shall have the right to direct the time, method and place of conducting any proceeding for any remedy available to the Trustee or of exercising any trust or power conferred on the Trustee; provided that

- (1) such direction shall not be in conflict with any rule of law or with this Indenture, and
- (2) the Trustee may take any other action deemed proper by the Trustee which is not inconsistent with such direction.

However, the Trustee may refuse to follow any direction that conflicts with law or this Indenture or, subject to Section 701, that the Trustee determines is unduly prejudicial to the rights of any other Holder or that would subject the Trustee to personal liability; provided, however, that the Trustee may take any other action deemed proper by the Trustee that is not inconsistent with such direction. Prior to taking any action under this Indenture, the Trustee shall be entitled to indemnification satisfactory to it in its sole discretion against all losses and expenses caused by taking or not taking such action.

Section 613. Waiver of Past Defaults. The Holders of not less than a majority in aggregate principal amount of the Outstanding Notes may on behalf of the Holders of all the Notes waive any past Default hereunder and its consequences, except a Default

- (1) in the payment of principal of or interest on any Note (which may only be waived with the consent of each Holder of Notes), or
- (2) in respect of a covenant or provision hereof that pursuant to the second paragraph of Section 902 cannot be modified or amended without the consent of the Holder of each Outstanding Note.

Upon any such waiver, such Default shall cease to exist, and any Event of Default arising therefrom shall be deemed to have been cured, for every purpose of this Indenture; but no such waiver shall extend to any subsequent or other Default or Event of Default or impair any right consequent thereon. In case of any such waiver, the Company, any other obligor upon the Notes, the Trustee and the Holders shall be restored to their former positions and rights hereunder and under the Notes, respectively.

Section 614. Undertaking for Costs. All parties to this Indenture agree, and each Holder of any Note by such Holder's acceptance thereof shall be deemed to have agreed, that any court may in its discretion require, in any suit for the enforcement of any right or remedy under this Indenture or the Notes, or in any suit against the Trustee for any action taken, suffered or omitted by it as Trustee the filing by any party litigant in such suit of an undertaking to pay the costs of such suit, and that such court may in its discretion assess reasonable costs, including reasonable attorneys' fees, against any party litigant in such suit, having due regard to the merits and good faith of the claims or defenses made by such party litigant. This Section 614 shall not apply to any suit instituted by the Trustee to any suit instituted by any Holder, or group of Holders, holding in the aggregate more than 10.0% in principal amount of the Outstanding Notes, or to any suit instituted by any Holder for the enforcement of the payment of principal of (or premium, if any) or interest on any Note on or after the respective Stated Maturity or Interest Payment Dates expressed in such Note.

Section 615. Waiver of Stay, Extension or Usury Laws. The Company agrees (to the extent that it may lawfully do so) that it shall not at any time insist upon, or plead, or in any manner whatsoever claim or take the benefit or advantage of, any stay or extension law or any usury or other similar law wherever enacted, now or at any time hereafter in force, that would prohibit or forgive the Company from paying all or any portion of the principal of (or premium, if any) or interest on the Notes contemplated herein or in the Notes or that may affect the covenants or the performance of this Indenture; and the Company (to the extent that it may lawfully do so) hereby expressly waives all benefit or advantage of any such law, and shall not hinder, delay or impede the execution of any power herein granted to the Trustee, but will suffer and permit the execution of every such power as though no such law had been enacted.

ARTICLE VII

THE TRUSTEE

Section 701. Certain Duties and Responsibilities. (a) Except during the continuance of an Event of Default,

(1) the Trustee undertakes to perform such duties and only such duties as are specifically set forth in the Note Documents, and no implied covenants or obligations shall be read into this Indenture against the Trustee; and

(2) in the absence of negligence or willful misconduct on its part, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Trustee and conforming to the requirements of this Indenture; but in the case of any such certificates or opinions that by any provision hereof are specifically required to be furnished to the Trustee, the Trustee shall be under a duty to examine the same to determine whether or not they conform to the requirements of this Indenture, but need not verify the contents thereof.

(b) In case an Event of Default has occurred and is continuing, the Trustee shall exercise such of the rights and powers vested in it by this Indenture, and use the same degree of care and skill in their exercise as a prudent person would exercise or use under the circumstances in the conduct of such person's own affairs.

(c) No provision of this Indenture shall be construed to relieve the Trustee from liability for its own negligent action, its own negligent failure to act, or its own willful misconduct, except that (i) this paragraph does not limit the effect of Section 701(a); (ii) the Trustee shall not be liable for any error of judgment made in good faith by a Trust Officer, unless it is proved that the Trustee was negligent in ascertaining the pertinent facts; and (iii) the Trustee shall not be liable with respect to any action it takes or omits to take in good faith in accordance with a direction received by it pursuant to Section 612.

(d) No provision of this Indenture shall require the Trustee to expend or risk its own funds or otherwise incur financial liability in the performance of any of its duties hereunder or in the exercise of any of its rights or powers, if repayment of such funds or adequate indemnity against such risk or liability is not reasonably assured to it.

(e) Whether or not therein expressly so provided, every provision of this Indenture relating to the conduct or affecting the liability of or affording protection to the Trustee shall be subject to the provisions of this Section 701 and Section 703.

Section 702. Notice of Defaults. If a Default occurs and is continuing and is known to the Trustee, the Trustee must mail within 90 days after it occurs, to all Holders as their names and addresses appear in the Note Register, notice of such Default hereunder known to the Trustee unless such Default shall have been cured or waived; provided, however, that, except in the case of a Default in the payment of principal of, or premium, if any, or interest on, any Note, the Trustee may withhold notice if it in good faith determines that the withholding of such notice is in the interests of the Holders. The Trustee will not be deemed to have knowledge of any Defaults or Events of Default unless written notice of a Default or Event of Default has been delivered to and actually received by a Trust Officer of the Trustee at its office specified in this Indenture and such notice references the Notes and this Indenture and states that it is a "Notice of Default."

Section 703. Certain Rights of Trustee. Subject to the provisions of Section 701:

(1) the Trustee may rely and shall be protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, note, other evidence of indebtedness or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties;

(2) any request or direction of the Company mentioned herein shall be sufficiently evidenced by a Company Request or Company Order thereof, and any resolution of any Person's board of directors shall be sufficiently evidenced if certified by an Officer of such Person as having been duly adopted and being in full force and effect on the date of such certificate;

(3) whenever in the administration of this Indenture the Trustee shall deem it desirable that a matter be proved or established prior to taking, suffering or omitting any action hereunder, the Trustee (unless other evidence be herein specifically prescribed) may request and, in the absence of bad faith on its part, rely upon an Officer's Certificate of the Company;

(4) the Trustee shall be entitled to request and receive written instructions from the Company and shall have no responsibility or liability for any losses or damages of any nature that may arise from any action taken or not taken by the Trustee in accordance with the written direction of the Company;

(5) the Trustee may consult with counsel and the advice of such counsel or any Opinion of Counsel shall be full and complete authorization and protection in respect of any action taken, suffered or omitted by it hereunder in good faith and in reliance thereon;

(6) the Trustee shall be under no obligation to exercise any of the rights or powers vested in it by this Indenture at the request or direction of any of the Holders pursuant to this Indenture, unless such Holders shall have offered to the Trustee security or indemnity satisfactory to it against the costs, expenses and liabilities which might be incurred by it in compliance with such request or direction;

(7) the Trustee shall not be responsible for nor have any duty to monitor the performance or any action of the Company or any other party to this Indenture, or any of their directors, members, officers, agents, affiliates or employee, nor shall it have any liability in connection with the malfeasance or nonfeasance by such party;

(8) the Trustee shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, note, other evidence of indebtedness or other paper or document;

(9) the Trustee may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or by or through agents or attorneys and the Trustee shall not be responsible for any misconduct or negligence on the part of any agent or attorney appointed with due care by it hereunder;

(10) to the extent permitted by applicable law, the Trustee shall not be liable to any Person for special, punitive, indirect, consequential or incidental loss or damage of any kind whatsoever (including but not limited to lost profits), even if the Trustee has been advised of the likelihood of such loss or damage; and

(11) the permissive rights of the Trustee to do things enumerated in this Indenture shall not be construed as a duty unless so specified herein.

Section 704. Not Responsible for Recitals or Issuance of Notes. The recitals contained herein and in the Notes, except the Trustee's certificates of authentication, shall be taken as the statements of the Company, and neither the Trustee nor any Authenticating Agent assumes any responsibility for their correctness. The Trustee makes no representations as to the validity or sufficiency of this Indenture or of the Notes, except that the Trustee represents that it is duly authorized to execute and deliver this Indenture, authenticate the Notes and perform its obligations hereunder. Neither the Trustee nor any Authenticating Agent shall be accountable for the use or application by the Company of Notes or the proceeds thereof.

Section 705. May Hold Notes. The Trustee, any Authenticating Agent, any Paying Agent, any Note Registrar or any other agent of the Company, in its individual or any other capacity, may become the owner or pledgee of Notes and, subject to Section 708 and Section 713, may otherwise deal with the Company or its Affiliates with the same rights it would have if it were not Trustee, Authenticating Agent, Paying Agent, Note Registrar or such other agent.

Section 706. Money Held in Trust. Money held by the Trustee in trust hereunder need not be segregated from other funds except to the extent required by law. The Trustee shall be under no liability for interest on any money received by it hereunder except as otherwise agreed in writing with the Company.

Section 707. Compensation and Reimbursement. The Company agrees,

(1) to pay to the Trustee from time to time the reasonable compensation agreed to by the Company in writing for all services rendered by the Trustee hereunder (which compensation shall not be limited by any provision of law in regard to the compensation of a trustee of an express trust);

(2) except as otherwise expressly provided herein, to reimburse the Trustee upon its request for all reasonable out-of-pocket expenses incurred by the Trustee in accordance with any provision of this Indenture (including the reasonable compensation and the expenses and disbursements of its agents and counsel), except any such expense, disbursement or advance as may be attributable to its negligence or willful misconduct; and

(3) to indemnify the Trustee for, and to hold it harmless against, any loss, liability or expense incurred without negligence or willful misconduct on the Trustee's part, arising out of or in connection with the administration of the trust or trusts hereunder, including, without limitation, reasonable attorneys' fees and expenses, the costs of enforcement of this Indenture or any provision thereof and the costs and expenses of defending itself against any claim or liability in connection with the exercise or performance of any of its powers or duties hereunder.

The Company need not pay for any settlement made without its consent (which consent shall not be unreasonably withheld). The provisions of this Section 707 shall survive the termination of this Indenture or the resignation and removal of the Trustee.

The Trustee shall have a claim prior to the Notes for payment of all amounts due the Trustee under this Section 707 on all money or property held or collected by the Trustee, other than money or property held in trust to pay the principal of and interest on any Notes.

Section 708. Conflicting Interests. If the Trustee has or shall acquire a conflicting interest within the meaning of the TIA, the Trustee shall eliminate such interest, apply to the SEC for permission to continue as Trustee with such conflict or resign, to the extent and in the manner provided by, and subject to the provisions of, the TIA and this Indenture. The Trustee shall not be deemed to have a conflicting interest by virtue of being a trustee under this Indenture with respect to Initial Notes and Additional Notes, or a trustee under any other indenture between the Company and the Trustee.

Section 709. Corporate Trustee Required; Eligibility. There shall at all times be one (and only one) Trustee hereunder. The Trustee shall be a Person that is eligible pursuant to the TIA to act as such and has a combined capital and surplus of at least \$50.0 million. If any such Person publishes reports of condition at least annually, pursuant to law or to the requirements of its supervising or examining authority, then for the purposes of this Section 709 and to the extent permitted by the TIA, the combined capital and surplus of such Person shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published. If at any time the Trustee shall cease to be eligible in accordance with the provisions of this Section 709, it shall resign immediately in the manner and with the effect hereinafter specified in this Article.

Section 710. Resignation and Removal; Appointment of Successor. No resignation or removal of the Trustee and no appointment of a successor Trustee pursuant to this Article shall become effective until the acceptance of appointment by the successor Trustee in accordance with the applicable requirements of Section 711.

The Trustee may resign at any time by giving written notice thereof to the Company. If the instrument of acceptance by a successor Trustee required by Section 711 shall not have been delivered to the Trustee within 30 days after the giving of such notice of resignation, the resigning Trustee may petition any court of competent jurisdiction for the appointment of a successor Trustee.

The Trustee may be removed at any time by Act of the Holders of a majority in principal amount of the Outstanding Notes delivered to the Trustee and to the Company.

If at any time:

(1) the Trustee shall fail to comply with Section 708 after written request therefor by the Company or by any Holder who has been a bona fide Holder of a Note for at least six months, or

(2) the Trustee shall cease to be eligible under Section 709 and shall fail to resign after written request therefor by the Company or by any such Holder, or

(3) the Trustee shall become incapable of acting or shall be adjudged bankrupt or insolvent or a receiver of the Trustee or of its property shall be appointed or any public officer shall take charge or control of the Trustee or of its property or affairs for the purpose of rehabilitation, conservation or liquidation,

then, in any such case, (A) the Company may remove the Trustee, or (B) subject to Section 614, any Holder who has been a bona fide Holder of a Note for at least six months may, on behalf of itself and all others similarly situated, petition any court of competent jurisdiction for the removal of the Trustee and the appointment of a successor Trustee.

If the Trustee shall resign, be removed or become incapable of acting, or if a vacancy shall occur in the office of Trustee for any cause, the Company shall promptly appoint a successor Trustee and shall comply with the applicable requirements of Section 711. If, within one year after such resignation, removal or incapability, or the occurrence of such vacancy, a successor Trustee shall be appointed by Act of the Holders of a majority in principal amount of the Outstanding Notes delivered to the Company and the retiring Trustee, the successor Trustee so appointed shall, forthwith upon its acceptance of such appointment in accordance with the applicable requirements of Section 711, become the successor Trustee and to that extent supersede the successor Trustee appointed by the Company. If no successor Trustee shall have been so appointed by the Company or the Holders and accepted appointment in the manner required by Section 711, then, subject to Section 614, any Holder who has been a bona fide Holder of a Note for at least six months may, on behalf of itself and all others similarly situated, petition any court of competent jurisdiction for the appointment of a successor Trustee.

The Company shall give notice of each resignation and each removal of the Trustee and each appointment of a successor Trustee to all Holders in the manner provided in Section 110. Each notice shall include the name of the successor Trustee and the address of its Corporate Trust Office.

Notwithstanding the replacement of the Trustee pursuant to this Section 710, the Company's obligations under Section 707 shall continue for the benefit of the retiring Trustee.

Section 711. Acceptance of Appointment by Successor. In case of the appointment hereunder of a successor Trustee, every such successor Trustee so appointed shall execute, acknowledge and deliver to the Company and to the retiring Trustee an instrument accepting such appointment, and thereupon the resignation or removal of the retiring Trustee shall become effective and such successor Trustee, without any further act, deed or conveyance, shall become vested with all the rights, powers, trusts and duties of the retiring Trustee; but, on the request of the Company or the successor Trustee, such retiring Trustee shall, upon payment of its charges, execute and deliver an instrument transferring to such successor Trustee all the rights, powers and trusts of the retiring Trustee and shall duly assign, transfer and deliver to such successor Trustee all property and money held by such retiring Trustee hereunder.

Upon request of any such successor Trustee, the Company shall execute any and all instruments for more fully and certainly vesting in and confirming to such successor Trustee all such rights, powers and trusts referred to above.

No successor Trustee shall accept its appointment unless at the time of such acceptance such successor Trustee shall be qualified and eligible under this Article VII.

Section 712. Merger, Conversion, Consolidation or Succession to Business. Any corporation into which the Trustee may be merged or converted or with which it may be consolidated, or any corporation resulting from any merger, conversion or consolidation to which the Trustee shall be a party, or any corporation succeeding to all or substantially all the corporate trust business of the Trustee, shall be the successor of the Trustee hereunder; provided such corporation shall be otherwise qualified and eligible under this Article VII, without the execution or filing of any paper or any further act on the part of any of the parties hereto. In case any Notes shall have been authenticated, but not delivered, by the Trustee then in office, any successor by merger, conversion or consolidation to such authenticating Trustee may adopt such authentication and deliver the Notes so authenticated with the same effect as if such successor Trustee had itself authenticated such Notes.

Section 713. Preferential Collection of Claims Against the Company. If and when the Trustee shall be or become a creditor of the Company (or any other obligor upon the Notes), the Trustee shall be subject to the provisions of the TIA regarding the collection of claims against the Company (or any such other obligor) or realizing on certain property received by it in respect of such claims.

Section 714. Appointment of Authenticating Agent. The Trustee may appoint an Authenticating Agent acceptable to the Company to authenticate such Notes. Any such appointment shall be evidenced by an instrument in writing signed by a Trust Officer, a copy of which instrument shall be promptly furnished to the Company. Unless limited by the terms of such appointment, an Authenticating Agent may authenticate Notes whenever the Trustee may do so. Each reference in this Indenture to authentication (or execution of a certificate of authentication) by the Trustee includes authentication (or execution of a certificate of authentication) by such Authenticating Agent. An Authenticating Agent has the same rights as any Note Registrar, Paying Agent or agent for service of notices and demands.

ARTICLE VIII

HOLDERS' LISTS AND REPORTS BY TRUSTEE AND THE COMPANY

Section 801. The Company to Furnish Trustee Names and Addresses of Holders. The Company will furnish or cause to be furnished to the Trustee

(1) semi-annually, not more than 10 days after each Regular Record Date, a list, in such form as the Trustee may reasonably require, of the names and addresses of the Holders as of such Regular Record Date, and

(2) at such other times as the Trustee may request in writing, within 30 days after the receipt by the Company of any such request, a list of similar form and content as of a date not more than 15 days prior to the time such list is furnished;

provided, however, that if and to the extent and so long as the Trustee shall be the Note Registrar, no such list need be furnished pursuant to this Section 801.

Section 802. Preservation of Information; Communications to Holders. The Trustee shall preserve, in as current a form as is reasonably practicable, the names and addresses of Holders contained in the most recent list, if any, furnished to the Trustee as provided in Section 801 and the names and addresses of Holders received by the Trustee in its capacity as Note Registrar; provided, however, that if and so long as the Trustee shall be the Note Registrar, the Note Register shall satisfy the requirements relating to such list. None of the Company, any Subsidiary Guarantor or the Trustee or any other Person shall be under any responsibility with regard to the accuracy of such list. The Trustee may destroy any list furnished to it as provided in Section 801 upon receipt of a new list so furnished.

The rights of Holders to communicate with other Holders with respect to their rights under this Indenture or under the Notes, and the corresponding rights and privileges of the Trustee, shall be as provided by the TIA.

Every Holder of Notes, by receiving and holding the same, agrees with the Company and the Trustee that neither the Company, nor the Trustee, nor any agent of any of them, shall be held accountable by reason of any disclosure of information as to names and addresses of Holders made pursuant to the TIA.

Section 803. Reports by Trustee. Within 60 days after each June 1, beginning with June 1, 2022, the Trustee shall transmit to Holders such reports concerning the Trustee and its actions under this Indenture as may be required pursuant to the TIA at the times and in the manner provided pursuant thereto for so long as any Notes remain outstanding. A copy of each such report shall, at the time of such transmission to Holders, be filed by the Trustee or any applicable listing agent with each stock exchange upon which any Notes are listed, with the SEC and with the Company. The Company shall notify the Trustee in writing when any Notes are listed on any stock exchange, but any failure to so notify the Trustee shall not constitute a Default or Event of Default by Company.

ARTICLE IX

AMENDMENT, SUPPLEMENT OR WAIVER

Section 901. Without Consent of Holders. Without the consent of any Holder, the Company, the Trustee and, as applicable, any Subsidiary Guarantor may amend or supplement the Note Documents for any of the following purposes:

- (1) to cure any ambiguity, mistake, omission, defect or inconsistency;
- (2) to provide for the assumption by a successor of the obligations of the Company or a Subsidiary Guarantor under any Note Document (and to make appropriate conforming changes to the Note Documents in connection therewith);
- (3) to provide for uncertificated Notes in addition to or in place of certificated Notes;
- (4) to add Guarantees with respect to the Notes;
- (5) to mortgage, pledge, hypothecate or grant any Lien in favor of the Trustee and the Holders, as security for the payment and performance of all or any portion of the Obligations in respect of the Notes and the Subsidiary Guarantees, in any property or assets, including any which are required to be mortgaged, pledged or hypothecated, or in which a Lien is required to be granted to or for the benefit of the Trustee pursuant to this Indenture;
- (6) to evidence a successor Trustee;
- (7) to confirm and evidence the release, termination or discharge of any Subsidiary Guarantee when such release, termination or discharge is provided for under this Indenture or the Notes;
- (8) to add to the covenants of the Company for the benefit of the Holders or to surrender any right or power conferred upon the Company or any Subsidiary Guarantor;

- (9) to provide for or confirm the issuance of Additional Notes in compliance with this Indenture;
- (10) to conform the text of the Note Documents to any provision of the “Description of Notes” section of the Offering Memorandum;
- (11) to make any change that does not materially adversely affect the rights of any Holder; or
- (12) to comply with any requirement of the SEC in connection with any qualification of this Indenture under the TIA or otherwise.

Section 902. With Consent of Holders. Subject to Section 608 and except as otherwise expressly provided below in this Section 902, the Company, the Trustee and (as applicable) any Subsidiary Guarantor may amend or supplement the Note Documents with the written consent of the Holders of not less than a majority in aggregate principal amount of the Outstanding Notes (including consents obtained in connection with a tender offer or exchange offer for Notes) and the Holders of not less than a majority in aggregate principal amount of the Outstanding Notes by written notice to the Trustee (including consents obtained in connection with a tender offer or exchange offer for Notes) may waive any existing Default or Event of Default or compliance by the Company or any Subsidiary Guarantor with any provision of this Indenture, the Notes or any Subsidiary Guarantee.

Notwithstanding the provisions of this Section 902 to the contrary, without the consent of Holders of at least 90% of the principal amount of the Outstanding Notes (including consents obtained in connection with a tender offer or exchange offer for Notes), an amendment, supplement or waiver, including a waiver pursuant to Section 613, may not:

- (i) reduce the principal amount of the Notes whose Holders must consent to an amendment, supplement or waiver;
- (ii) reduce the rate of or extend the time for payment of interest on any Note;
- (iii) reduce the principal of or extend the Stated Maturity of any Note;
- (iv) reduce the premium payable upon the redemption of any Note or change the date on which any Note may be redeemed as described in Section 1009;
- (v) make any Note payable in money other than that stated in such Note;
- (vi) amend or waive the legal right of any Holder to receive payment of principal of and interest on such Holder’s Note on or after the Stated Maturity for the principal or Interest Payment Date for the interest expressed in such Note, or to institute suit for the enforcement of any such payment on or after the Stated Maturity or Interest Payment Date;
- (vii) make any change or modification to the ranking of the Notes that would adversely affect the rights of a Holder in any material respect;
- (viii) change the provisions applicable to the redemption of any Note pursuant to Section 1010 that would adversely affect the rights of a Holder in any material respect;

(ix) make any change in the Escrow Agreement that would adversely affect the Holders in any material respect; or

(x) make any change in the amendment or waiver provisions described in this paragraph.

Any amendment, supplement or waiver referred to in any of the preceding clauses (i) through (x) that are consented to by Holders of at least 90% of the principal amount of the Outstanding Notes will be binding on any non-consenting Holder of the Notes.

It shall not be necessary for the consent of the Holders under this Section 902 to approve the particular form of any proposed amendment, supplement or waiver, but it shall be sufficient if such consent approves the substance thereof.

Section 903. Execution of Amendments, Supplements or Waivers. After an amendment, supplement or waiver under this Section 902 becomes effective, the Company shall mail to the Holders, with a copy to the Trustee, a notice briefly describing the amendment, supplement or waiver. Any failure of the Company to mail such notice, or any defect therein, shall not, however, in any way impair or affect the validity of any supplemental indenture or the effectiveness of any such amendment, supplement or waiver. The Trustee shall sign any amendment, supplement or waiver authorized pursuant to this Article IX if the amendment, supplement or waiver does not adversely affect the rights, duties, liabilities or immunities of the Trustee. If it does, the Trustee may, but need not, sign it. In signing or refusing to sign such amendment, supplement or waiver, the Trustee shall be entitled to receive, and shall be fully protected in relying upon, an Officer's Certificate and an Opinion of Counsel to the effect that the execution of such amendment, supplement or waiver is authorized or permitted or complies with this Indenture, that all conditions precedent to such amendment, supplement or waiver required by this Indenture have been complied with and that such amendment, supplement or waiver is a valid and binding agreement of the Company, enforceable against the Company in accordance with its terms.

Section 904. Revocation and Effect of Consents. Until an amendment, supplement or waiver becomes effective, a consent to it by a Holder is a continuing consent by the Holder and every subsequent Holder of that Note or any Note that evidences all or any part of the same debt as the consenting Holder's Note, even if notation of the consent is not made on any Note. Subject to the following paragraph of this Section 904, any such Holder or subsequent Holder may revoke the consent as to such Holder's Note by written notice to the Trustee or the Company, received by the Trustee or the Company, as the case may be, before the date on which the Trustee receives an Officer's Certificate from the Company certifying that the Holders of the requisite principal amount of Notes have consented (and not theretofore revoked such consent) to the amendment, supplement or waiver. The Company may, but shall not be obligated to, fix a record date for the purpose of determining the Holders entitled to consent to any amendment, supplement or waiver as set forth in Section 108.

After an amendment, supplement or waiver becomes effective, it shall bind every Holder of Notes.

Section 905. [Reserved].

Section 906. Notation on or Exchange of Notes. If an amendment, supplement or waiver changes the terms of a Note, the Trustee shall (if required by the Company and in accordance with the specific direction of the Company) request the Holder of the Note to deliver it to the Trustee. The Trustee shall (if required by the Company and in accordance with the specific direction of the Company) place an appropriate notation on the Note about the changed terms and return it to the Holder. Alternatively, if the Company or the Trustee so determines, the Company in exchange for the Note shall issue and the Trustee shall authenticate a new Note that reflects the changed terms. Failure to make the appropriate notation or issue a new Note shall not affect the validity and effect of such amendment, supplement or waiver.

ARTICLE X

REDEMPTION OF NOTES

Section 1001. Applicability of Article. The Notes are redeemable at the option of the Company, in whole or in part, before their Stated Maturity in accordance with this Article X.

Section 1002. [Reserved].

Section 1003. Election to Redeem; Notice to Trustee. In case of any redemption of less than all of the Notes, the Company shall, at least two Business Days (but not more than 60 days (except that such notice may be delivered more than 60 days prior to the Redemption Date if the Redemption Date is delayed as provided in Section 1009)), prior to the date on which notice is required to be delivered to Holders pursuant to Section 1005, notify the Trustee of such Redemption Date and of the principal amount of Notes to be redeemed, but failure to so notify the Trustee shall not invalidate any notice given in accordance with Section 1005 and shall not constitute a Default or Event of Default by the Company.

Section 1004. Selection by Trustee of Notes to Be Redeemed. In the case of any partial redemption, selection of the Notes for redemption will be made by the Trustee on a *pro rata* basis, by lot or by such other method as the Trustee in its sole discretion shall deem to be fair and appropriate, and in the case of global notes, in accordance with the procedures of DTC, in integral multiples of \$1,000, although no Note of \$2,000 in original principal amount or less will be redeemed in part.

The Trustee shall promptly notify the Company in writing of the Notes selected for redemption and, in the case of any Note selected for partial redemption, the principal amount thereof to be redeemed. On and after the Redemption Date, interest will cease to accrue on Notes or portions thereof called for redemption.

For all purposes of this Indenture, unless the context otherwise requires, all provisions relating to the redemption of Notes shall relate, in the case of the Notes redeemed or to be redeemed only in part, to the portion of the principal amount of the Notes that has been or is to be redeemed.

Section 1005. Notice of Redemption. Subject to the third paragraph of Section 110, notice of redemption or purchase as provided in Section 1001 shall be given electronically or, at the Company's option, by first-class mail, postage prepaid, mailed not less than 10 nor more than 60 days prior to the Redemption Date (except that such notice may be delivered more than 60 days prior to the Redemption Date if such notice is issued in connection with the defeasance of Notes pursuant to Section 1201 or a satisfaction and discharge of this Indenture and the Notes pursuant to Section 1101, or if the Redemption Date is delayed as provided in Section 1009), to each Holder of Notes to be redeemed, at such Holder's address appearing in the Note Register.

Any such notice shall state:

- (1) the expected Redemption Date,

- (2) the redemption price (or the formula by which the redemption price will be determined),
- (3) if less than all Outstanding Notes are to be redeemed, the identification (and, in the case of partial redemption, the portion of the respective principal amounts) of the Notes to be redeemed,
- (4) that, on the Redemption Date, the redemption price will become due and payable upon each such Note, and that, unless the Company defaults in making such redemption payment or the Paying Agent is prohibited from making such payment pursuant to the terms of this Indenture, interest thereon shall cease to accrue from and after said date, and
- (5) the place where such Notes are to be surrendered for payment of the redemption price.

In addition, if such redemption, purchase or notice is subject to satisfaction (or, waiver by the Company in its sole discretion) of one or more conditions precedent, as permitted by Section 1009, such notice shall describe each such condition, and if applicable, shall state that, in the Company's discretion, the Redemption Date may be delayed until such time as any or all such conditions shall be satisfied (or waived by the Company in its sole discretion), or such redemption or purchase may not occur and such notice may be rescinded in the event that any or all such conditions shall not have been (or, in the Company's sole determination, may not be) satisfied (or waived by the Company in its sole discretion) by the Redemption Date, or by the Redemption Date as so delayed.

The Company may provide in such notice that payment of the redemption price and the performance of the Company's obligations with respect to such redemption may be performed by another Person.

Notice of any redemption or purchase of Notes hereunder (or the selection of Notes in connection with a partial redemption) to be so redeemed or purchased at the election of the Company shall be given by the Company or, at the Company's request (made to the Trustee at least 15 days (or such shorter period as shall be reasonably satisfactory to the Trustee) prior to the Redemption Date), by the Trustee in the name and at the expense of the Company. Any such request will set forth the information to be stated in such notice, as provided by this Section 1005.

The notice if delivered in the manner herein provided shall be conclusively presumed to have been given, whether or not the Holder receives such notice. In any case, failure to give such notice by mail or any defect in the notice to the Holder of any Note designated for redemption as a whole or in part shall not affect the validity of the proceedings for the redemption of any other Note.

Section 1006. Deposit of Redemption Price. On or prior to 12:00 p.m., New York City time, on any Redemption Date, the Company shall deposit with the Trustee or with a Paying Agent (or, if the Company is acting as its own Paying Agent, the Company shall segregate and hold in trust as provided in Section 403) an amount of money sufficient to pay the redemption price of, and any accrued and unpaid interest on, all the Notes or portions thereof which are to be redeemed on that date.

Section 1007. Notes Payable on Redemption Date. Notice of redemption having been given as provided in this Article X, the Notes so to be redeemed shall (subject to the satisfaction or waiver by the Company of any applicable conditions precedent), on the Redemption Date, become due and payable at the redemption price herein specified and from and after such date (unless the Company shall default in the payment of the redemption price or the Paying Agent is prohibited from paying the redemption price pursuant to the terms of this Indenture) such Notes shall cease to bear interest. Upon surrender of such Notes for redemption in accordance with such notice, such Notes shall be paid by the Company at the redemption price. Installments of interest whose Interest Payment Date is on or prior to the Redemption Date shall be payable to the Holders of such Notes registered as such on the relevant Regular Record Dates according to their terms and the provisions of Section 307.

On and after any Redemption Date, if money sufficient to pay the redemption price of and any accrued and unpaid interest on Notes called for redemption shall have been made available in accordance with Section 1006, the Notes (or the portions thereof) called for redemption will cease to accrue interest and the only right of the Holders of such Notes (or portions thereof) will be to receive payment of the redemption price of and, subject to the last sentence of the preceding paragraph, any accrued and unpaid interest on such Notes (or portions thereof) to the Redemption Date. If any Note (or portion thereof) called for redemption shall not be so paid upon surrender thereof for redemption, the principal (and premium, if any) shall, until paid, bear interest from the Redemption Date at the rate borne by the Note (or portion thereof).

Section 1008. Notes Redeemed in Part. Any Note that is to be redeemed only in part shall be surrendered at the Place of Payment (with due endorsement by, or a written instrument of transfer in form satisfactory to the Company duly executed by, the Holder thereof or its attorney duly authorized in writing) and the Company shall execute and (upon receipt of an Authentication Order) the Trustee shall authenticate and deliver to the Holder of such Note without service charge, a new Note or Notes, of any authorized denomination as requested by such Holder in aggregate principal amount equal to and in exchange for the unredeemed portion of the principal of the Note so surrendered (or if the Note is a global note, an adjustment shall be made to the schedule attached thereto).

Section 1009. Optional Redemption.

The Notes will be redeemable, at the Company's option, in whole or in part, at any time and from time to time on and after July 15, 2024, at the applicable redemption price set forth below. The Notes will be so redeemable at the following redemption prices (expressed as a percentage of principal amount), plus accrued and unpaid interest, if any, to the relevant Redemption Date (subject to the right of Holders of record on the relevant Regular Record Date to receive interest due on the relevant Interest Payment Date falling prior to or on the Redemption Date), if redeemed during the 12-month period commencing on July 15 of the years set forth below:

Redemption Period Price

2024	102.313%
2025	101.156%
2026 and thereafter	100.000%

In addition, at any time and from time to time after the Escrow Release Date and prior to July 15, 2024, the Company at its option may redeem Notes in an aggregate principal amount equal to up to 40.0% of the original aggregate principal amount of the Notes (including the principal amount of any Additional Notes), with funds in an aggregate amount not exceeding the aggregate proceeds of one or more Equity Offerings consummated after the Escrow Release Date, at a redemption price (expressed as a percentage of principal amount thereof) of 104.625%, plus accrued and unpaid interest, if any, to the Redemption Date (subject to the right of Holders of record on the relevant Regular Record Date to receive interest due on the relevant Interest Payment Date falling prior to or on the Redemption Date); provided, however, that if Notes are redeemed pursuant to this paragraph, an aggregate principal amount of Notes equal to at least 50.0% of the original aggregate principal amount of Notes (including the principal amount of any Additional Notes) must remain outstanding immediately after each such redemption of Notes (unless all the Notes not redeemed under this paragraph are concurrently being redeemed under any other applicable provision of this Indenture). Any amount payable in any such redemption may be funded from any source. Any notice of any such redemption may be given prior to the completion of the related Equity Offering, but in no event may be given more than 180 days after the completion of the related Equity Offering.

At any time and from time to time after the Escrow Release Date and prior to July 15, 2024, Notes may also be redeemed in whole or in part, at the Company's option, at a price equal to 100.0% of the principal amount thereof plus the Applicable Premium as of, and accrued but unpaid interest, if any, to, the Redemption Date (subject to the right of Holders of record on the relevant Regular Record Date to receive interest due on the relevant Interest Payment Date falling prior to or on the Redemption Date).

Notwithstanding the foregoing, in connection with any tender offer for any Notes, if Holders of not less than 90% in the aggregate principal amount of the Outstanding Notes validly tender and do not withdraw such Notes in such tender offer and the Company, or any other Person making such tender offer, purchases all of the Notes validly tendered and not withdrawn by such Holders, the Company will have the right, upon notice given not more than 30 days following such purchase pursuant to such tender offer, to redeem all of the Notes that remain outstanding following such purchase at a price in cash equal to the highest price offered to each Holder in such tender offer, plus, to the extent not included in the tender offer payment, accrued and unpaid interest to but excluding the Redemption Date (subject to the right of Holders of record on the relevant record date to receive interest due on the relevant Interest Payment Date falling prior to or on the Redemption Date).

Except as set forth in Section 1010, any redemption of Notes may be made upon notice sent electronically or, at the Company's option, mailed by first-class mail to each Holder's registered address in accordance with Section 1005, and, if applicable, the Company should notify the Trustee of such Redemption Date, and the principal amount of Notes to be redeemed in accordance with Section 1003. The Company may provide in any redemption notice that payment of the redemption price and the performance of the Company's obligations with respect to such redemption may be performed by another Person.

Except with respect to a Special Mandatory Redemption, any redemption of Notes (including in connection with an Equity Offering) or notice thereof may, at the Company's discretion, be subject to the satisfaction (or, waiver by the Company in its sole discretion) of one or more conditions precedent, which may include consummation of any related Equity Offering or the occurrence of a Change of Control. If such redemption or notice is subject to satisfaction of one or more conditions precedent, such notice may state that, in the Company's discretion, the Redemption Date may be delayed until such time as any or all such conditions shall be satisfied (or waived by the Company in its sole discretion), or such redemption may not occur and such notice may be rescinded in the event that any or all such conditions shall not have been (or, in the Company's sole determination, may not be) satisfied (or waived by the Company in its sole discretion) by the Redemption Date, or by the Redemption Date so delayed.

Section 1010. Special Mandatory Redemption. If (i) the Escrow Agent has not received the Officer's Certificate described in the definition of "Escrow Release Date" on or prior to 5:00 p.m. (New York City time) on the Escrow End Date or (ii) the Company notifies the Escrow Agent in writing on or prior to 5:00 p.m. (New York City time) on the Escrow End Date that the Company will not pursue the Separation, then the Escrow Agent shall, without the requirement of notice to or action by the Company, the Trustee or any other Person, release the Escrowed Property (including investment earnings thereon and proceeds thereof) to the Trustee (x) in the case of the foregoing clause (i), within three Business Days of the Escrow End Date and (y) in the case of the foregoing clause (ii), within three Business Days of the date such notice is delivered to the Escrow Agent, and in either case, the Trustee shall apply (or cause a paying agent to apply) such proceeds, together with cash received pursuant to the L Brands Commitment, to redeem the Notes (the "Special Mandatory Redemption") on the third Business Day following the date of the release of the Escrowed Property to the Trustee (the "Special Mandatory Redemption Date") or as otherwise required by the applicable procedures of DTC, at a redemption price (the "Special Mandatory Redemption Price") equal to 101% of the principal amount of the Notes, plus accrued and unpaid interest to, but excluding, the Special Mandatory Redemption Date. In the event that there are insufficient funds in the Escrow Account to pay the aggregate Special Mandatory Redemption Price for all Notes, the Company shall separately transfer to the Trustee an amount in cash equal to such shortfall, including cash received pursuant to the L Brands Commitment. On the Special Mandatory Redemption Date, the Trustee shall pay to the Company any Escrowed Property in excess of the amount necessary to effect the Special Mandatory Redemption.

ARTICLE XI

SATISFACTION AND DISCHARGE

Section 1101. Satisfaction and Discharge of Indenture. The Outstanding Notes and this Indenture shall be discharged and shall cease to be of further effect (except as to any surviving rights of registration of transfer or exchange of Notes herein expressly provided for), and the Trustee on demand of and at the expense of the Company, shall execute proper instruments acknowledging satisfaction and discharge of the Outstanding Notes and this Indenture, when

(i) either

(a) all Notes theretofore authenticated and delivered (other than (i) Notes that have been destroyed, lost or stolen and that have been replaced or paid as provided in Section 306, and (ii) Notes for whose payment money has theretofore been deposited in trust or segregated and held in trust by the Company and thereafter repaid to the Company or discharged from such trust, as provided in Section 403) have been cancelled or delivered to the Trustee for cancellation; or

(b) all such Notes not theretofore cancelled or delivered to the Trustee for cancellation

(1) have become due and payable,

(2) will become due and payable at their Stated Maturity within one year, or

(3) have been called for redemption, or are to be called for redemption within one year under arrangements reasonably satisfactory to the Trustee for the giving of notice of redemption by the Trustee in the name, and at the expense, of the Company;

(ii) the Company has irrevocably deposited or caused to be deposited with the Trustee money, U.S. Government Obligations or a combination thereof, sufficient (without reinvestment) to pay and discharge the entire Indebtedness on the Notes not previously cancelled or delivered to the Trustee for cancellation, for principal (and premium, if any) and interest to the date of such deposit (in the case of Notes that have become due and payable), or to the Stated Maturity or Redemption Date, as the case may be (provided that if such redemption shall be pursuant to the third paragraph of Section 1009, (x) the amount of money or U.S. Government Obligations, or a combination thereof, that the Company must irrevocably deposit or cause to be deposited shall be determined using an assumed Applicable Premium calculated as of the date of such deposit, as calculated by the Company in good faith, and (y) the Company must irrevocably deposit or cause to be deposited additional money in trust on the Redemption Date, as required by Section 1006, as necessary to pay the Applicable Premium as determined on such date);

(iii) the Company has paid or caused to be paid all other sums then payable hereunder by the Company; and

(iv) the Company has delivered to the Trustee an Officer's Certificate and an Opinion of Counsel each to the effect that all conditions precedent provided for in this Section 1101 relating to the satisfaction and discharge of this Indenture have been complied with; provided that any such counsel may rely on any Officer's Certificate as to matters of fact (including as to compliance with the foregoing clauses (i), (ii) and (iii)).

Notwithstanding the satisfaction and discharge of this Indenture and the Outstanding Notes, (a) the obligations of the Company to the Trustee under Section 707 and, if money shall have been deposited with the Trustee pursuant to Section 1101(i), the obligations of the Trustee under Section 1103 shall survive such satisfaction and discharge, and (b) if such satisfaction and discharge is effected through redemption in accordance with Section 1101(i)(b)(3), the provisions of Section 1007 shall survive such satisfaction and discharge, and the other provisions of Article X shall survive such satisfaction and discharge until the Redemption Date shall have occurred.

Section 1102. [Reserved]

Section 1103. Application of Trust Money. Subject to the provisions of the last paragraph of Section 403, all money and/or U.S. Government Obligations (including the proceeds thereof) deposited with the Trustee pursuant to Section 1101 shall be held in trust and applied by it, in accordance with the provisions of the Notes and this Indenture, to the payment, either directly or through any Paying Agent as the Trustee may determine, to the Persons entitled thereto, of the principal (and premium, if any) and interest on the Notes; but such money need not be segregated from other funds except to the extent required by law.

ARTICLE XII

DEFEASANCE OR COVENANT DEFEASANCE

Section 1201. The Company's Option to Effect Defeasance or Covenant Defeasance. The Company may, at its option, at any time, elect to have terminated the obligations of the Company with respect to Outstanding Notes and the other Note Documents and to have terminated all of the obligations of the Subsidiary Guarantors with respect to the Subsidiary Guarantees, in each case, as set forth in this Article XII, and elect to have either Section 1202 or 1203 be applied to all of the Outstanding Notes (the "Defeased Notes"), upon compliance with the conditions set forth below in Section 1204. Either Section 1202 or Section 1203 may be applied to the Defeased Notes to any Redemption Date or the Stated Maturity of the Notes.

Section 1202. Defeasance and Discharge. Upon the Company's exercise under Section 1201 of the option applicable to this Section 1202, the Company shall be deemed to have been released and discharged from its obligations with respect to the Defeased Notes and the Subsidiary Guarantors shall be deemed to have been released and discharged from their obligations with respect to the Subsidiary Guarantees on the date the relevant conditions set forth in Section 1204 are satisfied (hereinafter, "Defeasance"). For this purpose, such Defeasance means that the Company shall be deemed to have paid and discharged the entire Indebtedness represented by the Defeased Notes, which shall thereafter be deemed to be "Outstanding" only for the purposes of Section 1205 and the other Sections of this Indenture referred to in clauses (a) and (b) below, and the Company, and each of the Subsidiary Guarantors shall be deemed to have satisfied all other obligations under such Notes, Subsidiary Guarantees and this Indenture insofar as such Notes are concerned (and the Trustee, at the expense of the Company, shall execute proper instruments acknowledging the same), except for the following, which shall survive until otherwise terminated or discharged hereunder: (a) the rights of Holders of Defeased Notes to receive, solely from the trust fund described in Section 1204 and as more fully set forth in such Section, payments in respect of principal of and premium, if any, and interest on such Notes when such payments are due, (b) the Company's obligations with respect to such Defeased Notes under Sections 304, 305, 306, 402, and 403, (c) the rights, powers, trusts, duties and immunities of the Trustee hereunder, including the Trustee's rights (and the Company's obligations) under Section 707, and (d) this Article XII. If the Company exercises its option under this Section 1202, payment of the Notes may not be accelerated because of an Event of Default with respect thereto. Subject to compliance with this Article XII, the Company may, at its option and at any time, exercise its option under this Section 1202 notwithstanding the prior exercise of its option under Section 1203 with respect to the Notes.

Section 1203. Covenant Defeasance. Upon the Company's exercise under Section 1201 of the option applicable to this Section 1203, (a) the Company shall be released from its obligations under any covenant or provision contained in Section 405, Sections 407 through 415, the provisions of clauses (iii), (iv) and (v) of Section 501(a) and the provisions of clauses (iii) and (iv) of Section 501(b) shall not apply, and (b) the occurrence of any event specified in clause (iv), (v) (with respect to Section 405, Sections 407 through 415, inclusive), (vi), (vii), (viii) (with respect to Subsidiaries), (ix) (with respect to Subsidiaries), (x) or (xi) of Section 601 shall be deemed not to be or result in an Event of Default, in each case with respect to the Defeased Notes on and after the date the conditions set forth below are satisfied (hereinafter, "Covenant Defeasance"), and the Notes shall thereafter be deemed not to be "Outstanding" for the purposes of any direction, waiver, consent or declaration or Act of Holders (and the consequences of any thereof) in connection with such covenants or provisions, but shall continue to be deemed "Outstanding" for all other purposes hereunder. For this purpose, such Covenant Defeasance means that, with respect to the Outstanding Notes, the Company may omit to comply with and shall have no liability in respect of any term, condition or limitation set forth in any such covenant or provision, whether directly or indirectly, by reason of any reference elsewhere herein to any such covenant or provision or by reason of any reference in any such covenant or provision to any other provision herein or in any other document and such omission to comply shall not constitute a Default or an Event of Default under Section 601, but, except as specified above, the remainder of this Indenture and such Outstanding Notes shall be unaffected thereby.

Section 1204. Conditions to Defeasance or Covenant Defeasance. The following shall be the conditions to application of either Section 1202 or Section 1203 to the Outstanding Notes:

(1) The Company shall have irrevocably deposited or caused to be deposited with the Trustee, in trust, money or U.S. Government Obligations, or a combination thereof, in amounts as will be sufficient (without reinvestment), to pay and discharge the principal of, and premium, if any, and interest on the Defeased Notes issued by the Company to the Stated Maturity or relevant Redemption Date in accordance with the terms of this Indenture and the Notes (provided that if such redemption shall be pursuant to the third paragraph of Section 1009, (x) the amount of money or U.S. Government Obligations or a combination thereof that the Company must irrevocably deposit or cause to be deposited shall be determined using an assumed Applicable Premium calculated as of the date of such deposit, as calculated by the Company in good faith and (y) the Company must irrevocably deposit or cause to be deposited additional money in trust on the Redemption Date, as required by Section 1006, as necessary to pay the Applicable Premium as determined on such date);

(2) No Default or Event of Default shall have occurred and be continuing on the date of such deposit;

(3) Such deposit shall not result in a breach or violation of, or constitute a Default or Event of Default under, this Indenture or any other material agreement or instrument to which the Company is a party or by which it is bound;

(4) In the case of an election under Section 1202, the Company shall have delivered to the Trustee an Opinion of Counsel to the effect that (x) the Company has received from, or there has been published by, the Internal Revenue Service a ruling or (y) since the Issue Date, there has been a change in the applicable U.S. federal income tax law, in either case to the effect that, and based thereon such opinion shall confirm to the effect that, the Holders of the Outstanding Notes will not recognize income, gain or loss for U.S. federal income tax purposes as a result of such Defeasance and will be subject to U.S. federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such Defeasance had not occurred; provided that such Opinion of Counsel need not be delivered if all Notes theretofore authenticated and delivered (other than (i) Notes that have been destroyed, lost or stolen and that have been replaced or paid as provided in Section 306, and (ii) Notes for whose payment money has theretofore been deposited in trust or segregated and held in trust by the Company and thereafter repaid to the Company or discharged from such trust, as provided in Section 403) not theretofore delivered to the Trustee for cancellation have become due and payable, will become due and payable at their Stated Maturity within one year, or have been called for redemption or are to be called for redemption within one year under arrangements reasonably satisfactory to the Trustee in the name, and at the expense, of the Company;

(5) In the case of an election under Section 1203, the Company shall have delivered to the Trustee an Opinion of Counsel to the effect that the Holders of the Outstanding Notes will not recognize income, gain or loss for U.S. federal income tax purposes as a result of such Covenant Defeasance and will be subject to U.S. federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such Covenant Defeasance had not occurred; and

(6) The Company shall have delivered to the Trustee an Officer's Certificate and an Opinion of Counsel, each to the effect that all conditions precedent provided for in this Section 1204 relating to either the Defeasance under Section 1202 or the Covenant Defeasance under Section 1203, as the case may be, have been complied with. In rendering such Opinion of Counsel, counsel may rely on an Officer's Certificate as to compliance with the foregoing clauses (1), (2) and (3) of this Section 1204 or as to any matters of fact.

Section 1205. Deposited Money and U.S. Government Obligations to Be Held in Trust; Other Miscellaneous Provisions. Subject to the provisions of the last paragraph of Section 403, all money and U.S. Government Obligations (including the proceeds thereof) deposited with the Trustee (or such other Person that would qualify to act as successor trustee under Article VII, collectively and solely for purposes of this Section 1205, the "Trustee") pursuant to Section 1204 in respect of the Defeased Notes shall be held in trust and applied by the Trustee, in accordance with the provisions of such Notes and this Indenture, to the payment, either directly or through any Paying Agent as the Trustee may determine, to the Holders of such Notes of all sums due and to become due thereon in respect of principal, premium, if any, and interest, but such money need not be segregated from other funds except to the extent required by law.

The Company shall pay and indemnify the Trustee and its agents and hold them harmless against any tax, fee or other charge imposed on or assessed against the U.S. Government Obligations deposited by the Company pursuant to Section 1204, or the principal, premium, if any, and interest received in respect thereof, other than any such tax, fee or other charge that by law is for the account of the Holders of the Defeased Notes.

Anything in this Article XII to the contrary notwithstanding, the Trustee shall deliver to the Company from time to time, upon Company Request, any money or U.S. Government Obligations held by it as provided in Section 1204 that, in the opinion of a nationally recognized accounting or investment banking firm expressed in a written certification thereof to the Trustee, are in excess of the amount thereof that would then be required to be deposited to effect an equivalent Defeasance or Covenant Defeasance. Subject to Article VII, the Trustee shall not incur any liability to any Person by relying on such opinion.

Section 1206. Reinstatement. If the Trustee or Paying Agent is unable to apply any money or U.S. Government Obligations in accordance with Section 1202 or 1203, as the case may be, by reason of any order or judgment of any court or governmental authority enjoining, restraining or otherwise prohibiting such application, then the obligations of the Company and the Subsidiary Guarantors under this Indenture, the Notes and the Subsidiary Guarantees shall be revived and reinstated as though no deposit had occurred pursuant to Section 1202 or 1203, as the case may be, until such time as the Trustee or Paying Agent is permitted to apply all such money and U.S. Government Obligations in accordance with Section 1202 or 1203, as the case may be; provided, however, that if the Company or any Subsidiary Guarantor makes any payment of principal, premium, if any, or interest on any Note following the reinstatement of its obligations, the Company or Subsidiary Guarantor, as the case may be, shall be subrogated to the rights of the Holders of such Notes to receive such payment from the money and U.S. Government Obligations held by the Trustee or Paying Agent.

Section 1207. Repayments to the Company. The Trustee shall pay to the Company upon Company Request any money held by it for the payment of principal or interest that remains unclaimed for two years after the Stated Maturity or the Redemption Date, as the case may be. After payment to the Company, Holders entitled to money must look to the Company for payment as general creditors unless an applicable abandoned property law designates another Person and all liability of the Trustee or Paying Agent with respect to such money shall thereupon cease.

ARTICLE XIII

SUBSIDIARY GUARANTEES

Section 1301. Guarantees Generally.

(a) Guarantee of Each Subsidiary Guarantor. On the Escrow Release Date, Company shall cause each of its Wholly Owned Domestic Restricted Subsidiaries that Guarantees, or is a co-borrower in respect of, the Senior Term Facility or the ABL Facility to, jointly and severally, unconditionally Guarantee on a senior basis the obligations of the Company under this Indenture and the Notes by executing and delivering to the Trustee a Guarantor Supplemental Indenture, or a supplemental indenture otherwise in form reasonably satisfactory to the Trustee evidencing its Subsidiary Guarantee on substantially the terms set forth in this Article XIII. Each Subsidiary Guarantor, as primary obligor and not merely as surety, jointly and severally, irrevocably and fully and unconditionally Guarantees, on a senior basis, the punctual payment when due, whether at Stated Maturity, by acceleration or otherwise, of all monetary obligations of the Company under this Indenture and the Notes, whether for principal of or interest on the Notes, expenses, indemnification or otherwise (all such obligations guaranteed by such Subsidiary Guarantors being herein called the "Subsidiary Guaranteed Obligations").

The obligations of each Subsidiary Guarantor will be limited to the maximum amount as will, after giving effect to all other contingent and fixed liabilities of such Subsidiary Guarantor (including, but not limited to, any Guarantee by it of any other Indebtedness) and after giving effect to any collections from or payments made by or on behalf of any other Subsidiary Guarantor in respect of the obligations of such other Subsidiary Guarantor under its Subsidiary Guarantee or pursuant to its contribution obligations under this Indenture, result in the obligations of such Subsidiary Guarantor under the Subsidiary Guarantee not constituting a fraudulent conveyance or fraudulent transfer under applicable law, or being void or unenforceable under any law relating to insolvency of debtors.

(b) Further Agreements of Each Subsidiary Guarantor. (i) Each Subsidiary Guarantor hereby agrees that (to the fullest extent permitted by law) its obligations hereunder shall be unconditional, irrespective of the validity, regularity or enforceability of this Indenture, the Notes or the obligations of the Company or any other Subsidiary Guarantor to the Holders, the Trustee hereunder or thereunder, the absence of any action to enforce the same, any waiver or consent by any Holder with respect to any provisions hereof or thereof, any release of any other Subsidiary Guarantor, the recovery of any judgment against the Company, any action to enforce the same, whether or not a notation concerning its Subsidiary Guarantee is made on any particular Note, or any other circumstance that might otherwise constitute a legal or equitable discharge or defense of a Subsidiary Guarantor.

(ii) Each Subsidiary Guarantor hereby waives (to the fullest extent permitted by law) the benefit of diligence, presentment, demand of payment, filing of claims with a court in the event of insolvency or bankruptcy of the Company, any right to require a proceeding first against the Company, protest, notice and all demands whatsoever and covenants that (except as otherwise provided in Section 1303) its Subsidiary Guarantee will not be discharged except by complete performance of the obligations contained in the Notes, this Indenture and this Subsidiary Guarantee. Such Subsidiary Guarantee is a guarantee of payment and not of collection. Each Subsidiary Guarantor further agrees (to the fullest extent permitted by law) that, as between it, on the one hand, and the Holders of Notes and the Trustee, on the other hand, subject to this Article XIII, (1) the maturity of the obligations guaranteed by its Subsidiary Guarantee may be accelerated as and to the extent provided in Article VI for the purposes of such Subsidiary Guarantee, notwithstanding any stay, injunction or other prohibition preventing such acceleration in respect of the obligations guaranteed by such Subsidiary Guarantee, and (2) in the event of any acceleration of such obligations as provided in Article VI, such obligations (whether or not due and payable) shall forthwith become due and payable by such Subsidiary Guarantor in accordance with the terms of this Section 1301 for the purpose of such Subsidiary Guarantee. Neither the Trustee nor any other Person shall have any obligation to enforce or exhaust any rights or remedies or to take any other steps under any security for the Subsidiary Guaranteed Obligations or against the Company or any other Person or any property of the Company or any other Person before the Trustee is entitled to demand payment and performance by any or all Subsidiary Guarantors of their obligations under their respective Subsidiary Guarantees or under this Indenture.

(iii) Until terminated in accordance with Section 1303, each Subsidiary Guarantee shall remain in full force and effect and continue to be effective should any petition be filed by or against the Company for liquidation or reorganization, should the Company become insolvent or make an assignment for the benefit of creditors or should a receiver or trustee be appointed for all or any significant part of the Company's assets, and shall, to the fullest extent permitted by law, continue to be effective or be reinstated, as the case may be, if at any time payment and performance of the Notes are, pursuant to applicable law, rescinded or reduced in amount, or must otherwise be restored or returned by any obligee on such Notes, whether as a "voidable preference," "fraudulent transfer" or otherwise, all as though such payment or performance had not been made. In the event that any payment, or any part thereof, is rescinded, reduced, restored or returned, the Notes shall, to the fullest extent permitted by law, be reinstated and deemed reduced only by such amount paid and not so rescinded, reduced, restored or returned.

(c) Each Subsidiary Guarantor that makes a payment or distribution under its Subsidiary Guarantee shall have the right to seek contribution from the Company or any non-paying Subsidiary Guarantor that has also Guaranteed the relevant Subsidiary Guaranteed Obligations in respect of which such payment or distribution is made, so long as the exercise of such right does not impair the rights of the Holders under the Subsidiary Guarantees.

(d) Each Subsidiary Guarantor acknowledges that it will receive direct and indirect benefits from the financing arrangements contemplated by this Indenture and that its Subsidiary Guarantee, and the waiver set forth in Section 1305, are knowingly made in contemplation of such benefits.

(e) Each Subsidiary Guarantor, pursuant to its Subsidiary Guarantee, also hereby agrees to pay any and all reasonable out-of-pocket expenses (including reasonable counsel fees and expenses) incurred by the Trustee or the Holders in enforcing any rights under its Subsidiary Guarantee.

Section 1302. Continuing Guarantees. (a) Each Subsidiary Guarantee shall be a continuing Guarantee and shall (i) subject to Section 1303, remain in full force and effect until payment in full of the principal amount of all Outstanding Notes (whether by payment at maturity, purchase, redemption, defeasance, retirement or other acquisition) and all other Subsidiary Guaranteed Obligations then due and owing, (ii) be binding upon such Subsidiary Guarantor, and (iii) inure to the benefit of and be enforceable by the Trustee, the Holders and their permitted successors, transferees and assigns.

(b) The obligations of each Subsidiary Guarantor hereunder shall continue to be effective or shall be reinstated, as the case may be, if at any time any payment which would otherwise have reduced or terminated the obligations of any Subsidiary Guarantor hereunder and under its Subsidiary Guarantee (whether such payment shall have been made by or on behalf of the Company, or by or on behalf of a Subsidiary Guarantor) is rescinded or reclaimed from any of the Holders upon the insolvency, bankruptcy, liquidation or reorganization of the Company, or any Subsidiary Guarantor or otherwise, all as though such payment had not been made.

Section 1303. Release of Subsidiary Guarantees. Notwithstanding the provisions of Section 1302, from and after the Escrow Release Date, Subsidiary Guarantees will be subject to termination and discharge under the circumstances described in this Section 1303. Any Subsidiary Guarantor will automatically and unconditionally be released from all obligations under its Subsidiary Guarantee, and such Subsidiary Guarantee shall thereupon terminate and be discharged and of no further force or effect, (i) concurrently with any direct or indirect sale or disposition (by merger or otherwise) of any Subsidiary Guarantor or any interest therein, or any other transaction, (x) in accordance with the terms of this Indenture (including Section 411 and Section 501) or (y) pursuant to an enforcement action in accordance with the terms of any intercreditor agreement, in each case, following which such Subsidiary Guarantor is no longer a Restricted Subsidiary of the Company, (ii) on the substantially concurrent release, discharge or termination of (x) the Guarantee by such Subsidiary Guarantor under the Senior Credit Facilities and (y) if applicable, all of its obligations as a borrower under the ABL Facility and as a primary obligor or guarantor in respect of any other then outstanding Material Indebtedness, in each case other than a release, discharge or termination resulting from payment under the relevant Indebtedness (it being understood that a release subject to contingent reinstatement is still a release, and that if any such Guarantee or obligation is reinstated, such Subsidiary Guarantee shall also be reinstated to the extent that such Subsidiary Guarantor would then be required to provide a Subsidiary Guarantee pursuant to Section 414), (iii) upon the merger or consolidation of any Subsidiary Guarantor with and into the Company or another Subsidiary Guarantor that is the surviving Person in such merger or consolidation, or upon the liquidation of such Subsidiary Guarantor following the transfer of all of its assets to the Company or another Subsidiary Guarantor, (iv) concurrently with any Subsidiary Guarantor becoming an Unrestricted Subsidiary or ceasing to constitute a Wholly Owned Domestic Subsidiary of the Company, (v) upon the occurrence of a Covenant Suspension Event; provided that after the Reversion Time, such Subsidiary Guarantee shall be reinstated to the extent required and within the time period provided under the covenant described under Section 414, (vi) upon Defeasance or Covenant Defeasance of the Company's obligations under, or satisfaction and discharge of this Indenture pursuant to Section 1101, or (vii) subject to Section 1302(b), upon payment in full of the aggregate principal amount of all Notes then Outstanding and all other Subsidiary Guaranteed Obligations then due and owing. In addition, the Company will have the right, upon 10 days' notice to the Trustee (or such shorter period as agreed to by the Trustee), to cause any Subsidiary Guarantor that is not a primary obligor or guarantor under any of the Senior Credit Facilities or any other then outstanding Material Indebtedness to be unconditionally released from all obligations under its Subsidiary Guarantee, and such Subsidiary Guarantee shall thereupon terminate and be discharged and of no further force or effect.

Upon any such occurrence specified in this Section 1303, the Trustee shall execute any documents (subject to the review and approval of counsel to the Trustee) reasonably requested by the Company in order to evidence such release, discharge and termination in respect of such Subsidiary Guarantee.

Section 1304. [Reserved].

Section 1305. Waiver of Subrogation. Each Subsidiary Guarantor hereby irrevocably waives any claim or other rights that it may now or hereafter acquire against the Company that arise from the existence, payment, performance or enforcement of the Company's obligations under the Notes and this Indenture or such Subsidiary Guarantor's obligations under its Subsidiary Guarantee and this Indenture, including any right of subrogation, reimbursement, exoneration, indemnification, and any right to participate in any claim or remedy of any Holder of Notes against the Company, whether or not such claim, remedy or right arises in equity, or under contract, statute or common law, until this Indenture is discharged and all of the Notes are discharged and paid in full. If any amount shall be paid to any Subsidiary Guarantor in violation of the preceding sentence and the Notes shall not have been paid in full, such amount shall be deemed to have been paid to such Subsidiary Guarantor for the benefit of, and held in trust for the benefit of, the Holders of the Notes, and shall forthwith be paid to the Trustee for the benefit of such Holders to be credited and applied upon the Notes, whether matured or unmatured, in accordance with the terms of this Indenture.

Section 1306. Notation Not Required. Neither the Company nor any Subsidiary Guarantor shall be required to make a notation on the Notes to reflect any such Subsidiary Guarantee or any release, termination or discharge thereof.

Section 1307. Successors and Assigns of Subsidiary Guarantors. All covenants and agreements in this Indenture by each Subsidiary Guarantor shall bind its respective successors and assigns, whether so expressed or not.

Section 1308. Execution and Delivery of Subsidiary Guarantees. The Company shall cause each Restricted Subsidiary that is required to become a Subsidiary Guarantor pursuant to Section 414, and each Subsidiary of the Company that the Company causes to become a Subsidiary Guarantor pursuant to Section 414 or Section 1301(a), to promptly execute and deliver to the Trustee a Guarantor Supplemental Indenture, or a supplemental indenture otherwise in form reasonably satisfactory to the Trustee evidencing its Subsidiary Guarantee on substantially the terms set forth in this Article XIII. Concurrently therewith, the Company shall deliver to the Trustee an Opinion of Counsel to the effect that such Guarantor Supplemental Indenture has been duly authorized or permitted or complies with this Indenture, that all conditions precedent to such Guarantor Supplemental Indenture required by this Indenture have been complied with and that such Guarantor Supplemental Indenture is a valid and binding agreement of the applicable Subsidiary Guarantor, enforceable against such Subsidiary Guarantor in accordance with its terms.

Section 1309. Notices. Notice to any Subsidiary Guarantor shall be sufficient if addressed to such Subsidiary Guarantor care of the Company at the address, place and manner provided in Section 109.

IN WITNESS WHEREOF, the parties hereto have caused this Indenture to be duly executed, all as of the date first written above.

VICTORIA'S SECRET & CO.

By: /s/ Todd Helvie

Name: Todd Helvie

Title: Senior Vice President, Tax and Treasury

[Signature Page to Indenture]

U.S. BANK NATIONAL ASSOCIATION, as Trustee

By: /s/ Scott R. Miller
Name: Scott R. Miller
Title: Vice President

[Signature Page to Indenture]

Form of Initial Note¹
(FACE OF NOTE)

Victoria's Secret & Co.

4.625% Senior Notes due 2029

CUSIP No. []

ISIN No. []

No. _____ \$ _____

Victoria's Secret & Co., a corporation duly organized and existing under the laws of the state of Delaware, (and its successors and assigns, the "Company") hereby promises to pay to _____, or its registered assigns, the principal sum of \$ _____ ([] United States Dollars) [(or such lesser or greater amount as shall be outstanding hereunder from time to time in accordance with Sections 312 and 313 of the Indenture referred to on the reverse hereof)]² (the "Principal Amount") on July 15, 2029. The Company hereby promises to pay interest semi-annually in arrears on January 15 and July 15 in each year, commencing [], 20[]³, at the rate of 4.625% per annum (subject to adjustment as provided below), until the Principal Amount is paid or made available for payment. [Interest on this Note will accrue from the most recent date to which interest on this Note or any of its Predecessor Notes has been paid or duly provided for or, if no interest has been paid, from the Issue Date.]⁴ [Interest on this Note will accrue (or will be deemed to have accrued) from the most recent date to which interest on this Note or any of its Predecessor Notes has been paid or duly provided for or, if no such interest has been paid, from _____, ____].⁵ Interest on the Notes shall be computed on the basis of a 360-day year of twelve 30-day months. The interest so payable, and punctually paid or duly provided for, on any Interest Payment Date will, as provided in such Indenture, be paid to the Person in whose name this Note (or one or more Predecessor Notes) is registered at the close of business on the Regular Record Date for such interest, which shall be the January 1 or July 1 (whether or not a Business Day), as the case may be, next preceding such Interest Payment Date. Any such interest not so punctually paid or duly provided for will forthwith cease to be payable to the Holder on such Regular Record Date and may either be paid to the Person in whose name this Note (or one or more Predecessor Notes) is registered at the close of business on a Special Record Date for the payment of such Defaulted Interest to be fixed by the Trustee, notice whereof shall be given to Holders of Notes not less than 10 days prior to such Special Record Date, or be paid at any time in any other lawful manner not inconsistent with the requirements of any securities exchange on which the Notes may be listed, and upon such notice as may be required by such exchange, all as more fully provided in said Indenture.

Payment of principal of (and premium, if any) and interest on this Note will be made at the Corporate Trust Office of the Trustee, or such other office or agency of the Company maintained for that purpose; provided, however, that at the option of the Company payment of interest may be made through the Paying Agent by wire transfer or immediately available funds to the account designated to the Company by the Person entitled thereto or by check mailed to the address of the Person entitled thereto as such address shall appear in the Note Register.

¹ Insert any applicable legends as provided in Article II of the Indenture.

² Include only if the Note is issued in global form.

³ January 15, 2022 for the Initial Notes.

⁴ Include only for Initial Notes.

⁵ Insert applicable date.

⁶ Include only for Additional Notes.

Reference is hereby made to the further provisions of this Note set forth on the reverse hereof, which further provisions shall for all purposes have the same effect as if set forth at this place.

Unless the certificate of authentication hereon has been executed by the Trustee referred to on the reverse hereof by manual signature, this Note shall not be entitled to any benefit under the Indenture or be valid or obligatory for any purpose.

IN WITNESS WHEREOF, the Company has caused this instrument to be duly executed.

VICTORIA'S SECRET & CO.

By: _____
Name:
Title:

This is one of the Notes referred to in the within-mentioned Indenture.

U.S. BANK NATIONAL ASSOCIATION
as Trustee

By: _____
Name:
Title:

Dated: _____

This Note is one of the duly authorized issue of 4.625% Senior Notes due 2029 of the Company (herein called the “Notes”), issued under an Indenture, dated as of July 15, 2021 (the “Indenture,” which term shall have the meaning assigned to it in such instrument), among Victoria’s Secret & Co., a corporation duly organized and existing under the laws of the State of Delaware (the “Company”), as issuer, and U.S. Bank National Association, in its capacity as Trustee (herein called the “Trustee,” which term includes any successor trustee under the Indenture), and reference is hereby made to the Indenture for a statement of the respective rights, limitations of rights, duties and immunities thereunder of the Company, any other obligor upon this Note, the Trustee and the Holders of the Notes and of the terms upon which the Notes are, and are to be, authenticated and delivered. The terms of the Notes include those stated in the Indenture and Holders are referred to the Indenture for a statement of such terms. To the maximum extent permitted by law, in the case of any conflict between the provisions of this Note and the Indenture, the provisions of the Indenture shall control. Additional Notes may be issued from time to time under the Indenture and will vote as a class with the Notes and otherwise be treated as Notes for purposes of the Indenture.

All terms used in this Note that are defined in the Indenture shall have the meanings assigned to them in the Indenture.

From and after the Escrow Release Date, this Note may be entitled to certain Subsidiary Guarantees made for the benefit of the Holders. Reference is made to Article XIII of the Indenture for terms relating to such Subsidiary Guarantees, including the release, termination and discharge thereof. Neither the Company nor any Subsidiary Guarantor shall be required to make any notation on this Note to reflect any Subsidiary Guarantee or any such release, termination or discharge.

The Notes are redeemable, at the Company’s option, in whole or in part, as provided in the Indenture.

The Indenture provides that, upon the occurrence after the Escrow Release Date of a Change of Control and subject to further limitations contained therein, each Holder will have the right to require that the Company repurchase all or any part of such Holder’s Notes in accordance with the provisions set forth in Section 415 of the Indenture.

The Notes will not be entitled to the benefit of a sinking fund.

[If (i) the Escrow Agent has not received the Officer’s Certificate described in the definition of “Escrow Release Date” on or prior to 5:00 p.m. (New York City time) on the Escrow End Date or (ii) the Company notifies the Escrow Agent in writing on or prior to 5:00 p.m. (New York City time) on the Escrow End Date that the Company will not pursue the Separation, then the Notes will be subject to a Special Mandatory Redemption in accordance with the provisions set forth in Section 1010 of the Indenture.]⁷

The Indenture contains provisions for defeasance at any time of the entire Indebtedness of this Note or certain restrictive covenants and certain Events of Default with respect to this Note, in each case upon compliance with certain conditions set forth in the Indenture.

⁷ Include if applicable.

If an Event of Default with respect to the Notes shall occur and be continuing, the principal of and accrued but unpaid interest on the Notes may be declared due and payable in the manner and with the effect provided in the Indenture.

The Indenture permits, with certain exceptions as therein provided, the amendment thereof and the modification of the rights and obligations of the Company and the rights of the Holders of the Notes to be effected under the Indenture at any time by the Company and the Trustee with the consent of the Holders of at least a majority in principal amount of the Notes at the time Outstanding. The Indenture also contains provisions permitting the Holders of specified percentages in principal amount of the Notes at the time Outstanding, on behalf of the Holders of all Notes, to waive compliance by the Company and its Subsidiaries with certain provisions of the Indenture and certain past defaults under the Indenture and their consequences. Any such consent or waiver by the Holder of this Note shall be conclusive and binding upon such Holder and upon all future Holders of this Note and of any Note issued upon the registration of transfer hereof or in exchange herefor or in lieu hereof, whether or not notation of such consent or waiver is made upon this Note.

As provided in and subject to the provisions of the Indenture, the Holder of this Note shall not have the right to institute any proceeding with respect to the Indenture or for the appointment of a receiver or trustee or for any other remedy thereunder, unless such Holder shall have previously given the Trustee written notice of a continuing Event of Default with respect to the Notes, the Holders of not less than 30.0% in principal amount of the Notes at the time Outstanding shall have made written request to the Trustee to pursue such remedy in respect of such Event of Default as Trustee and offered the Trustee security or indemnity satisfactory to it against any loss, liability or expense, and the Trustee shall not have received from the Holders of a majority in principal amount of Notes at the time Outstanding a direction inconsistent with such request, and shall have failed to institute any such proceeding, for 60 days after receipt of such notice, request and offer of security or indemnity. The foregoing shall not apply to any suit instituted by the Holder of this Note for the enforcement of any payment of principal hereof or interest hereon on or after the respective due dates expressed herein.

As provided in the Indenture and subject to certain limitations and other provisions therein set forth, (a) the transfer of this Note is registrable in the Note Register, upon surrender of this Note for registration of transfer at the office or agency of the Company in a Place of Payment, duly endorsed by, or accompanied by a written instrument of transfer in form satisfactory to the Company duly executed by, the Holder hereof or such Holder's attorney duly authorized in writing, and thereupon one or more new Notes, of authorized denominations and for the same aggregate principal amount, will be issued to the designated transferee or transferees, (b) the Notes are issuable only in fully registered form without coupons in minimum denominations of \$2,000 and any integral multiple of \$1,000 in excess thereof, and (c) the Notes are exchangeable for a like aggregate principal amount of Notes of a different authorized denomination, as requested by the Holder surrendering the same.

No service charge shall be made for any such registration, transfer or exchange, but the Company may require payment of a sum sufficient to cover any transfer tax or other governmental charge payable in connection therewith.

Prior to due presentment of this Note for registration or transfer, the Company, any other obligor in respect of this Note, the Trustee and any agent of any of them may treat the Person in whose name this Note is registered as the owner hereof for all purposes, whether or not this Note be overdue, and none of the Company, any other obligor in respect of this Note, the Trustee nor any such agent shall be affected by notice to the contrary.

No past, present or future director, manager, officer, employee, incorporator, member, partner or stockholder of the Company, any Subsidiary Guarantor or any Subsidiary of any thereof, in their respective capacities as such, shall have any liability for any obligation of the Company or any Subsidiary Guarantor under the Note Documents, or for any claim based on, in respect of, or by reason of, any such obligation or its creation. Each Noteholder, by accepting the Notes, waives and releases all such liability. The waiver and release are part of the consideration for issuance of the Notes.

THE INDENTURE AND THIS NOTE SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK. THE TRUSTEE, THE COMPANY, ANY OTHER OBLIGOR IN RESPECT OF THIS NOTE AND (BY ITS ACCEPTANCE OF THIS NOTE) THE HOLDER HEREOF AGREE TO SUBMIT TO THE JURISDICTION OF ANY UNITED STATES FEDERAL OR STATE COURT LOCATED IN THE BOROUGH OF MANHATTAN, IN THE CITY OF NEW YORK IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THE INDENTURE, THIS NOTE, OR THE SUBSIDIARY GUARANTEES.

[FORM OF CERTIFICATE OF TRANSFER]

FOR VALUE RECEIVED the undersigned Holder hereby sell(s), assign(s) and transfer(s) unto

Insert Taxpayer Identification No.

(Please print or typewrite name and address including zip code of assignee)

the within Note and all rights thereunder, hereby irrevocably constituting and appointing

attorney to transfer such Note on the books of the Company with full power of substitution in the premises.

Check One

(a) this Note is being transferred in compliance with the exemption from registration under the Securities Act of 1933, as amended, provided by Rule 144A thereunder.

or

(b) this Note is being transferred other than in accordance with (a) above and documents are being furnished which comply with the conditions of transfer set forth in this Note and the Indenture.

If neither of the foregoing boxes is checked, the Trustee or other Note Registrar shall not be obligated to register this Note in the name of any Person other than the Holder hereof unless and until the conditions to any such transfer of registration set forth herein and in Section 313 of the Indenture shall have been satisfied.

Date: _____

NOTICE: The signature to this assignment must correspond with the name as written upon the face of the within-mentioned instrument in every particular, without alteration or any change whatsoever.

Signature Guarantee: _____

Signatures must be guaranteed by an “eligible guarantor institution” meeting the requirements of the Note Registrar, which requirements include membership or participation in the Security Transfer Agent Medallion Program (“STAMP”) or such other “signature guarantee program” as may be determined by the Note Registrar in addition to, or in substitution for, STAMP, all in accordance with the Securities Exchange Act of 1934, as amended.

TO BE COMPLETED BY PURCHASER IF (a) ABOVE IS CHECKED.

The undersigned represents and warrants that it is purchasing this Note for its own account or an account with respect to which it exercises sole investment discretion and that it and any such account is a “qualified institutional buyer” within the meaning of Rule 144A under the Securities Act of 1933, as amended, and is aware that the sale to it is being made in reliance on Rule 144A and acknowledges that it has received such information regarding the Company as the undersigned has requested pursuant to Rule 144A or has determined not to request such information and that it is aware that the transferor is relying upon the undersigned’s foregoing representations in order to claim the exemption from registration provided by Rule 144A.

Dated: _____

NOTICE: To be executed by an executive officer

OPTION OF HOLDER TO ELECT PURCHASE

If you wish to have this Note purchased by the Company pursuant to Section 411 or Section 415 of the Indenture, check the box: [].

If you wish to have a portion of this Note purchased by the Company pursuant to Section 411 or Section 415 of the Indenture, state the amount (in principal amount) below:

\$ _____

Date: _____

Your Signature: _____

(Sign exactly as your name appears on the other side of this Note)

Signature Guarantee: _____

Signatures must be guaranteed by an “eligible guarantor institution” meeting the requirements of the Note Registrar, which requirements include membership or participation in the Security Transfer Agent Medallion Program (“STAMP”) or such other “signature guarantee program” as may be determined by the Note Registrar in addition to, or in substitution for, STAMP, all in accordance with the Securities Exchange Act of 1934, as amended.

SCHEDULE OF INCREASES OR DECREASES IN GLOBAL NOTE

The following increases or decreases in this Global Note have been made:

<u>Date of Exchange</u>	<u>Amount of decreases in Principal Amount of this Global Note</u>	<u>Amount of increases in Principal Amount of this Global Note</u>	<u>Principal amount of this Global Note following such decreases or increases</u>	<u>Signature of authorized signatory of Trustee</u>
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[Reserved]

Form of Certificate of Beneficial Ownership

On or after [____], 20[]

U.S. BANK NATIONAL ASSOCIATION
10 W Broad St
CN-OH-BD12
Columbus, OH 43215
Attention: Scott R. Miller, Vice President

Re: VICTORIA'S SECRET & CO. (the "Company")

4.625% Senior Notes due 2029 (the "Notes")

Ladies and Gentlemen:

This letter relates to \$_____ principal amount of Notes represented by the offshore global note certificate (the "Regulation S Global Note"). Pursuant to Section 313(3) of the Indenture dated as of July 15, 2021 relating to the Notes (as amended, supplemented, waived or otherwise modified, the "Indenture"), we hereby certify that (1) we are the beneficial owner of such principal amount of Notes represented by the Regulation S Global Note and (2) we are either (i) a Non-U.S. person to whom the Notes could be transferred in accordance with Rule 903 or 904 of Regulation S ("Regulation S") promulgated under the Securities Act of 1933, as amended (the "Act") or (ii) a U.S. person who purchased securities in a transaction that did not require registration under the Act.

You, the Company, and counsel for the Company are entitled to rely upon this letter and are irrevocably authorized to produce this letter or a copy hereof to any interested party in any administrative or legal proceedings or official inquiry with respect to the matters covered hereby. Terms used in this certificate have the meanings set forth in Regulation S.

Very truly yours,

[Name of Holder]

By: _____
Authorized Signature

Form of Regulation S Certificate

U.S. BANK NATIONAL ASSOCIATION
10 W Broad St
CN-OH-BD12
Columbus, OH 43215
Attention: Scott R. Miller, Vice President

Re: VICTORIA'S SECRET & CO. (the "Company")

4.625% Senior Notes due 2029 (the "Notes")

Ladies and Gentlemen:

In connection with our proposed sale of \$_____ aggregate principal amount of Notes, we confirm that such sale has been effected pursuant to and in accordance with Regulation S ("Regulation S") under the Securities Act of 1933, as amended (the "Securities Act"), and accordingly, we hereby certify as follows:

1. The offer of the Notes was not made to a person in the United States (unless such person or the account held by it for which it is acting is excluded from the definition of "U.S. person" pursuant to Rule 902(k) of Regulation S under the circumstances described in Rule 902(h)(3) of Regulation S) or specifically targeted at an identifiable group of U.S. citizens abroad.
2. Either (a) at the time the buy order was originated, the buyer was outside the United States or we and any person acting on our behalf reasonably believed that the buyer was outside the United States or (b) the transaction was executed in, on or through the facilities of a designated offshore securities market, and neither we nor any person acting on our behalf knows that the transaction was pre-arranged with a buyer in the United States.
3. No directed selling efforts have been made in the United States in contravention of the requirements of Rule 903(a)(2) or Rule 904(a)(2) of Regulation S, as applicable.
4. The proposed transfer of Notes is not part of a plan or scheme to evade the registration requirements of the Securities Act.
5. If we are a dealer or a person receiving a selling concession or other fee or remuneration in respect of the Notes, and the proposed transfer takes place before end of the distribution compliance period under Regulation S, or we are an officer or director of the Company or a distributor, we certify that the proposed transfer is being made in accordance with the provisions of Rules 903 and 904 of Regulation S.
6. If the proposed transfer takes place before the end of the distribution compliance period under Regulation S, the beneficial interest in the Notes so transferred will be held immediately thereafter through Euroclear (as defined in such Indenture) or Clearstream (as defined in such Indenture).
7. We have advised the transferee of the transfer restrictions applicable to the Notes.

You, the Company, and counsel for the Company are entitled to rely upon this Certificate and are irrevocably authorized to produce this Certificate or a copy hereof to any interested party in any administrative or legal proceeding or official inquiry with respect to the matters covered hereby. Terms used in this certificate have the meanings set forth in Regulation S.

Very truly yours,

[NAME OF SELLER]

By: _____

Name:

Title:

Address:

Date of this Certificate: _____, 20__

Form of Supplemental Indenture in Respect of Subsidiary Guarantee

SUPPLEMENTAL INDENTURE, dated as of [_____] (this "Supplemental Indenture"), among [name of Guarantor(s)] (the "New Subsidiary Guarantor(s)"), Victoria's Secret & Co. (the "Company"), and each other then-existing Subsidiary Guarantor under the Indenture referred to below (the "Existing Guarantors"), and U.S. Bank National Association, as Trustee under the Indenture referred to below.

WITNESSETH:

WHEREAS, the Company[, any Existing Guarantors] and the Trustee have heretofore become parties to an Indenture, dated as of July 15, 2021 (as amended, supplemented, waived or otherwise modified, the "Indenture"), providing for the issuance of the Notes;

[WHEREAS, Section 1301 of the Indenture provides that, on the Escrow Release Date, the Company is required to cause each of its Wholly Owned Domestic Restricted Subsidiaries that Guarantees, or is a co-borrower in respect of, the Senior Term Facility or the ABL Facility to execute and deliver to the Trustee a supplemental indenture pursuant to which each such Wholly Owned Domestic Restricted Subsidiary shall guarantee the Subsidiary Guaranteed Obligations pursuant to a Subsidiary Guarantee on the terms and conditions set forth herein and in Article XIII of the Indenture;]

[WHEREAS, Section 1308 of the Indenture provides that the Company is required to cause (i) each Restricted Subsidiary that is required to become a Subsidiary Guarantor pursuant to Section 414 of the Indenture and (ii) each Subsidiary of the Company that the Company causes to become a Subsidiary Guarantor pursuant to Section 414 of the Indenture, to execute and deliver to the Trustee a supplemental indenture pursuant to which such Restricted Subsidiary shall guarantee the Subsidiary Guaranteed Obligations pursuant to a Subsidiary Guarantee on the terms and conditions set forth herein and in Article XIII of the Indenture;]

WHEREAS, each New Subsidiary Guarantor desires to enter into this Supplemental Indenture for good and valuable consideration, including substantial economic benefit in that the financial performance and condition of such New Subsidiary Guarantor is dependent on the financial performance and condition of the Company, the obligations hereunder of which such New Subsidiary Guarantor has guaranteed, and on such New Subsidiary Guarantor's access to working capital through the Company's access to revolving credit borrowings under the ABL Credit Agreement; and

WHEREAS, pursuant to Section 901 of the Indenture, the parties hereto are authorized to execute and deliver this Supplemental Indenture to amend the Indenture, without the consent of any Holder;

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt of which is hereby acknowledged, the New Subsidiary Guarantors, the Company, the Existing Guarantors and the Trustee mutually covenant and agree for the benefit of the Holders of the Notes as follows:

1. Defined Terms. As used in this Supplemental Indenture, terms defined in the Indenture or in the preamble or recital hereto are used herein as therein defined. The words "herein," "hereof" and "hereby" and other words of similar import used in this Supplemental Indenture refer to this Supplemental Indenture as a whole and not to any particular section hereof.
2. Agreement to Guarantee. The New Subsidiary Guarantor hereby agrees, jointly and severally with [all] [any] other Existing Subsidiary Guarantors and fully and unconditionally, to guarantee the Subsidiary Guaranteed Obligations under the Indenture and the Notes on the terms and subject to the conditions set forth in Article XIII of the Indenture and to be bound by (and shall be entitled to the benefits of) all other applicable provisions of the Indenture as a Subsidiary Guarantor.

3. Termination, Release and Discharge. The New Subsidiary Guarantor's Subsidiary Guarantee shall terminate and be of no further force or effect, and the New Subsidiary Guarantor shall be released and discharged from all obligations in respect of such Subsidiary Guarantee, as and when provided in Section 1303 of the Indenture.

4. Parties. Nothing in this Supplemental Indenture is intended or shall be construed to give any Person, other than the Holders and the Trustee, any legal or equitable right, remedy or claim under or in respect of the New Subsidiary Guarantor's Subsidiary Guarantee or any provision contained herein or in Article XIII of the Indenture.

5. Governing Law. THIS SUPPLEMENTAL INDENTURE SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK. THE TRUSTEE, THE COMPANY, ANY OTHER OBLIGOR IN RESPECT OF THE NOTES AND (BY THEIR ACCEPTANCE OF THE NOTES) THE HOLDERS AGREE TO SUBMIT TO THE JURISDICTION OF ANY UNITED STATES FEDERAL OR STATE COURT LOCATED IN THE BOROUGH OF MANHATTAN, IN THE CITY OF NEW YORK IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS SUPPLEMENTAL INDENTURE.

6. Ratification of Indenture; Supplemental Indentures Part of Indenture. Except as expressly amended hereby, the Indenture is in all respects ratified and confirmed and all the terms, conditions and provisions thereof shall remain in full force and effect. This Supplemental Indenture shall form a part of the Indenture for all purposes, and every Holder of Notes heretofore or hereafter authenticated and delivered shall be bound hereby. The Trustee makes no representation or warranty as to the validity or sufficiency of this Supplemental Indenture or as to the accuracy of the recitals to this Supplemental Indenture.

7. Counterparts. The parties hereto may sign one or more copies of this Supplemental Indenture in counterparts, all of which together shall constitute one and the same agreement.

8. Headings. The section headings herein are for convenience of reference only and shall not be deemed to alter or affect the meaning or interpretation of any provisions hereof.

IN WITNESS WHEREOF, the parties hereto have caused this Supplemental Indenture to be duly executed as of the date first above written.

[NAME OF GUARANTOR(S)],
as Subsidiary Guarantor

By: _____
Name:
Title:

VICTORIA'S SECRET & CO.

By: _____
Name:
Title:

U.S. BANK NATIONAL ASSOCIATION, as Trustee

By: _____
Authorized Officer

Form of Certificate from Acquiring Institutional Accredited Investors

U.S. BANK NATIONAL ASSOCIATION
10 W Broad St
CN-OH-BD12
Columbus, OH 43215
Attention: Scott R. Miller, Vice President

Re: VICTORIA'S SECRET & CO. (the "Company")

4.625% Senior Notes due 2029 (the "Notes")

Ladies and Gentlemen:

In connection with our proposed sale of \$ _____ aggregate principal amount of Notes, we confirm that:

1. We understand that any subsequent transfer of the Notes is subject to certain restrictions and conditions set forth in the Indenture dated as of July 15, 2021, relating to the Notes (as amended, supplemented, waived or otherwise modified, the "Indenture") and the undersigned agrees to be bound by, and not to resell, pledge or otherwise transfer the Notes except in compliance with, such restrictions and conditions and the Securities Act of 1933, as amended (the "Securities Act").

2. We understand that the Notes have not been registered under the Securities Act or any other applicable securities law, and that the Notes may not be offered, sold or otherwise transferred except as permitted in the following sentence. We agree, on our own behalf and on behalf of any accounts for which we are acting as hereinafter stated, that if we should offer, sell, transfer, pledge, hypothecate or otherwise dispose of any Notes within one year after the original issuance of the Notes, we will do so only (A) to the Company, (B) inside the United States to a "qualified institutional buyer" in compliance with Rule 144A under the Securities Act, (C) inside the United States to an institutional "accredited investor" (as defined below) that, prior to such transfer, furnishes to you a signed letter substantially in the form of this letter, (D) outside the United States to a foreign person in compliance with Rule 904 of Regulation S under the Securities Act, (E) pursuant to the exemption from registration provided by Rule 144 under the Securities Act (if available), or (E) pursuant to an effective registration statement under the Securities Act, and we further agree to provide to any person purchasing any of the Notes from us a notice advising such purchaser that resales of the Notes are restricted as stated herein and in the Indenture.

3. We understand that, on any proposed transfer of any Notes prior to the later of the original issue date of the Notes and the last date the Notes were held by an affiliate of the Company pursuant to paragraphs 2(C), 2(D) and 2(E) above, we will be required to furnish to you and the Company such certifications, legal opinions and other information as you and the Company may reasonably require to confirm that the proposed transfer complies with the foregoing restrictions. We further understand that the Notes purchased by us will bear a legend to the foregoing effect.

4. We are an institutional "accredited investor" (as defined in Rule 501(a)(1), (2), (3) or (7) under the Securities Act) and have such knowledge and experience in financial and business matters as to be capable of evaluating the merits and risks of our investment in the Notes, and we and any accounts for which we are acting are acquiring the Notes for investment purposes and not with a view to, or offer or sale in connection with, any distribution in violation of the Securities Act, and we are each able to bear the economic risk of our or its investment.

5. We are acquiring the Notes purchased by us for our own account or for one or more accounts (each of which is an institutional “accredited investor”) as to each of which we exercise sole investment discretion.

You, the Company and counsel to the Company are entitled to rely upon this letter and are irrevocably authorized to produce this letter or a copy hereof to any interested party in any administrative or legal proceedings or official inquiry with respect to the matters covered hereby.

Very truly yours,

(Name of Transferee)

By: _____
Authorized Signature

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Supplemental Indenture in Respect of Subsidiary Guarantee

SUPPLEMENTAL INDENTURE, dated as of August 2, 2021 (this "Supplemental Indenture"), among Victoria's Secret Stores, LLC, Victoria's Secret Direct Brand Management, LLC, Intimate Apparel Brand Management, LP, MII Brand Import, LLC, LB US Holding, LLC and VS Service Company, LLC, (the "New Subsidiary Guarantors"), Victoria's Secret & Co. (the "Company"), and U.S. Bank National Association, as Trustee under the Indenture referred to below.

W I T N E S S E T H:

WHEREAS, the Company and the Trustee have heretofore become parties to an Indenture, dated as of July 15, 2021 (as amended, supplemented, waived or otherwise modified, the "Indenture"), providing for the issuance of the Notes;

WHEREAS, Section 1301 of the Indenture provides that, on the Escrow Release Date, the Company is required to cause each of its Wholly Owned Domestic Restricted Subsidiaries that Guarantees, or is a co-borrower in respect of, the Senior Term Facility or the ABL Facility to execute and deliver to the Trustee a supplemental indenture pursuant to which each such Wholly Owned Domestic Restricted Subsidiary shall guarantee the Subsidiary Guaranteed Obligations pursuant to a Subsidiary Guarantee on the terms and conditions set forth herein and in Article XIII of the Indenture;

WHEREAS, Section 1308 of the Indenture provides that the Company is required to cause (i) each Restricted Subsidiary that is required to become a Subsidiary Guarantor pursuant to Section 414 of the Indenture and (ii) each Subsidiary of the Company that the Company causes to become a Subsidiary Guarantor pursuant to Section 414 of the Indenture, to execute and deliver to the Trustee a supplemental indenture pursuant to which such Restricted Subsidiary shall guarantee the Subsidiary Guaranteed Obligations pursuant to a Subsidiary Guarantee on the terms and conditions set forth herein and in Article XIII of the Indenture;

WHEREAS, each New Subsidiary Guarantor desires to enter into this Supplemental Indenture for good and valuable consideration, including substantial economic benefit in that the financial performance and condition of such New Subsidiary Guarantor is dependent on the financial performance and condition of the Company, the obligations hereunder of which such New Subsidiary Guarantor has guaranteed, and on such New Subsidiary Guarantor's access to working capital through the Company's access to revolving credit borrowings under the ABL Credit Agreement; and

WHEREAS, pursuant to Section 901 of the Indenture, the parties hereto are authorized to execute and deliver this Supplemental Indenture to amend the Indenture, without the consent of any Holder;

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt of which is hereby acknowledged, the New Subsidiary Guarantors, the Company and the Trustee mutually covenant and agree for the benefit of the Holders of the Notes as follows:

1. Defined Terms. As used in this Supplemental Indenture, terms defined in the Indenture or in the preamble or recital hereto are used herein as therein defined. The words "herein," "hereof" and "hereby" and other words of similar import used in this Supplemental Indenture refer to this Supplemental Indenture as a whole and not to any particular section hereof.

2. Agreement to Guarantee. The New Subsidiary Guarantor hereby agrees, jointly and severally and fully and unconditionally, to guarantee the Subsidiary Guaranteed Obligations under the Indenture and the Notes on the terms and subject to the conditions set forth in Article XIII of the Indenture and to be bound by (and shall be entitled to the benefits of) all other applicable provisions of the Indenture as a Subsidiary Guarantor.

3. Termination, Release and Discharge. The New Subsidiary Guarantor's Subsidiary Guarantee shall terminate and be of no further force or effect, and the New Subsidiary Guarantor shall be released and discharged from all obligations in respect of such Subsidiary Guarantee, as and when provided in Section 1303 of the Indenture.

4. Parties. Nothing in this Supplemental Indenture is intended or shall be construed to give any Person, other than the Holders and the Trustee, any legal or equitable right, remedy or claim under or in respect of the New Subsidiary Guarantor's Subsidiary Guarantee or any provision contained herein or in Article XIII of the Indenture.

5. Governing Law. THIS SUPPLEMENTAL INDENTURE SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK. THE TRUSTEE, THE COMPANY, ANY OTHER OBLIGOR IN RESPECT OF THE NOTES AND (BY THEIR ACCEPTANCE OF THE NOTES) THE HOLDERS AGREE TO SUBMIT TO THE JURISDICTION OF ANY UNITED STATES FEDERAL OR STATE COURT LOCATED IN THE BOROUGH OF MANHATTAN, IN THE CITY OF NEW YORK IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS SUPPLEMENTAL INDENTURE.

6. Ratification of Indenture; Supplemental Indentures Part of Indenture. Except as expressly amended hereby, the Indenture is in all respects ratified and confirmed and all the terms, conditions and provisions thereof shall remain in full force and effect. This Supplemental Indenture shall form a part of the Indenture for all purposes, and every Holder of Notes heretofore or hereafter authenticated and delivered shall be bound hereby. The Trustee makes no representation or warranty as to the validity or sufficiency of this Supplemental Indenture or as to the accuracy of the recitals to this Supplemental Indenture.

7. Counterparts. The parties hereto may sign one or more copies of this Supplemental Indenture in counterparts, all of which together shall constitute one and the same agreement.

8. Headings. The section headings herein are for convenience of reference only and shall not be deemed to alter or affect the meaning or interpretation of any provisions hereof.

written. IN WITNESS WHEREOF, the parties hereto have caused this Supplemental Indenture to be duly executed as of the date first above

LB US HOLDING, LLC
MII BRAND IMPORT, LLC
VICTORIA'S SECRET DIRECT BRAND MANAGEMENT, LLC
VICTORIA'S SECRET STORES BRAND MANAGEMENT, LLC
VICTORIA'S SECRET STORES, LLC
VS SERVICE COMPANY, LLC,
as Subsidiary Guarantor

By: /s/ Todd Helvie
Name: Todd Helvie
Title: Senior Vice President

INTIMATE APPAREL BRAND MANAGEMENT, LP

INTIMATE APPAREL BRAND MANAGEMENT GP, LLC,
as sole general partner

By: /s/ Todd Helvie
Name: Todd Helvie
Title: Senior Vice President

VICTORIA'S SECRET & CO.

By: /s/ Todd Helvie
Name: Todd Helvie
Title: Treasurer

U.S. BANK NATIONAL ASSOCIATION, as Trustee

By: /s/ Scott Miller
Authorized Officer

[Signature Page to Supplemental Indenture]

L BRANDS TO VS TRANSITION SERVICES AGREEMENT

dated as of

August 2, 2021

by and between

L BRANDS, INC.

and

VICTORIA'S SECRET & CO.

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L BRANDS TO VS TRANSITION SERVICES AGREEMENT

L BRANDS TO VS TRANSITION SERVICES AGREEMENT (this “**Agreement**”) dated as of August 2, 2021 (the “**Effective Date**”) between Victoria’s Secret & Co., a Delaware corporation (“**VS**”), and L Brands, Inc., a Delaware corporation (“**Service Provider**”).

WITNESSETH:

WHEREAS, VS and Service Provider have entered into a Separation and Distribution Agreement dated as of August 2, 2021 (the “**Separation Agreement**”), pursuant to which and on the terms and conditions set forth therein, among other things, Service Provider has agreed to distribute the VS Business to the holders of the L Brands Common Stock as of the Record Date;

WHEREAS, pursuant to the Separation Agreement, Service Provider has agreed to enter into this Agreement to cause to be provided certain services to the Service Recipients on the terms and conditions set forth herein in connection with the transactions contemplated by the Separation Agreement; and

WHEREAS, Service Provider has agreed to cause the Services to be provided in accordance with the terms hereof in order to facilitate the orderly transition of the VS Business from L Brands and the members of the L Brands Group to VS and the members of the VS Group.

NOW, THEREFORE, in consideration of the covenants and agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby mutually acknowledged, the parties hereto hereby agree as follows:

ARTICLE 1 DEFINITIONS

Section 1.01. *Definitions.* (a) As used herein, the following terms shall have the following meanings:

“**Dependent Services**” means, with respect to any specified Service (or portion thereof), any and all Services (or portion thereof) that, in Service Provider’s good faith reasonable determination, are dependent on the continuation of such specified Service (or portion thereof) or would be adversely affected by the termination or suspension of such specified Service (or portion thereof).

“**Disengagement Costs**” means any and all costs, charges and expenses of any kind incurred by Service Provider or any of its Affiliates in connection with the termination of this Agreement or relating to the cessation of any Services hereunder, including all third-party charges, costs or fees, all third-party cancellation or termination charges, costs or fees and the market value of all Disengagement Services provided by other Persons.

“**Disengagement Services**” means all services (other than the Services) provided hereunder at the request of VS primarily for the purpose of disengaging and transitioning Services from Service Provider and its Affiliates to VS or any of its Affiliates.

“**Service Costs**” means the Service Fees and Service Taxes.

“**Services**” means, subject to the limitations set forth herein and solely to the extent related to the VS Business, the transition services described on Schedules A-1 through A-16; each such schedule a “**Service Schedule**” and collectively, the “**Service Schedules**”.

“**TSA Employee**” means each individual who (i) is employed by Service Provider or any of its Affiliates (other than, for the avoidance of doubt, any employee of any Service Recipient) and (ii) provides Services (or any portion thereof) pursuant to this Agreement.

(b) All capitalized terms used but not defined herein shall have the meanings ascribed to such terms in the Separation Agreement.

(c) Each of the following terms is defined in the Section set forth opposite such term:

Term	Section
Additional Service	2.01(c)
Administrative Charge	3.01(c)
Agreement	Preamble
Allocated Cost	3.01(c)
Applicable Agreements	9.15
Arbitration Association	9.07(c)
Cap	6.06(b)
Confidential Information	5.01
Cost Components	3.01(c)
Covered Severance Costs	4.04(b)(i)
Covered TSA Employee	4.04(b)(ii)
Customary Billing	3.01(b)
Damages	6.01(a)
Developed Intellectual Property	2.09(d)
Dispute	9.07(a)
Effective Date	Preamble
Excluded TSA Employee	4.04(c)
Fixed Fee Billing	3.01(b)
Hiring Plan	4.01
Indemnified Party	6.02(a)
Indemnifying Party	6.02(a)
Integrated Agreements	9.15
IT Breach	2.11

Term	Section
Mediation Notice	9.07(b)
Mediation Period	9.07(c)
Net Sales Ratio	3.04
Pass-Through Billing	3.01(b)
Payment Date	3.06(b)
Percent of Sales Billing	3.01(b)
Representatives	2.12
Separation Agreement	Recitals
Service Fees	3.01(b)
Service Manager	2.14
Service Provider	Preamble
Service Provider Indemnitees	6.01(a)
Service Provider Party	2.02
Service Recipient Indemnitees	6.01(b)
Service Recipients	2.01(a)
Service Taxes	3.08(a)
Specific Billing	3.01(b)
Term	2.01(b)
Termination Fees	7.02
Third-Party Claim	6.02(a)
Third-Party Consent Costs	2.08(a)
Third-Party Provider	2.02
Transition Date	4.02(c)(ii)
Transition Employee	4.02(c)(i)
VS	Preamble
VS Developed Intellectual Property	2.09(d)
VS to L Brands TSA	9.15

Section 1.02. *Other Definitional and Interpretive Provisions.* The words “hereof”, “herein” and “hereunder” and words of like import used in this Agreement shall refer to this Agreement as a whole and not to any particular provision of this Agreement. The captions herein are included for convenience of reference only and shall be ignored in the construction or interpretation hereof. References to Articles, Sections, Exhibits, Appendices, Annexes and Schedules are to Articles, Sections, Exhibits, Appendices, Annexes and Schedules of this Agreement unless otherwise specified. All Exhibits, Appendices, Annexes and Schedules annexed hereto or referred to herein are hereby incorporated in and made a part of this Agreement as if set forth in full herein. Any capitalized terms used in any Exhibit, Appendix, Annex or Schedule but not otherwise defined therein, shall have the meaning as defined in this Agreement. Any singular term in this Agreement shall be deemed to include the plural, and any plural term the singular. Whenever the words “include”, “includes” or “including” are used in this Agreement, they shall be deemed to be followed by the words “without limitation”, whether or not they are in fact followed by those words or words of like import. “Writing”, “written” and comparable terms refer to printing, typing and other means of reproducing words (including electronic media) in a visible form. References to any statute shall be deemed to refer to such statute as amended from time to time and to any rules or regulations promulgated thereunder. References to any agreement or contract are to that agreement or contract as amended, modified or supplemented from time to time in accordance with the terms hereof and thereof. References to any Person include the successors and permitted assigns of that Person. References from or through any date mean, unless otherwise specified, from and including or through and including, respectively. References to “law”, “laws” or to a particular statute or law shall be deemed also to include any and all Applicable Law. The word “or” means “and/or” unless the context provides otherwise. References to “dollars” or “\$” shall mean U.S. dollars, and whenever conversion of values to or from any currency other than U.S. dollars for a particular date shall be required, such conversion shall be made using the closing rate provided by Bloomberg as of the date that is one Business Day prior to such date. References to one gender shall be held to include the other gender as the context requires. In the event of any inconsistency between the terms of this Agreement and the terms set forth in any Service Schedule, the terms set forth in the applicable Service Schedule shall prevail unless expressly provided otherwise.

ARTICLE 2 SERVICES

Section 2.01. *Services.* (a) Subject to the terms and conditions set forth herein, Service Provider shall cause the Service Provider Parties to provide to VS and its Affiliates (collectively the “**Service Recipients**”), and the Service Recipients shall receive, the Services for the term indicated in Section 2.01(b). A detailed description of each Service to be provided by the Service Provider Parties to the Service Recipients hereunder is set forth in the Service Schedules.

(b) Service Provider shall cause the Service Provider Parties to provide, and the Service Recipients shall receive, each Service for the period specified for such Service in the applicable Service Schedule (each such period, a “**Term**”). The Term for each Service may be (i) extended or shortened by mutual written agreement of VS and Service Provider, and (ii) terminated by VS or Service Provider, as applicable, pursuant to Section 7.01, in each case to be reflected in an amendment to the applicable Service Schedule.

(c) In addition to the Services to be provided or procured by Service Provider in accordance with Section 2.01(a), if due to a good faith oversight, the Service Schedules fail to identify a service provided by the Service Provider Parties to the VS Business during the twelve-month period prior to the date hereof (an “**Additional Service**”), and such Additional Service is necessary for the Service Recipients during the term of this Agreement to operate the VS Business in substantially the same manner as the VS Business had been operated during the twelve-month period prior to the date hereof, upon written request of any Service Recipient that identifies and states its desire to receive such Additional Service, the parties hereto shall negotiate in good faith for Service Provider to provide or cause to be provided such Additional Service; *provided* that (i) nothing herein shall obligate either party hereto to agree to any such terms or to provide or receive any such Additional Service unless agreed in writing by both parties hereto and (ii) no Additional Service shall be provided for a Term extending beyond 24 months following the Distribution Date. To the extent the parties hereto reach a written agreement with respect to providing such Additional Service, the parties shall cooperate and act in good faith to add such Additional Service to the Service Schedules and mutually agree in good faith to a description of such Additional Service, the Term during which such Additional Service would be provided, the Service Fees for such Additional Service and any other terms applicable thereto. Upon amendment of the Service Schedules to include such Additional Service, such Additional Service shall be deemed part of the “Services” provided under this Agreement subject to the terms and conditions of this Agreement.

Section 2.02. *Service Provider's Affiliates and Third-Party Providers.* In providing, or otherwise making available, the Services to the Service Recipients, Service Provider may use, at its discretion, its own personnel or the personnel of any of its Affiliates (including the TSA Employees) or employ the services of contractors, subcontractors, vendors or other third parties (each, a “**Third-Party Provider**”); *provided* that Service Provider shall remain responsible for ensuring that its obligations with respect to such Services, including the general standard of service described below under Section 2.03, are satisfied with respect to all Services provided by any Service Provider Party. Each of Service Provider, its Affiliates and any Third-Party Provider that provides Services shall be referred to as a “**Service Provider Party**”.

Section 2.03. *General Standard of Service.* Except as otherwise agreed in writing by the parties hereto or expressly provided in this Agreement, each Service Provider Party shall provide Services in all material respects in substantially the same manner in terms of the nature, quality and standard of care as such services have been provided by Service Provider and its Affiliates to the Affiliates and other businesses of Service Provider during the twelve-month period prior to the date hereof and after the date hereof. Service Provider shall not be responsible for any inability to provide a Service or any delay in doing so to the extent that such inability or delay is the result of the failure of any Service Recipient to timely provide the information, access or other cooperation necessary for a Service Provider Party to provide such Service. Service Provider's obligation to cause the Services to be provided in accordance with the standards set forth in this Section 2.03 shall be subject to Service Provider's right to supplement, modify, substitute or otherwise alter any of the Services from time to time in a manner that is generally consistent with supplements, modifications, substitutions or alterations made for similar services provided or otherwise made available by a Service Provider Party to Service Provider or any of its Affiliates or as required by Applicable Law.

Section 2.04. *Compliance with Applicable Law.* The parties hereto will comply, and will cause their Affiliates and their respective employees to comply, with all Applicable Law in the performance of this Agreement.

Section 2.05. *Force Majeure.* Neither party hereto shall be liable to the other party hereto for any interruption of service, any delays or any failure to perform under this Agreement caused by matters or events occurring that are beyond the reasonable control of such party, including strikes, lockouts or other labor difficulties; fires, floods, acts of God, extremes of weather, earthquakes, tornadoes or similar occurrences; riot, insurrection or other hostilities; embargo; fuel or energy shortage; delays by unaffiliated suppliers or carriers; inability to obtain necessary labor, materials or utilities; or any epidemic, pandemic or disease outbreak (including COVID-19) or worsening thereof. Any delays, interruptions or failures to perform caused by such occurrences shall not be deemed to be a breach or failure to perform under this Agreement; *provided* that (i) this Section 2.05 only operates to suspend, and not to discharge, a party's obligations under this Agreement, and that when the causes of the failure or delay are removed or alleviated, the affected party shall resume performance of its obligations hereunder and to the extent such suspension adversely impacts the progress of the transition of any Service to a Service Recipient, the Service Recipient may request in writing that the Term for such Service shall be tolled for the duration of such suspension and (ii) this Section 2.05 shall not excuse a party's obligation to pay money; *provided, further*, that VS shall not be obligated to pay (other than previously accrued Service Costs) for any particular Service during the pendency of Service Provider's failure to provide such particular Service. Each party hereto shall use its good faith efforts to promptly notify the other upon learning of the occurrence of such event of a force majeure and (x) the affected party shall use its commercially reasonable efforts to mitigate and eliminate the force majeure in order to resume performance as promptly as practicable, *provided* that such affected party will have no obligation to incur any costs or liabilities to do so, and (y) the unaffected party shall have no obligation hereunder with respect to the obligations the affected party is unable to perform due to the force majeure event. If Service Provider is unable to provide any of the Services due to a force majeure event, the parties hereto shall use commercially reasonable efforts to cooperatively seek a solution that is mutually satisfactory, such as the subcontracting of all or part of the provision of the Services under the supervision of Service Provider for the period of time during or affected by the force majeure.

Section 2.06. *Limitations.* (a) VS agrees that the Services will be used by each Service Recipient solely in connection with the operation of the VS Business and to facilitate an orderly transition of the operation of the VS Business following the Distribution Time. No member of the VS Group may resell, license the use of or otherwise permit the use by any Person other than the Service Recipients of any Services, except with the prior written consent of Service Provider.

(b) In providing the Services, no Service Provider Party shall be obligated to, unless expressly agreed in writing by the parties or expressly set forth on the applicable Service Schedule: (i) hire any additional employees; (ii) maintain the employment of any specific employee; (iii) purchase, lease or license any additional equipment, hardware, Intellectual Property Right or software, except to the extent (A) software is reasonably necessary for the performance or receipt of a Service and (B) VS agrees to solely bear the applicable cost and expense (and which shall be subject to VS's prior written approval) or (iv) provide any Service to any Service Recipient for any fiscal year at a volume or level that is more than 120% of the volume or level of such Service in the preceding fiscal year.

Section 2.07. *Labor Matters.* All labor matters relating to any TSA Employees shall be within the exclusive control of Service Provider (or its applicable Affiliate or Third-Party Provider), and VS and its Affiliates shall not take any action affecting such matters. Except as expressly provided in Article 4, nothing in this Agreement is intended to transfer the employment of any TSA Employee to VS or any of its Affiliates. All TSA Employees will be deemed for all compensation, employee benefits, tax and social security contribution purposes to be employees of Service Provider (or its applicable Affiliate or Third-Party Provider) and not employees of VS or any of its Affiliates. In providing the Services, the TSA Employees will be under the direction, control and supervision of Service Provider or its Affiliates or Third-Party Provider and not of VS or any of its Affiliates. Except with respect to the VS Assets, or any other assets and materials provided by VS in accordance with Section 2.08(b), all procedures, methods, systems, strategies, tools, equipment, facilities and other resources of any Service Provider Party that are used by any Service Provider Party in connection with the provision of Services hereunder (including any Intellectual Property Right whether existing or created in connection with the provision of the Services or otherwise) shall remain the property of such Service Provider Party and shall at all times be under the sole direction and control of Service Provider.

Section 2.08. *Facilities; Cooperation; Further Actions.* (a) Service Provider and VS shall use commercially reasonable efforts to obtain, and to keep and maintain in effect (or to cause their respective Affiliates to obtain, and to keep and maintain in effect) all governmental or third-party licenses and consents required for the provision of any Service by a Service Provider Party in accordance with the terms of this Agreement; *provided* that if Service Provider or any of its Affiliates is unable to obtain any such license or consent, Service Provider shall promptly notify VS in writing and shall, and shall cause its Affiliates to, use commercially reasonable efforts to implement an appropriate alternative arrangement. The costs relating to obtaining any such licenses or consents shall be borne solely by VS (the “**Third-Party Consent Costs**”) and none of Service Provider or any of its Affiliates shall be required to pay any money or other consideration or grant any other accommodation to any Person (including any amendment to any contract) or initiate any action, suit or proceeding against any Person to obtain any such license or consent; *provided* that Service Provider and its Affiliates shall not incur any such costs without the prior written consent of VS. If any such license, consent or alternative arrangement is not available despite the commercially reasonable efforts of Service Provider and its Affiliates or as a result of VS failing to consent to the incurrence of costs relating to obtaining any such license or consent, Service Provider shall not be required to cause to be provided the affected Services.

(b) To the extent necessary, or upon Service Provider’s reasonable request, VS shall make all VS Assets or other facilities (including all ancillary facilities-related services), assets, information technology systems and applications or materials of the Service Recipients available to Service Provider or the applicable Service Provider Party for the provision of the Services (it being understood that, as between the parties hereto, title to all VS Assets and such other facilities, assets, information technology systems and applications or materials shall at all times remain with the applicable Service Recipient and such Service Recipient shall at all times be the owner of record of such VS Assets and other facilities, assets information technology systems and applications or materials and shall be solely responsible for any matters arising therefrom or related thereto); *provided* that in the event VS fails to make any such VS Assets or other facilities, assets, information technology systems and applications or materials available to Service Provider or the applicable Service Provider Party, Service Provider shall have no further obligation to provide any affected Services to the extent such VS Assets or other facilities, assets, information technology systems and applications or materials are required for the provision of such Services.

Section 2.09. *Intellectual Property.* (a) Subject to the terms and conditions of this Agreement, with respect to each Service, Service Provider (on behalf of itself and its Affiliates) hereby grants to each Service Recipient and its Affiliates a limited, non-exclusive, non-sublicenseable, non-assignable (except as expressly provided for in Section 9.04) license, solely during the Term for such Service, to use any Intellectual Property Right (other than Trademarks), software and data that is (i) owned by Service Provider or its Affiliates and (ii) provided or otherwise made available by Service Provider or its Affiliates to such Service Recipient as part of such Service, but in each case solely to the extent necessary for such Service Recipient and its Affiliates to receive and use such Service as provided for and in accordance with this Agreement, subject to any applicable third-party restrictions or limitations.

(b) Subject to the terms and conditions of this Agreement, with respect to each Service, each Service Recipient (on behalf of itself and its Affiliates) hereby grants to Service Provider and its Affiliates a limited, non-exclusive, royalty-free, non-sublicenseable (except as expressly set forth herein), non-assignable (except as expressly provided for in Section 9.04) license, solely during the Term for such Service, in and to any Intellectual Property Right (other than Trademarks), software and data owned or controlled by such Service Recipient or any of its Affiliates, but in each case solely to the extent necessary for Service Provider, its Affiliates or any Third-Party Provider to perform such Service as provided for and in accordance with this Agreement, subject to any applicable third-party restrictions or limitations (it being understood that Service Provider shall have the right to grant a sublicense under the foregoing license to any Third-Party Provider).

(c) ALL SERVICES AND INTELLECTUAL PROPERTY RIGHTS LICENSED HEREUNDER ARE PROVIDED ON AN "AS IS" BASIS WITH NO REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, OF ANY KIND, INCLUDING WITH RESPECT TO MERCHANTABILITY, FITNESS FOR PARTICULAR PURPOSE OR NON-INFRINGEMENT. EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, NO LICENSES OR OTHER RIGHTS TO ANY SOFTWARE, INTELLECTUAL PROPERTY RIGHTS, DATA OR OTHER ASSETS ARE GRANTED TO EITHER PARTY HERETO UNDER THIS AGREEMENT, WHETHER BY IMPLICATION, ESTOPPEL, EXHAUSTION OR OTHERWISE, AND EACH PARTY HERETO RETAINS AND RESERVES ALL RIGHTS NOT EXPRESSLY GRANTED UNDER THIS AGREEMENT.

(d) The parties hereto acknowledge and agree that, as between the parties, Service Provider shall solely own all right, title and interest in and to all Intellectual Property Rights (other than Trademarks) authored, conceived, developed or reduced to practice by any Service Provider Party (whether solely or jointly with others) in connection with the Services (“**Developed Intellectual Property**”), provided that VS shall own all right, title and interest in and to all Developed Intellectual Property exclusively used in the VS Business (“**VS Developed Intellectual Property**”). VS hereby irrevocably assigns, and shall cause the other Service Recipients to assign, to Service Provider all of its or their right, title and interest in and to all Developed Intellectual Property (other than VS Developed Intellectual Property), and hereby waives any and all moral rights that it or they may have in all such Developed Intellectual Property. Service Provider hereby irrevocably assigns, and shall cause the other Service Provider Parties to assign, to VS all of its or their right, title and interest in and to all VS Developed Intellectual Property, and hereby waives any and all moral rights that it or they may have in any VS Developed Intellectual Property. The parties hereto agree to execute all other documents and take all actions as may be necessary or desirable to enable the other party to prosecute, perfect, enforce, defend, register and/or record its right, title and interest in, to and under the Developed Intellectual Property or VS Developed Intellectual Property, as applicable.

Section 2.10. *Data Ownership and Data Protection.* As between the parties hereto, the applicable Service Recipient shall be the owner of all data collected, used, stored or otherwise processed by or on behalf of such Service Recipient under this Agreement to the extent related to the VS Business. Service Provider shall, and VS shall cause the Service Recipients to, comply with the Data Processing Addendum attached as Annex A hereto and all applicable privacy and data protection laws that are or that may in the future be applicable to the provision of Services hereunder.

Section 2.11. *Information Technology.* VS shall cause each Service Recipient, its employees and any subcontractors to: (a) not attempt to obtain access to or use any information technology systems of any Service Provider Party, or any data owned by any Service Provider Party, or any data used or processed by any Service Provider Party (other than any data of any Service Recipient), except to the extent required to receive the Services; (b) maintain reasonable security measures to protect the systems of each Service Provider Party to which it has access pursuant to this Agreement from access by unauthorized third parties, and any “back door”, “time bomb”, “Trojan Horse”, “worm”, “drop dead device”, “virus” or other computer software routine intended or designed to disrupt, disable, harm or otherwise impede in any manner the operation of such systems; (c) not permit access or use of information technology systems of any Service Provider Party by a third-party other than as authorized by prior written consent of Service Provider; (d) not disable, damage or erase or disrupt or impair the normal operation of the information technology systems of any Service Provider Party; and (e) comply with the security policies and procedures of each Service Provider Party (to the extent previously provided to each Service Recipient in writing). Each party hereto shall promptly notify the other party in the event it or any of its respective Affiliates becomes aware of or suspects that there has been a breach of security or a loss, theft or unauthorized access, use or disclosure of any information technology systems (collectively, “**IT Breach**”) of any Service Provider Party or any Service Recipient to the extent such (1) IT Breach could adversely affect the provision or receipt of the Services hereunder or such other party’s data or Confidential Information or (2) notice is required by Applicable Law.

Section 2.12. *Policies and Procedures.* VS shall cause each Service Recipient and its employees, officers, directors, advisors and representatives (collectively, “**Representatives**”) and any subcontractors to comply with the internal policies, procedures, rules and regulations of the Service Provider Parties (as may be updated from time to time) applicable to (a) the use of the Service Provider Parties’ information technology systems, computers, networks, telephone systems, software, data, equipment or other facilities in connection with the Services or (b) such Service Recipient’s conduct while on a Service Provider Party’s premises or utilizing a Service Provider Party’s facilities in connection with the Services, in each case to the extent such policies, procedures, rules or regulations are generally applicable to such Service Provider Party’s own organization.

Section 2.13. *Access to Information.* (a) Subject to Applicable Law, VS shall, and shall cause the other Service Recipients to, with respect to any Service during the Term of such Service, upon reasonable advance notice, afford Service Provider and its Representatives, including Service Provider’s internal and external auditors, reasonable access, during normal business hours, to the employees, properties, books and records and other documents of the Service Recipients that are reasonably requested by Service Provider in connection with the provision and receipt of such Service hereunder.

(b) Subject to Applicable Law, Service Provider shall, upon reasonable advance notice, afford VS’s internal audit associates and VS’s current external audit firm (who has executed an appropriate confidentiality agreement reasonably acceptable to Service Provider) reasonable access, during normal business hours, to the information technology systems used by Service Provider with respect to the provision of any Service hereunder solely during the Term of such Service and solely for the purpose of performing audit procedures to support the audit of VS’s financial statements and VS’s internal control environment, including VS’s Report on Internal Control over Financial Reporting. VS’s internal audit associates and VS’s external audit firm shall be authorized to maintain documentation supporting the findings of their respective audit procedures. If VS wishes to use a new external audit firm for its 2021 or 2022 fiscal year audits, VS must obtain prior written consent from Service Provider, and such new firm must execute an appropriate confidentiality agreement reasonable acceptable to Service Provider, before such new firm is granted access to Service Provider’s information technology systems pursuant to this Section 2.13(b).

Section 2.14. *Transition Governance.* Service Provider, on the one hand, and VS, on the other hand, shall each designate a service manager (that party’s “**Service Manager**”), who shall be directly responsible for coordinating and managing for the party he or she represents all activities undertaken by such party hereunder, including making available to the other party the information, facilities, resources and other support services required for the performance of, or receipt of, the Services in accordance with the terms of this Agreement. The Service Managers shall meet or confer, by telephone or in person, from time to time as necessary, and at least once per month or otherwise as the parties agree, during the term of this Agreement in order to promote open and efficient communication regarding effective and coordinated performance of, and the resolution of questions and issues related to, the Services. The Service Managers shall also discuss progress in the transition of the Services hereunder and may establish a set of procedures, including frequency of meetings and reporting, and other reasonable structures for their cooperation and the cooperation of the parties in the execution of their obligations pursuant to this Agreement. Service Provider, on the one hand, and VS, on the other hand, may, in its sole discretion, replace its respective Service Manager from time to time with a substitute upon notice to the other party.

Section 3.01. *Fees for Services.*

(a) In consideration for the Services provided under this Agreement, VS shall pay to Service Provider (or the Service Provider Party designated by Service Provider) the fees for each Service, as calculated below.

(b) Each Service Schedule indicates, with respect to each Service listed therein, whether the costs to be charged to the Service Recipients for such Service are determined by (i) the customary billing method described in Section 3.02 (“**Customary Billing**”), (ii) the pass-through billing method described in Section 3.03 (“**Pass-Through Billing**”), (iii) the percentage of net sales method described in Section 3.04 (“**Percent of Sales Billing**”), (iv) the fixed fee method described in Section 3.05 (“**Fixed Fee Billing**”), (v) a specific billing method to be mutually agreed upon by the applicable Service Recipients and Service Provider (“**Specific Billing**”) or (vi) some combination thereof. The amounts calculated by the Service Provider pursuant to the Customary Billing, Pass-Through Billing, Percent of Sales Billing, Fixed Fee Billing and Specific Billing methods applicable to Services provided to the Service Recipients and charged to the Service Recipients as provided herein, together with any and all Disengagement Costs incurred in connection with the provision of any and all Disengagement Services, are collectively referred to herein as the “**Service Fees**.”

(c) The Service Fees calculated pursuant to each of the specific billing methods described herein may include without limitation (and without duplication) one or more of the following costs: (i) direct (i.e., out-of-pocket) costs incurred by the Service Provider Parties in providing the Services, (ii) subject to the express terms of any applicable Service Schedule, a reasonably and fairly allocated portion of costs or expenses (including the allocable portion of the compensation, benefits and other employment-related costs relating to the TSA Employees (including with respect to participation by such TSA Employees in any L Brands H&W Plan (as defined in the Employee Matters Agreement), but excluding the cost of any severance and other termination-related payments and benefits (which shall be reimbursable in accordance with Section 4.04), and service-specific overhead costs and the costs of depreciation of new and existing assets) incurred by one or more of the Service Provider Parties in providing services to one or more of the Service Provider and its Affiliates and the Service Recipients (each, an “**Allocated Cost**”), and (iii) third-party costs, including but not limited to Third-Party Consent Costs, incurred by one or more of the Service Provider Parties in providing the Services (each of (i)-(iii), a “**Cost Component**,” and collectively, the “**Cost Components**”). To the extent expressly set forth in the Service Schedules, the Service Fees may include a cost-plus billing method based upon the aggregate costs incurred by Service Provider or its Affiliates relative to a particular Service plus a percentage of such costs in consideration of Service Provider’s or its Affiliates’ procurement and administration (“**Administrative Charge**”) of such Service.

(d) The parties hereto intend and agree that this Agreement provides for the orderly and efficient transition of the VS Business to stand-alone functionality and that the methods of calculation of the Service Fees hereunder shall permit the Service Provider (or its Affiliates, if so designated) to receive full reimbursement for all overhead, administrative and supervisory costs and expenses incurred directly or indirectly by the Service Provider Parties in connection with the provision of the Services consistent with the manner in which the Service Provider Party charges and/or receives reimbursement from its Affiliates from time to time (including one or more of the Cost Components, together with any other amounts agreed to by the parties hereto) as provided in the applicable Service Schedule or as otherwise agreed by the parties hereto. It is further understood and agreed that when any Service Fees for Services hereunder are to be determined or agreed upon by Service Provider and VS (whether before or after the Distribution Time), such Service Fees shall, except as otherwise set forth in this Agreement, in all events, include all pertinent Cost Components and any other amounts therefor mutually agreed to by the parties hereto, including any Administrative Charge to the extent expressly set forth in the Service Schedule.

Section 3.02. *Customary Billing.* The Service Fees to which the Customary Billing method applies shall, subject to Section 3.01(c) and (d), be calculated on a basis that is substantially equivalent to the basis on which costs are attributed (whether through direct or indirect charges, allocations or otherwise) from time to time, now or in the future, to other companies or businesses operated by Service Provider for the same or comparable services (including one or more of the Cost Components); *provided* that (a) in respect of any particular Services, if Service Provider does not generally attribute costs associated with the same or comparable services to other companies or businesses operated by Service Provider as provided above, then the Customary Billing method for such Services shall be equivalent to the market value of all Services provided by Service Provider personnel and other Persons (including all Cost Components) which are reasonably allocable to the provision of such Services to the Service Recipients and (b) if Service Provider provides financial relief from time to time to any companies or businesses operated by Service Provider with respect to any costs, fees, expenses and/or allocations that are otherwise generally allocated to or paid by companies or businesses operated by Service Provider, the Service Recipients shall not be entitled to the same financial relief.

Section 3.03. *Pass-Through Billing.* The costs of Services to which the Pass-Through Billing method applies shall, subject to Section 3.01(c) and (d), be equal to the aggregate amount of the third-party costs and expenses incurred (which costs shall include but not be limited to adjustments for attributable rebates and Third-Party Consent Costs) by any Service Provider Party on behalf of the Service Recipients.

Section 3.04. *Percent of Sales Billing.* The costs of Services to which the Percent-of-Sales Billing method applies shall, subject to Section 3.01(c) and (d), be equal to the amount obtained by multiplying (x) the aggregate cost incurred each month by the Service Provider and its Affiliates in providing such Services to one or more businesses of Service Provider or its Affiliates and to all Service Recipients by (y) the Net Sales Ratio for such month. “**Net Sales Ratio**” means the net sales of the applicable Service Recipients for a particular month divided by the aggregate net sales of all businesses of Service Provider, combined with (i) the net sales of the Service Recipient to which costs for such month are being allocated and (ii) the net sales of any Service Recipient other than the Service Recipient identified in clause (i) receiving such Services to which costs for such month are being allocated. In order to permit Service Provider to calculate the billing method provided for in this Section 3.04 (and for no other purpose), the applicable Service Recipient shall provide Service Provider with all reasonably necessary sales information not later than the close of business on the first Business Day immediately following such calendar month.

Section 3.05. *Fixed Fee Billing.* The cost of Services to which the Fixed Fee Billing method applies shall be in the amount set forth in the applicable Service Schedule.

Section 3.06. *Invoicing of Fees.* (a) Service Provider shall invoice, or shall cause the applicable Service Provider Party to invoice, VS on a monthly basis (not later than the 15th day of the following month), for the Service Costs and any applicable Disengagement Costs incurred in the prior month, including reasonable supporting data. Service Provider shall use its commercially reasonable efforts to cause invoices to be presented to VS on the schedule set forth in this Section 3.06, but no delay in presentation of an invoice shall affect VS’s obligation to pay the full amount of such invoice, when presented, on the terms set forth herein.

(b) Except as specifically provided on the applicable Service Schedule, VS shall pay, or shall cause to be paid, each invoice delivered pursuant to Section 3.06(a) on or before the date (each, a “**Payment Date**”) that is 30 days after the date of receipt of such invoice. Such payments shall be made by wire transfer of immediately available funds to an account designated by Service Provider.

(c) If VS fails to pay the full amount of any invoice under this Agreement within 15 days of the applicable Payment Date, VS shall be obligated to pay, in addition to the amount due on such Payment Date, interest on such amount at the rate of 12% per annum, compounded monthly from the applicable Payment Date through the date of payment; *provided* that such interest rate shall not exceed the maximum rate permitted by Applicable Law. All payments made shall be applied first to unpaid interest and then to amounts invoiced but unpaid. If VS fails to pay the full amount of any invoice within 30 days of the applicable Payment Date, such failure shall be considered a material breach of this Agreement, and to the extent the aggregate amount of such overdue unpaid invoices exceeds \$1,000,000, Service Provider may, after 10 days’ prior notice to VS, elect to suspend, without liability, its obligations hereunder to cause to be provided any or all Services to VS until such time as such invoices have been paid in full.

(d) If any Service requires any Service Provider Party to make any payment to any third-party on behalf of any Service Recipient or any of its Affiliates, VS shall deposit, by wire transfer of immediately available funds to an account designated by Service Provider, the amount of such payment at least one Business Day prior to the date on which such payment is to be made; *provided* that, notwithstanding anything to the contrary in this Agreement, Service Provider shall have no obligation to cause any such payment to be made unless and until VS deposits the full amount of any such payment in accordance with this Section 3.06(d).

Section 3.07. *Right to Set Off.* Notwithstanding anything in this Agreement or the VS to L Brands TSA to the contrary and without limiting any of VS's or any of its Affiliates' other remedies under contract or Applicable Law, VS shall have the right, but not the obligation, to set off any payments that are past due by Service Provider or any member of the L Brands Group under the VS to L Brands TSA and not yet paid by Service Provider or any such L Brands Group member against any Service Fees that have become payable and not yet been paid by VS hereunder; *provided* that such set-off amount shall be identified in reasonable detail in the next applicable invoice sent to Service Provider. Except as set forth herein, VS hereby unconditionally and irrevocably waives any rights of set-off, netting, offset, recoupment, or similar right that VS has or may have with respect to the payment of the Service Fees or any other payments to be made by VS pursuant to this Agreement.

Section 3.08. *Taxes.* (a) VS shall bear and pay all applicable sales, use, transaction, consumption, excise, services, value-added, transfer, payroll, employment and other similar Taxes (and any related interest, penalty, addition to tax or additional amount imposed) incurred or imposed with respect to the provision of the Services, to this Agreement or to any payment hereunder ("**Service Taxes**"), whether or not such Service Taxes are shown on any invoices. If any Service Provider Party pays any portion of such Service Taxes, VS shall reimburse such Service Provider Party within five (5) days of receipt of evidence that such Service Taxes have been paid. Any Service Taxes shall be incremental to other payments or charges identified in this Agreement.

(b) All sums payable under this Agreement shall be paid free and clear of all deductions or withholdings unless such deduction or withholding is required by Applicable Law, in which event VS shall promptly inform the Service Provider Party of such required deduction or withholding and the amount of the payment due from VS shall be increased to an amount that after any deduction or withholding leaves an amount equal to the payment that would have been due if no such deduction or withholding had been required. VS shall pay (or cause to be paid) such deducted or withheld amounts over to the applicable Governmental Authority in accordance with the requirements of Applicable Law and provide the applicable Service Provider Party with an official receipt confirming payment.

Section 3.09. *Audits.* Throughout the term of this Agreement and for one year thereafter, VS shall have the right once within each calendar year, at its own expense and on 30 days' advance written notice to Service Provider, to have an independent auditor reasonably acceptable to Service Provider (and who has executed an appropriate confidentiality agreement reasonably acceptable to Service Provider) audit the books and records of Service Provider or any of its Affiliates for the sole purpose of certifying the accuracy of the Service Fees and Cost Components charged by Service Provider to the Service Recipients in accordance with the terms of this Agreement for the preceding calendar year; *provided* that (i) any such audit shall take place during reasonable business hours on a mutually agreed-upon date, (ii) such auditor shall in no event be entitled to any contingency fee (or otherwise have any portion of its compensation be directly or indirectly determined based on the outcome of such audit) and (iii) no such books and records may be audited more than one time. Service Provider may designate competitively sensitive information which such auditor may see and review but which it may not disclose to VS, and all such books and records, and any applicable audit report and findings, shall be the Confidential Information of Service Provider. VS shall provide to Service Provider a copy of each such audit report promptly after its receipt thereof. In the event that any such audit indicates any overpayment or underpayment of amounts paid to Service Provider by any Service Recipient, the applicable party shall pay to the other party (within 30 days following the date of delivery of such audit report to Service Provider) the amount of such overpayment or underpayment, as the case may be, plus (if the overpayment or underpayment amount exceeds \$250,000.00) interest accruing monthly from the date of such overpayment or underpayment until such amount is paid at 12% per annum, compounded monthly from the relevant payment due date through the date of payment (*provided* that such interest rate shall not exceed the maximum rate permitted by Applicable Law). If either party hereto has a good faith dispute with respect to the findings of such audit, the parties shall follow the dispute resolution procedures set forth in Section 9.07.

ARTICLE 4

HIRING PLAN; TRANSITION EMPLOYEES; SEVERANCE

Section 4.01. *Hiring Plan.* With respect to each applicable Service, each of Service Provider and VS (or their applicable Service Managers) shall mutually cooperate to establish a hiring plan setting forth the additional number of new employees to be hired by Service Provider and its Affiliates following the Distribution Date for purposes of providing the applicable Services (the "**Hiring Plan**").

Section 4.02. *Employment of Transition Employees.* Notwithstanding anything to the contrary in this Agreement or in the Employee Matters Agreement:

(a) Service Provider or an Affiliate of Service Provider shall retain in its employ each Transition Employee until the Transition Date applicable to such Transition Employee (unless the employment of the relevant Transition Employee is otherwise terminated by such Transition Employee or by the employer of such Transition Employee in the ordinary course of business); and

(b) VS shall, or shall cause one of its Affiliates to, offer employment to each Transition Employee, effective as of the Transition Date applicable to such Transition Employee, in accordance with Section 4.03 below.

(c) For these purposes:

(i) “**Transition Employee**” means each TSA Employee with respect to whom Service Provider and VS have mutually identified and agreed in writing will transfer employment from Service Provider or one of its Affiliates to VS or one of its Affiliates.

(ii) “**Transition Date**” means, with respect to each Transition Employee who accepts an offer of employment from VS or its applicable Affiliate pursuant to this Article 4, the date on which such Transition Employee’s employment commences with VS or an applicable Affiliate of VS, which shall be the earliest of (A) the first day immediately following the last day of the applicable Term, as identified in the applicable Service Schedule, (B) the termination of (x) the applicable Service in which such Transition Employee is engaged or (y) this Agreement, in each case pursuant to Section 7.01 or (C) any other day mutually agreed upon in writing by VS and Service Provider.

Section 4.03. *Transfer of Transition Employees.*

(a) Each of Service Provider and VS will cooperate in good faith to mutually identify the Transition Employees as promptly as practicable following the date of this Agreement.

(b) VS shall, or shall cause an Affiliate of VS to, offer employment to each Transition Employee on terms and conditions consistent with (i) the Employee Matters Agreement and (ii) the terms and conditions of employment applicable to such Transition Employee as of immediately prior to the applicable Transition Date. Subject to such Transition Employee’s acceptance of such offer, such employment shall commence effective as of the Transition Date applicable to such Transition Employee. Such offer of employment shall be communicated by VS (or its applicable Affiliate) to such Transition Employee in a reasonable amount of time prior to such Transition Date in accordance with procedures to be mutually determined by Service Provider and VS.

(c) Subject to such Transition Employee’s acceptance of such offer of employment, such Transition Employee shall be deemed a Delayed VS Transfer Employee (as defined in the Employee Matters Agreement), effective as of such Transition Employee’s applicable Transition Date, for all purposes under the Employee Matters Agreement, and the provisions of Employee Matters Agreement shall apply with respect to such Transition Employee.

(d) As provided under the Employee Matters Agreement, and without limiting any other provisions of this Agreement or the Employee Matters Agreement, VS (or its applicable Affiliate) will take all measures that are required or appropriate in order to (i) effectuate the transfer of employment of each Transition Employee to VS (or its applicable Affiliate) as of the Transition Date applicable to such Transition Employee (including by making an offer of employment to such Transition Employee in accordance with the terms of this Article 4) and (ii) avoid and mitigate, to the maximum extent possible, the incurrence of any severance obligations or termination-related obligations in connection with the transfer of employment of any Transition Employee to VS (or its applicable Affiliate) in accordance with this Section 4.03 (including by the provision of all appropriate notices, assurances and offers of employment and the assignment and assumption of obligations or undertakings with respect to the employment, compensation, benefits, protections or other obligations relating to any such Transition Employee).

(e) Service Provider and VS shall reasonably cooperate to (i) enable VS and its applicable Affiliates to communicate with the Transition Employees and receive information with respect to the terms of employment of the Transition Employees as necessary and appropriate to facilitate VS's obligations under this Article 4 and (ii) transfer and assign to VS (or its applicable Affiliate), and effectuate the assumption by VS (or its applicable Affiliate), all employment- and benefit-related obligations of the Service Provider (and its Affiliates) with respect to each Transition Employee who accepts and commences employment with VS (or its applicable Affiliate) in accordance with the Employee Matters Agreement, other than the obligations expressly retained by the Service Provider (and its Affiliates) pursuant to the Employee Matters Agreement. VS shall notify Service Provider in writing of each offer of employment made by VS (or its applicable Affiliate) to each Transition Employee, including the date of the offer, the proposed employment date and the terms and conditions of the offer.

Section 4.04. *TSA Employee Severance Obligations.*

(a) Notwithstanding anything to the contrary in this Agreement or the Employee Matters Agreement, in the event of a termination of employment of any Covered TSA Employee (as defined below) that occurs (i) during the Term of the applicable Service in which such Covered TSA Employee is engaged (as may be extended in accordance with the terms of this Agreement) or (ii) in connection with the termination or cessation of the applicable Service in which such Covered TSA Employee is engaged, each of Service Provider and VS shall bear fifty percent (50%) (or such other applicable percentage as set forth in the applicable Service Schedule) of any Covered Severance Costs (as defined below), if any, incurred by Service Provider and its Affiliates relating to such termination of the applicable Covered TSA Employee's employment.

(b) For purposes of this Agreement:

(i) **“Covered Severance Costs”** means the total cost of any severance and other termination-related payments and benefits payable in respect of the applicable TSA Employee that are incurred in the ordinary course of business pursuant to the terms of any applicable L Brands Plan (as defined in the Employee Matters Agreement) then in effect (including, without limitation, pursuant to (A) any applicable severance guidelines of Service Provider or any of its Affiliates covering such TSA Employee, (B) any applicable employment, retention, severance or similar agreement with such TSA Employee or (C) Applicable Law).

(ii) **“Covered TSA Employee”** means, with respect to any applicable Service, any TSA Employee who (A) is engaged in such Service and (B) is either (x) employed by Service Provider or one of its Affiliates as of the Distribution Date or (B) hired by Service Provider or one of its Affiliates following the Distribution Date in accordance with the Hiring Plan.

(c) Notwithstanding anything to the contrary herein, with respect to any TSA Employee who is not a Covered TSA Employee (for the avoidance of doubt, as a result of being hired by Service Provider or one of its Affiliates following the Distribution Date outside of the scope of the Hiring Plan) (each, an **“Excluded TSA Employee”**), in the event of a termination of the employment of such Excluded TSA Employee at any time, Service Provider shall bear 100% of the cost of any severance and other termination-related payments and benefits (including any Covered Severance Costs) payable in respect of such Excluded TSA Employee.

(d) For the avoidance of doubt, each Covered TSA Employee and Excluded TSA Employee shall constitute a TSA Employee for all purposes of this Agreement (including, without limitation, for purposes of Article 3 of this Agreement).

(e) Notwithstanding anything to the contrary herein, in the event that (i) any Covered TSA Employee or Excluded TSA Employee, as applicable, is identified as a Transition Employee in accordance with Section 4.02(c) of this Agreement and (ii) such Covered TSA Employee or Excluded Employee, as applicable, transfers employment to VS or one of its Affiliates in accordance with Section 4.03 of this Agreement, then effective as of the applicable Transition Date (and following the effective time of such employment transfer on the Transition Date), the terms of the Employee Matters Agreement shall apply with respect to the allocation of responsibility amongst Service Provider and VS with respect to the cost of any severance or other termination-related obligations in respect of any termination of employment of such Covered TSA Employee or Excluded TSA Employee, as applicable, that occurs following the applicable Transition Date (and, for the avoidance of doubt, the terms of this Section 4.04 shall not apply to any such termination of employment that occurs following such transfer of employment to VS or one of its Affiliates).

ARTICLE 5
CONFIDENTIALITY

Section 5.01. *Confidentiality.* From and after the Effective Date, each party hereto shall hold, and cause its Representatives to hold, in confidence, unless compelled to disclose by judicial or administrative process or by other requirements of law (in which event the disclosing party first notifies the other party hereto of such process or requirement and allows such party a reasonable opportunity to seek a protective order or other appropriate remedy to prevent such disclosure), all documents and information concerning the other party hereto provided to it pursuant to this Agreement (“**Confidential Information**”), and shall not, without the prior written consent of the other party hereto, disclose or use any Confidential Information of the other party hereto except as necessary in the performance of its obligations under this Agreement; *provided* that the term “Confidential Information” (a) does not include information that is or becomes generally available to the public (other than as a result of a breach of this Agreement), (b) does not include information that was available to the receiving party or any of its Affiliates on a non-confidential basis prior to its disclosure to such receiving party or its Affiliates pursuant to this Agreement (except that this clause (b) shall not apply to information of either party hereto in the possession of the other party prior to the date hereof by virtue of their previous Affiliate relationship), (c) does not include information that is or becomes available to the receiving party or any of its Affiliates from a third-party not known by the receiving party or its Affiliates to be bound by a confidentiality agreement or any legal, fiduciary or other obligation restricting disclosure of such information and (d) does not include information that is or was independently developed by the receiving party or any of its Affiliates without use of Confidential Information or otherwise violating this Agreement. Nothing in this Section 5.01 shall limit any other confidentiality obligations among the parties to this Agreement pursuant to any other agreement among such parties.

Section 5.02. *No Rights to Confidential Information.* Each party hereto acknowledges that it will not acquire any right, title or interest in or to any Confidential Information of the other party hereto by reason of this Agreement or the provision or receipt of Services hereunder.

Section 5.03. *Third-Party Non-Disclosure Agreements.* To the extent that any third-party proprietor of information or software to be disclosed or made available to any Service Recipient in connection with the performance of Services requires a specific form of non-disclosure agreement as a condition of its consent to use of the same for the benefit of such Service Recipient or to permit any Service Recipient access to such information or software, VS shall cause such Service Recipient to execute (and will cause such Service Recipient’s employees to execute, if required) any such form.

Section 5.04. *Safeguards.* Each party hereto agrees to establish and maintain administrative, physical and technical safeguards, information technology and data security procedures and other protections against the destruction, loss, unauthorized access or alteration of the other party’s Confidential Information which are no less rigorous than those otherwise maintained for its own Confidential Information.

ARTICLE 6
INDEMNIFICATION; LIMITATION OF LIABILITY

Section 6.01. *Indemnification.* (a) VS agrees to indemnify and hold harmless Service Provider and each other Service Provider Party, their respective Affiliates and their and their respective Representatives (collectively, the “**Service Provider Indemnitees**”) from and against any and all damage, loss and expense (including reasonable expenses of investigation and reasonable attorneys’ fees and expenses in connection with any action, suit or proceeding whether involving a third-party claim or a claim solely between the parties hereto) (“**Damages**”) asserted against or incurred by any Service Provider Indemnitee as a result or arising out of (i) a Service Recipient’s or any of its Affiliates’ breach of this Agreement, (ii) the provision of the Services by such Service Provider Indemnitee or the use of the Services by a Service Recipient or any of its Affiliates or (iii) a Service Recipient’s or any of its Affiliates’ gross negligence, fraud or willful misconduct; *provided* that VS shall not be responsible for any Damages to the extent Service Provider is required to indemnify a Service Recipient Indemnitee pursuant to Section 6.01(b).

(b) Service Provider agrees to indemnify and hold harmless each Service Recipient, its Affiliates and its and their respective Representatives (collectively, the “**Service Recipient Indemnitees**”) from and against any and all Damages asserted against or incurred by any Service Recipient Indemnitee as a result or arising out of (i) a Service Provider Party’s breach of this Agreement or (ii) a Service Provider’s gross negligence, fraud or willful misconduct; *provided* that Service Provider shall not be responsible for any Damages to the extent VS is required to indemnify a Service Provider Indemnitee pursuant to Section 6.01(a).

Section 6.02. *Third-Party Claim Procedures.* (a) The party seeking indemnification under Section 6.01 (the “**Indemnified Party**”) agrees to give prompt notice in writing to the party against whom indemnity is to be sought (the “**Indemnifying Party**”) of the assertion of any claim or the commencement of any suit, action or proceeding by any third-party (“**Third-Party Claim**”) in respect of which indemnity may be sought under such Section. Such notice shall set forth in reasonable detail such Third-Party Claim and the basis for indemnification (taking into account the information then available to the Indemnified Party). The failure to so notify the Indemnifying Party shall not relieve the Indemnifying Party of its obligations hereunder, except to the extent such failure shall have materially and adversely prejudiced the Indemnifying Party.

(b) The Indemnifying Party shall be entitled to participate in the defense of any Third-Party Claim and, subject to the limitations set forth in this Section, shall be entitled to control and appoint lead counsel for such defense, in each case at its own expense.

(c) If the Indemnifying Party shall assume the control of the defense of any Third-Party Claim in accordance with the provisions of this Section 6.02, (i) the Indemnifying Party shall obtain the prior written consent of the Indemnified Party (which shall not be unreasonably withheld, conditioned or delayed) before entering into any settlement of such Third-Party Claim, if the settlement does not release the Indemnified Party and its Affiliates from all liabilities and obligations with respect to such Third-Party Claim or the settlement imposes injunctive or other equitable relief against the Indemnified Party or any of its Affiliates and (ii) the Indemnified Party shall be entitled to participate in the defense of any Third-Party Claim and to employ separate counsel of its choice for such purpose. The fees and expenses of such separate counsel shall be paid by the Indemnified Party.

(d) Each party hereto shall cooperate, and cause their respective Affiliates to cooperate, in the defense or prosecution of any Third-Party Claim and shall furnish or cause to be furnished such records, information and testimony, and attend such conferences, discovery proceedings, hearings, trials or appeals, as may be reasonably requested in connection therewith.

Section 6.03. *Direct Claim Procedures.* In the event an Indemnified Party has a claim for indemnity under Section 6.01 against an Indemnifying Party that does not involve a Third-Party Claim, the Indemnified Party agrees to give prompt notice in writing of such claim to the Indemnifying Party. Such notice shall set forth in reasonable detail such claim and the basis for indemnification (taking into account the information then available to the Indemnified Party). The failure to so notify the Indemnifying Party shall not relieve the Indemnifying Party of its obligations hereunder, except to the extent such failure shall have materially and adversely prejudiced the Indemnifying Party. If the Indemnifying Party does not notify the Indemnified Party within 30 days following the receipt of a notice with respect to any such claim that the Indemnifying Party disputes its indemnity obligation to the Indemnified Party for any Damages with respect to such claim, such Damages shall be conclusively deemed a liability of the Indemnifying Party and the Indemnifying Party shall promptly pay to the Indemnified Party any and all Damages arising out of such claim. If the Indemnifying Party has timely disputed its indemnity obligation for any Damages with respect to such claim, the parties shall follow the dispute resolution procedures set forth in Section 9.07.

Section 6.04. *Calculation of Damages.* The amount of any Damages payable under Section 6.01 by the Indemnifying Party shall be net of any amounts recovered by the Indemnified Party under applicable insurance policies or from any other Person alleged to be responsible therefor. If the Indemnified Party receives any amounts under applicable insurance policies, or from any other Person alleged to be responsible for any Damages, subsequent to an indemnification payment by the Indemnifying Party, then such Indemnified Party shall promptly reimburse the Indemnifying Party for any payment made or expense incurred by such Indemnifying Party in connection with providing such indemnification payment up to the amount received by the Indemnified Party, net of any expenses incurred by such Indemnified Party in collecting such amount.

Section 6.05. *No Warranties.* Except as expressly set forth in this Agreement, neither party hereto makes, and no party hereto is relying on, any warranty, express or implied, with respect to the Services and each party hereto hereby specifically disclaims any implied warranty of reasonable care or workmanlike effort.

Section 6.06. *Limitation of Liability; Exclusion of Damages.* (a) TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, EXCEPT FOR A PARTY'S BREACH OF ITS CONFIDENTIALITY OBLIGATIONS HEREUNDER OR A PARTY'S GROSS NEGLIGENCE, FRAUD OR WILLFUL MISCONDUCT, NO PARTY HERETO WILL BE LIABLE FOR ANY (I) PUNITIVE, SPECIAL, CONSEQUENTIAL, EXEMPLARY OR TREBLED DAMAGES (IN EACH CASE, EXCEPT TO THE EXTENT PAYABLE TO A THIRD-PARTY IN RESPECT OF A THIRD-PARTY PROCEEDING BASED ON A FINAL JUDGMENT OF A COURT OF COMPETENT JURISDICTION) OR (II) LOST PROFITS, DIMINUTION IN VALUE, MULTIPLE-BASED OR OTHER DAMAGES CALCULATED BASED ON A MULTIPLE OF ANOTHER FINANCIAL MEASURE, IN EACH CASE, ARISING OUT OF OR RELATING TO THIS AGREEMENT EVEN IF THE OTHER PARTY HAD BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

(b) NOTWITHSTANDING ANYTHING ELSE HEREIN TO THE CONTRARY, EXCEPT FOR SERVICE PROVIDER'S GROSS NEGLIGENCE, FRAUD OR WILLFUL MISCONDUCT, THE MAXIMUM AGGREGATE LIABILITY OF SERVICE PROVIDER TO THE SERVICE RECIPIENTS OR TO ANY THIRD-PARTY UNDER OR IN CONNECTION WITH THIS AGREEMENT SHALL NOT EXCEED AND SHALL BE LIMITED TO THE FEES ACTUALLY RECEIVED BY SERVICE PROVIDER FOR THE SERVICES HEREUNDER (THE "CAP"); PROVIDED THAT, WITH RESPECT TO ANY DAMAGES FOR WHICH SERVICE PROVIDER IS OBLIGATED TO INDEMNIFY VS UNDER SECTION 6.01(b) AND THAT RELATE TO DATA PRIVACY, CYBERSECURITY OR OTHER SIMILAR MATTERS, IF SERVICE PROVIDER, USING COMMERCIALY REASONABLE EFFORTS AND EXERCISING GOOD FAITH, IS ABLE TO RECOVER AN AMOUNT GREATER THAN THE CAP FROM ITS APPLICABLE THIRD-PARTY SERVICE PROVIDERS, SUCH EXCESS RECOVERY SHALL BE PASSED THROUGH TO VS ON A PRO-RATA BASIS TO THE EXTENT OF SUCH DAMAGES.

ARTICLE 7
TERMINATION OF SERVICES

Section 7.01. *Termination.* (a) Notwithstanding Section 2.01, except as expressly set forth otherwise in the applicable Service Schedule, VS may, at any time during the term of this Agreement and for any reason, terminate Service Provider's obligations to cause to be provided any or all Services, or any part of any Service, by giving at least 60 days' prior written notice of such termination to Service Provider; *provided* that in the event VS elects to terminate any (but not all) of the Services, (i) Service Provider may, within 10 Business Days following its receipt of such termination notice, provide VS with written notice of all applicable Dependent Services, (ii) upon receiving Service Provider's notice pursuant to the foregoing clause (i), VS may provide notice within five Business Days of such receipt of its withdrawal of its termination notice and (iii) if VS does not withdraw its termination notice within such five Business Day period, the Dependent Services shall automatically terminate upon the effective date of termination of such terminated Service. If VS notifies Service Provider of its intent to terminate any Service in part or reduce any Service, the Service Fees shall be reduced accordingly. For the avoidance of doubt, subject to the first sentence of this Section 7.01(a), if VS elects to terminate the provision of less than all Services, Service Provider shall continue to be obligated to cause to be provided any and all remaining Services.

(b) Service Provider may terminate its obligations to cause to be provided any or all Services at any time if VS shall have failed to perform any of its material obligations under this Agreement relating to any such Service (including the failure to provide any access, information or data required to effectuate such Service), but only if Service Provider shall have notified VS in writing of such failure and such failure shall have continued for a period of 30 days after receipt by VS of such written notice.

(c) If the performance of any Service subjects any Service Provider Party to a reasonable risk of violating an Applicable Law or would reasonably be expected to, individually or in the aggregate, materially and adversely affect the business of Service Provider or its Affiliates, then the relevant Service Provider Party, (i) in the case of a violation of an Applicable Law, may immediately upon Service Provider providing written notice of such fact and the applicable Dependent Services to VS (it being understood that Service Provider shall provide VS with as much advance notice as is reasonably practicable under the circumstances and permitted by Applicable Law), suspend performance of such Service and any and all Dependent Services without liability to Service Provider or any Service Provider Party and (ii) in the case of a material and adverse effect to the business of Service Provider or its Affiliates, may, upon Service Provider providing written notice of such fact to VS sufficiently in advance to permit VS (acting reasonably) to arrange for replacement services, suspend performance of such Service without liability; *provided* that, (A) following delivery of such notice, the parties hereto will cooperate in good faith to promptly amend this Agreement to the extent necessary to eliminate such violation of Applicable Law or such effect while as nearly as possible accomplishing the purpose of the intended Service in a mutually satisfactory manner and (B) VS shall not be obligated to pay for any such suspended Services during the pendency of any Service Provider Party's suspension of such Services (it being understood that VS shall remain liable for any Service Costs incurred or accrued for such Services prior to such suspension). If the parties hereto are unable to agree upon such an amendment to this Agreement within 30 days of such notification, then either party hereto may terminate its obligation with respect to such suspended Services upon written notice to the other party hereto; *provided* that the applicable Dependent Services shall also automatically terminate upon the effective date of termination of such suspended Services.

(d) VS may terminate Service Provider's obligation to cause to be provided any Service at any time if Service Provider shall have failed to perform any of its material obligations under this Agreement relating to such Service, but only if VS shall have notified Service Provider in writing of such failure and such failure shall have continued for a period of 30 days after receipt by Service Provider of such written notice.

(e) Subject to Section 7.02, this Agreement shall terminate in its entirety on the date when no additional Services are to be provided as set forth in each applicable Service Schedules, as the same may hereafter be amended.

Section 7.02. *Effect of Termination.* Other than as required by Applicable Law, upon expiration or termination of any or all Service(s) pursuant to Section 7.01 or otherwise pursuant to this Agreement, Service Provider shall have no further obligation to cause to be provided the terminated Service(s) and VS shall have no obligation to pay any Service Fees relating to such terminated Service(s); *provided* that, notwithstanding such termination, the Service Recipients shall remain liable to Service Provider for (a) Service Costs incurred prior to the effective date of the expiration or termination of such Service(s), (b) the Disengagement Costs relating to the termination of such Service(s), and (c) in the case of a termination under Section 7.01(a), Section 7.01(b) or Section 7.01(c), without duplication of any Disengagement Costs, any fees, costs and expenses incurred by Service Provider (or any of its Affiliates) between the time of such termination and the time the provision of such Service(s) would have terminated under this Agreement absent such early termination (including early termination charges, kill fees, wind-down costs, reasonable minimum volume make-up fees and other fees and costs, in each case actually payable or that have been paid in advance by any Service Provider Party to a third-party, and unamortized costs that Service Provider or its Affiliates previously incurred or are required to pay to a third-party for services, equipment, licenses or other assets used for the provisions of such terminated Service) (collectively, “**Termination Fees**”) to the extent Service Provider or such other Service Provider Party cannot avoid the incurrence of any such Termination Fees using commercially reasonable efforts. For clarity, no Disengagement Costs are payable in case of a termination under Section 7.01(d) or upon the expiration of the Term of any Service. All amounts payable pursuant to this Section 7.02 shall be invoiced to and payable by VS within 30 days after the date of invoice and otherwise in accordance with Section 3.06. Notwithstanding any expiration or termination pursuant to Section 7.01, Section 2.10 (but solely with respect to the first sentence), Section 3.08 and Articles 4, 5, 6, 7, and 9 shall survive any such expiration or termination indefinitely.

ARTICLE 8
REPRESENTATIONS AND WARRANTIES

Section 8.01. *Representations and Warranties of Service Provider.* Service Provider represents and warrants to VS that:

(a) Service Provider is a corporation duly incorporated, validly existing and in good standing (with respect to jurisdictions that recognize such concept) under the laws of Delaware and has all corporate powers required to carry on its business as now conducted.

(b) The execution, delivery and performance by Service Provider of this Agreement and the consummation of the transactions contemplated hereby by Service Provider are within Service Provider’s corporate powers and have been duly authorized by all necessary corporate action on the part of Service Provider. This Agreement constitutes a valid and binding agreement of Service Provider enforceable against Service Provider in accordance with its terms (subject to applicable bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium and other laws affecting creditors’ rights generally and general principles of equity).

(c) The execution, delivery and performance by Service Provider of this Agreement and the consummation of the transactions contemplated hereby by Service Provider require no action by or in respect of, or filing with, any Governmental Authority other than any such action or filing that has already been taken or made or as to which the failure to make or obtain would not reasonably be expected to materially impede or delay the performance by Service Provider of its obligations hereunder.

Section 8.02. *Representations and Warranties of VS.* VS represents and warrants to Service Provider that:

(a) VS is an entity duly organized, validly existing and in good standing (with respect to jurisdictions that recognize such concept) under the laws of its jurisdiction of organization and has all corporate powers required to carry on its business as now conducted.

(b) The execution, delivery and performance by VS of this Agreement and the consummation of the transactions contemplated hereby by VS are within VS's corporate powers and have been duly authorized by all necessary corporate action on the part of VS. This Agreement constitutes a valid and binding agreement of VS, enforceable against VS in accordance with its terms (subject to applicable bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium and other laws affecting creditors' rights generally and general principles of equity).

(c) The execution, delivery and performance by VS of this Agreement and the consummation of the transactions contemplated hereby by VS require no action by or in respect of, or filing with, any Governmental Authority other than any such action or filing that has already been taken or made or as to which the failure to make or obtain would not reasonably be expected to materially impede or delay the performance by VS of its obligations hereunder.

ARTICLE 9
MISCELLANEOUS

Section 9.01. *Notices.* Any notice, instruction, direction or demand under the terms of this Agreement required to be in writing shall be duly given upon delivery, if delivered by hand, facsimile transmission, mail, or email transmission to the following addresses:

if to Service Provider, to:

Victoria's Secret & Co.
4 Limited Parkway East
Reynoldsburg, Ohio 43068
Attention: Melinda McAfee
Email: MMcAfee@lb.com

with a copy (which shall not constitute notice) to:

Davis Polk & Wardwell LLP
450 Lexington Avenue
New York, New York 10017
Attention: William H. Aaronson
Cheryl Chan
Email: william.aaronson@davispolk.com
cheryl.chan@davispolk.com

if to Service Provider, to:

L Brands, Inc.
Three Limited Parkway
Columbus, Ohio 43230
Attention: Michael Wu
Tim Faber
Email: MiWu@lb.com
TFaber@lb.com

with a copy (which shall not constitute notice) to:

Davis Polk & Wardwell LLP
450 Lexington Avenue
New York, New York 10017
Attention: William H. Aaronson
Cheryl Chan
Email: william.aaronson@davispolk.com
cheryl.chan@davispolk.com

or such other address or facsimile number as such party may hereafter specify for the purpose by notice to the other parties hereto. All such notices, requests and other communications shall be deemed received on the date of receipt by the recipient thereof if received prior to 5:00 p.m. in the place of receipt and such day is a Business Day in the place of receipt. Otherwise, any such notice, request or communication shall be deemed not to have been received until the next succeeding Business Day in the place of receipt.

Section 9.02. *Amendments; No Waivers.* (a) Any provision of this Agreement may be amended or waived if, but only if, such amendment or waiver is in writing and is signed, in the case of an amendment, by each party to this Agreement, or in the case of a waiver, by the party against whom the waiver is to be effective.

(b) No failure or delay by any party hereto in exercising any right, power or privilege hereunder shall operate as a waiver thereof nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege. Except as set forth in Section 6.06, the rights and remedies herein provided shall be cumulative and not exclusive of any rights or remedies provided by law.

Section 9.03. *Expenses.* Except as otherwise provided herein, all third-party fees, costs and expenses paid or incurred in connection with this Agreement shall be paid by the party hereto incurring such fees, cost or expenses.

Section 9.04. *Independent Contractor Status.* Nothing in this Agreement shall constitute or be deemed to constitute a partnership or joint venture between the parties hereto. Neither party hereto is now, nor shall it be made by this Agreement, an agent, employee or legal representative of the other party hereto or any of its Affiliates for any purpose. Each party hereto acknowledges and agrees that neither party hereto shall have authority or power to bind the other party hereto or any of its Affiliates or to contract in the name of, or create a liability against, the other party hereto or any of its Affiliates, in any way or for any purpose, to accept any service of process upon the other party hereto or any of its Affiliates or to receive any notices of any kind on behalf of the other party hereto or any of its Affiliates. Each party hereto is and shall be an independent contractor in the performance of Services hereunder and nothing herein shall be construed to be inconsistent with this status.

Section 9.05. *Successors and Assigns.* The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. Neither this Agreement nor any right, remedy, obligations or liability arising hereunder or by reason hereof nor any of the documents executed in connection herewith may be assigned by any party hereto without the consent of the other party, which consent may be granted or withheld in the discretion of such other party. Notwithstanding the foregoing, either party hereto may assign or transfer this Agreement and all of its rights and obligations hereunder to an Affiliate or to any third-party that acquires all or substantially all of such party's assets or business to which this Agreement relates (whether by sale of assets, stock, merger, consolidation, reorganization or otherwise); *provided that* this Agreement and the Services shall not apply to any other business of such third-party acquirer.

Section 9.06. *Governing Law.* This Agreement shall be governed by and construed in accordance with the law of the State of Delaware, without regard to the conflicts of law rules of such state.

Section 9.07. *Dispute Resolution.* (a) With respect to matters relating to the Services or under this Agreement requiring dispute resolution (each, a "**Dispute**"), the disputing party shall notify the other party hereto of such Dispute in writing and, upon the non-disputing party's receipt of such written notice, the parties' respective Service Managers shall attempt to resolve such Dispute in good faith within 30 days of such receipt, and if such Service Managers are unable to resolve such Dispute in such 30-day period, then such Service Managers shall escalate such Dispute to each party's Chief Financial Officer for resolution.

(b) If the parties' Chief Financial Officers are unable to resolve such Dispute within 30 days following such receipt of such notice, then either party hereto shall initiate a non-binding mediation by providing written notice ("**Mediation Notice**") to the other party hereto within five Business Days following the expiration of such 30-day period.

(c) Upon receipt of a Mediation Notice, the applicable Dispute shall be submitted within five Business Days following such receipt of such Mediation Notice for non-binding mediation conducted in accordance with the Commercial Mediation Rules of the American Arbitration Association ("**Arbitration Association**"), and the parties hereto agree to bear equally the costs of such mediation (including any fees or expenses of the applicable mediator); *provided, however,* that each party hereto shall bear its own costs in connection with participating in such mediation. The parties hereto agree to participate in good faith in such mediation for a period of 45 days or such longer period as the parties hereto may mutually agree following receipt of such Mediation Notice (the "**Mediation Period**").

(d) In connection with such mediation, the parties hereto shall cooperate with the Arbitration Association and with one another in selecting a neutral mediator with relevant industry experience and in scheduling the mediation proceedings during the applicable Mediation Period. If the parties hereto are unable to agree on a neutral mediator within five Business Days of submitting a Dispute for mediation pursuant to Section 9.07(c), application shall be made by the parties to the Arbitration Association for the Arbitration Association to select and appoint a neutral mediator on the parties' behalf in accordance with the Commercial Mediation Rules of the Arbitration Association.

(e) The parties hereto further agree that all information, whether oral or written, provided in the course of any such mediation by either party hereto, their agents, employees, experts and attorneys, and by the applicable mediator and any employees of the mediation service, is confidential, privileged, and inadmissible for any purpose, including impeachment, in any Action involving the parties hereto; *provided* that any such information that is otherwise admissible or discoverable shall not be rendered inadmissible or non-discoverable as a result of its use in such mediation.

(f) If the parties hereto cannot resolve the Dispute for any reason, on and following the expiration of the Mediation Period, either party may commence litigation in a court of competent jurisdiction pursuant to the provisions of Section 9.08. Nothing contained in this Agreement shall deny either party hereto the right to seek injunctive or other equitable relief from a court of competent jurisdiction in the context of a bona fide emergency or prospective irreparable harm, and such an Action may be filed and maintained notwithstanding any ongoing efforts under this Section 9.07.

Section 9.08. *Jurisdiction.* The parties hereto agree that any suit, action or proceeding seeking to enforce any provision of, or based on any matter arising out of or in connection with, this Agreement or the transactions contemplated hereby shall be brought in the Chancery Court of the State of Delaware and any state appellate court therefrom within the State of Delaware (or if the Chancery Court of the State of Delaware declines to accept jurisdiction over a particular matter, any federal or state court sitting in the State of Delaware and any federal or state appellate court therefrom), and each of the parties hereto hereby irrevocably consents to the exclusive jurisdiction of such courts (and of the appropriate appellate courts therefrom) in any such suit, action or proceeding and irrevocably waives, to the fullest extent permitted by law, any objection that it may now or hereafter have to the laying of the venue of any such suit, action or proceeding in any such court or that any such suit, action or proceeding brought in any such court has been brought in an inconvenient forum. Process in any such suit, action or proceeding may be served on any party hereto anywhere in the world, whether within or without the jurisdiction of any such court. Without limiting the foregoing, each party hereto agrees that service of process on such party as provided in Section 9.01 shall be deemed effective service of process on such party.

Section 9.09. **WAIVER OF JURY TRIAL.** EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

Section 9.10. **Counterparts; Effectiveness; Third-Party Beneficiaries.** This Agreement may be signed in any number of counterparts (which may include counterparts delivered by any standard form of telecommunication), each of which shall be an original, with the same effect as if the signatures thereto and hereto were upon the same instrument. The words “execution,” “signed,” “signature,” and words of like import in this Agreement or in any other certificate, agreement or document related to this Agreement shall include images of manually executed signatures transmitted by facsimile or other electronic format (including “pdf,” “tif” or “jpg”) and other electronic signatures (including DocuSign and AdobeSign). The use of electronic signatures and electronic records (including any contract or other record created, generated, sent, communicated, received, or stored by electronic means) shall be of the same legal effect, validity and enforceability as a manually executed signature or use of a paper-based recordkeeping system to the fullest extent permitted by Applicable Law. This Agreement shall become effective when each party hereto shall have received a counterpart hereof signed by the other party hereto. Until and unless each party hereto has received a counterpart hereof signed by the other party hereto, this Agreement shall have no effect and no party hereto shall have any right or obligation hereunder (whether by virtue of any other oral or written agreement or other communication). Except for the indemnification and release provisions of Article 6, neither this Agreement nor any provision hereof is intended to confer any rights, benefits, remedies, obligations or liabilities hereunder upon any Person other than the parties hereto and their respective successors and permitted assigns.

Section 9.11. **Entire Agreement.** This Agreement, together with the other Distribution Documents, constitutes the entire agreement between the parties hereto with respect to the subject matter of this Agreement and supersedes all prior agreements and understandings, both oral and written, between the parties with respect to the subject matter of this Agreement. No representation, inducement, promise, understanding, condition or warranty not set forth herein or in the other Distribution Documents has been made or relied upon by either party hereto with respect to the transactions contemplated by this Agreement.

Section 9.12. **Severability.** If any one or more of the provisions contained in this Agreement should be declared invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained in this Agreement shall not in any way be affected or impaired thereby so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to any party hereto. Upon such a declaration, the parties hereto shall modify this Agreement so as to effect the original intent of the parties as closely as possible in an acceptable manner so that the transactions contemplated hereby are consummated as originally contemplated to the fullest extent possible.

Section 9.13. *Specific Performance.* The parties hereto acknowledge and agree that damages for a breach or threatened breach of any of the provisions of this Agreement would be inadequate and irreparable harm would occur. In recognition of this fact, each party hereto agrees that, if there is a breach or threatened breach, in addition to any damages, the other non-breaching party to this Agreement, without posting any bond, shall be entitled to seek and obtain equitable relief in the form of specific performance, temporary restraining order, temporary or permanent injunction, attachment, or any other equitable remedy which may then be available to obligate the breaching party (i) to perform its obligations under this Agreement or (ii) if the breaching party is unable, for whatever reason, to perform those obligations, to take any other actions as are necessary, advisable or appropriate to give the other party to this Agreement the economic effect which comes as close as possible to the performance of those obligations (including transferring, or granting liens on, the assets of the breaching party to secure the performance by the breaching party of those obligations).

Section 9.14. *Interpretation.* In the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the parties hereto, and no presumption or burden of proof shall arise favoring or disfavoring any party hereto by virtue of its authorship of any of the provisions of this Agreement.

Section 9.15. *Integration.* The parties hereto agree that each of (a) this Agreement, (b) each of the Service Schedules, (c) the VS to L Brands Transition Services Agreement, dated as of the date hereof between VS and Service Provider (the “**VS to L Brands TSA**”), (d) each of the Service Schedules (as defined in the VS to L Brands TSA), and (e) all addenda, supplemental agreements, amendments and letter agreements executed in connection with the foregoing, ((a) through (e) collectively, the “**Integrated Agreements**”) are integrated and non-severable parts of one and the same transaction among the parties hereto, each representing an essential, necessary and interdependent component of such transaction forming part of the consideration given by the parties hereto under and in connection with this Agreement, and the parties hereto agree that all of the Integrated Agreements comprising such transaction constitute one single agreement and are integrated and non-severable for all purposes at law and equity, including for purposes of section 365 of title 11 of the United States Code and New York law, and that any breach of any one of such agreements shall be deemed a breach under all such agreements. The Integrated Agreements embody the entire understanding of the parties hereto, and there are no further or other agreements or understandings, written or oral, in effect between the parties hereto, relating to the subject matter of this Agreement. In addition to, and without limitation of, the rights of the parties hereto set forth above or any right available in law or in equity, pursuant to contract or otherwise, in the event of the failure by a party to this Agreement or any Affiliate of such party to make timely payment of amounts due and owing (following the expiration of any relevant cure periods thereunder) under any of the Integrated Agreements, the Separation Agreement or any other agreement related to the transactions contemplated hereby and thereby (together, the “**Applicable Agreements**”), such amounts may at the election of the non-defaulting party be reduced by set-off against any sum or obligation (whether or not matured or contingent and irrespective of the currency or place of payment) owed by the non-defaulting party or any Affiliate of the non-defaulting party to the defaulting party or any Affiliate of the defaulting party under any Applicable Agreement.

[Signature page follows]

IN WITNESS WHEREOF the parties hereto have caused this Agreement to be duly executed by their respective authorized officers as of the day and year first above written.

VICTORIA'S SECRET & CO.

By: /s/ Martin Waters

Name: Martin Waters

Title: Chief Executive Officer

L BRANDS, INC.

By: /s/ Andrew Meslow

Name: Andrew Meslow

Title: Chief Executive Officer

VS TO L BRANDS TRANSITION SERVICES AGREEMENT

dated as of

August 2, 2021

by and between

L BRANDS, INC.

and

VICTORIA'S SECRET & CO.

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ANNEXES

Annex A Data Processing Addendum

VS TO L BRANDS TRANSITION SERVICES AGREEMENT

VS TO L BRANDS TRANSITION SERVICES AGREEMENT (this “**Agreement**”) dated as of August 2, 2021 (the “**Effective Date**”) between Victoria’s Secret & Co., a Delaware corporation (“**Service Provider**”), and L Brands, Inc., a Delaware corporation (“**L Brands**”).

WITNESSETH:

WHEREAS, L Brands and Service Provider have entered into a Separation and Distribution Agreement dated as of August 2, 2021 (the “**Separation Agreement**”), pursuant to which and on the terms and conditions set forth therein, among other things, L Brands has agreed to distribute the VS Business to the holders of the L Brands Common Stock as of the Record Date;

WHEREAS, pursuant to the Separation Agreement, Service Provider has agreed to enter into this Agreement to cause to be provided certain services to the Service Recipients on the terms and conditions set forth herein in connection with the transactions contemplated by the Separation Agreement; and

WHEREAS, Service Provider has agreed to cause the Services to be provided in accordance with the terms hereof in order to facilitate the orderly separation of the L Brands Business from the VS Business.

NOW, THEREFORE, in consideration of the covenants and agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby mutually acknowledged, the parties hereto hereby agree as follows:

ARTICLE 1 DEFINITIONS

Section 1.01. *Definitions.* (a) As used herein, the following terms shall have the following meanings:

“**Dependent Services**” means, with respect to any specified Service (or portion thereof), any and all Services (or portion thereof) that, in Service Provider’s good faith reasonable determination, are dependent on the continuation of such specified Service (or portion thereof) or would be adversely affected by the termination or suspension of such specified Service (or portion thereof).

“**Disengagement Costs**” means any and all costs, charges and expenses of any kind incurred by Service Provider or any of its Affiliates in connection with the termination of this Agreement or relating to the cessation of any Services hereunder, including all third-party charges, costs or fees, all third-party cancellation or termination charges, costs or fees and the market value of all Disengagement Services provided by other Persons.

“**Disengagement Services**” means all services (other than the Services) provided hereunder at the request of L Brands primarily for the purpose of disengaging and transitioning Services from Service Provider and its Affiliates to L Brands or any of its Affiliates.

“**Service Costs**” means the Service Fees and Service Taxes.

“**Services**” means, subject to the limitations set forth herein and solely to the extent related to the L Brands Business, the transition services described on Schedules A-1 through A-18; each such schedule a “**Service Schedule**” and collectively, the “**Service Schedules**”.

“**TSA Employee**” means each individual who (i) is employed by Service Provider or any of its Affiliates (other than, for the avoidance of doubt, any employee of any Service Recipient) and (ii) provides Services (or any portion thereof) pursuant to this Agreement.

(b) All capitalized terms used but not defined herein shall have the meanings ascribed to such terms in the Separation Agreement.

(c) Each of the following terms is defined in the Section set forth opposite such term:

<u>Term</u>	<u>Section</u>
Additional Service	2.01(c)
Administrative Charge	3.01(c)
Agreement	Preamble
Allocated Cost	3.01(c)
Applicable Agreements	9.15
Arbitration Association	9.07(c)
Cap	6.06(b)
Confidential Information	5.01
Cost Components	3.01(c)
Covered Severance Costs	4.04(b)(i)
Covered TSA Employee	4.04(b)(ii)
Customary Billing	3.01(b)
Damages	6.01(a)
Developed Intellectual Property	2.09(d)
Dispute	9.07(a)
Effective Date	Preamble
Excluded TSA Employee	4.04(c)
Fixed Fee Billing	3.01(b)
Hiring Plan	4.01
Indemnified Party	6.02(a)
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Term	Section
L Brands	Preamble
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L Brands to VS TSA	9.15
Mediation Notice	9.07(b)
Mediation Period	9.07(c)
Net Sales Ratio	3.04
Pass-Through Billing	3.01(b)
Payment Date	3.06(b)
Percent of Sales Billing	3.01(b)
Representatives	2.12
Separation Agreement	Recitals
Service Fees	3.01(b)
Service Manager	2.14
Service Provider	Preamble
Service Provider Indemnities	6.01(a)
Service Provider Party	2.02
Service Recipient Indemnities	6.01(b)
Service Recipients	2.01(a)
Service Taxes	3.08(a)
Specific Billing	3.01(b)
Term	2.01(b)
Termination Fees	7.02
Third-Party Claim	6.02(a)
Third-Party Consent Costs	2.08(a)
Third-Party Provider	2.02
Transition Date	4.02(c)(ii)
Transition Employee	4.02(c)(i)

Section 1.02. *Other Definitional and Interpretive Provisions.* The words “hereof”, “herein” and “hereunder” and words of like import used in this Agreement shall refer to this Agreement as a whole and not to any particular provision of this Agreement. The captions herein are included for convenience of reference only and shall be ignored in the construction or interpretation hereof. References to Articles, Sections, Exhibits, Appendices, Annexes and Schedules are to Articles, Sections, Exhibits, Appendices, Annexes and Schedules of this Agreement unless otherwise specified. All Exhibits, Appendices, Annexes and Schedules annexed hereto or referred to herein are hereby incorporated in and made a part of this Agreement as if set forth in full herein. Any capitalized terms used in any Exhibit, Appendix, Annex or Schedule but not otherwise defined therein, shall have the meaning as defined in this Agreement. Any singular term in this Agreement shall be deemed to include the plural, and any plural term the singular. Whenever the words “include”, “includes” or “including” are used in this Agreement, they shall be deemed to be followed by the words “without limitation”, whether or not they are in fact followed by those words or words of like import. “Writing”, “written” and comparable terms refer to printing, typing and other means of reproducing words (including electronic media) in a visible form. References to any statute shall be deemed to refer to such statute as amended from time to time and to any rules or regulations promulgated thereunder. References to any agreement or contract are to that agreement or contract as amended, modified or supplemented from time to time in accordance with the terms hereof and thereof. References to any Person include the successors and permitted assigns of that Person. References from or through any date mean, unless otherwise specified, from and including or through and including, respectively. References to “law”, “laws” or to a particular statute or law shall be deemed also to include any and all Applicable Law. The word “or” means “and/or” unless the context provides otherwise. References to “dollars” or “\$” shall mean U.S. dollars, and whenever conversion of values to or from any currency other than U.S. dollars for a particular date shall be required, such conversion shall be made using the closing rate provided by Bloomberg as of the date that is one Business Day prior to such date. References to one gender shall be held to include the other gender as the context requires. In the event of any inconsistency between the terms of this Agreement and the terms set forth in any Service Schedule, the terms set forth in the applicable Service Schedule shall prevail unless expressly provided otherwise.

ARTICLE 2
SERVICES

Section 2.01. *Services.* (a) Subject to the terms and conditions set forth herein, Service Provider shall cause the Service Provider Parties to provide to L Brands and its Affiliates (collectively the “**Service Recipients**”), and the Service Recipients shall receive, the Services for the term indicated in Section 2.01(b). A detailed description of each Service to be provided by the Service Provider Parties to the Service Recipients hereunder is set forth in the Service Schedules.

(b) Service Provider shall cause the Service Provider Parties to provide, and the Service Recipients shall receive, each Service for the period specified for such Service in the applicable Service Schedule (each such period, a “**Term**”). The Term for each Service may be (i) extended or shortened by mutual written agreement of L Brands and Service Provider, and (ii) terminated by L Brands or Service Provider, as applicable, pursuant to Section 7.01, in each case to be reflected in an amendment to the applicable Service Schedule.

(c) In addition to the Services to be provided or procured by Service Provider in accordance with Section 2.01(a), if due to a good faith oversight, the Service Schedules fail to identify a service provided by the Service Provider Parties to the L Brands Business during the twelve-month period prior to the date hereof (an “**Additional Service**”), and such Additional Service is necessary for the Service Recipients during the term of this Agreement to operate the L Brands Business in substantially the same manner as the L Brands Business had been operated during the twelve-month period prior to the date hereof, upon written request of any Service Recipient that identifies and states its desire to receive such Additional Service, the parties hereto shall negotiate in good faith for Service Provider to provide or cause to be provided such Additional Service; *provided* that (i) nothing herein shall obligate either party hereto to agree to any such terms or to provide or receive any such Additional Service unless agreed in writing by both parties hereto and (ii) no Additional Service shall be provided for a Term extending beyond 24 months following the Distribution Date. To the extent the parties hereto reach a written agreement with respect to providing such Additional Service, the parties shall cooperate and act in good faith to add such Additional Service to the Service Schedules and mutually agree in good faith to a description of such Additional Service, the Term during which such Additional Service would be provided, the Service Fees for such Additional Service and any other terms applicable thereto. Upon amendment of the Service Schedules to include such Additional Service, such Additional Service shall be deemed part of the “Services” provided under this Agreement subject to the terms and conditions of this Agreement.

Section 2.02. *Service Provider's Affiliates and Third-Party Providers.* In providing, or otherwise making available, the Services to the Service Recipients, Service Provider may use, at its discretion, its own personnel or the personnel of any of its Affiliates (including the TSA Employees) or employ the services of contractors, subcontractors, vendors or other third parties (each, a "**Third-Party Provider**"); *provided* that Service Provider shall remain responsible for ensuring that its obligations with respect to such Services, including the general standard of service described below under Section 2.03, are satisfied with respect to all Services provided by any Service Provider Party. Each of Service Provider, its Affiliates and any Third Party Provider that provides Services shall be referred to as a "**Service Provider Party**".

Section 2.03. *General Standard of Service.* Except as otherwise agreed in writing by the parties hereto or expressly provided in this Agreement, each Service Provider Party shall provide Services in all material respects in substantially the same manner in terms of the nature, quality and standard of care as such services have been provided to the Affiliates and other businesses of Service Provider or L Brands, as applicable, during the twelve-month period prior to the date hereof and after the date hereof. Service Provider shall not be responsible for any inability to provide a Service or any delay in doing so to the extent that such inability or delay is the result of the failure of any Service Recipient to timely provide the information, access or other cooperation necessary for a Service Provider Party to provide such Service. Service Provider's obligation to cause the Services to be provided in accordance with the standards set forth in this Section 2.03 shall be subject to Service Provider's right to supplement, modify, substitute or otherwise alter any of the Services from time to time in a manner that is generally consistent with supplements, modifications, substitutions or alterations made for similar services provided or otherwise made available by a Service Provider Party to Service Provider or any of its Affiliates or as required by Applicable Law.

Section 2.04. *Compliance with Applicable Law.* The parties hereto will comply, and will cause their Affiliates and their respective employees to comply, with all Applicable Law in the performance of this Agreement.

Section 2.05. *Force Majeure.* Neither party hereto shall be liable to the other party hereto for any interruption of service, any delays or any failure to perform under this Agreement caused by matters or events occurring that are beyond the reasonable control of such party, including strikes, lockouts or other labor difficulties; fires, floods, acts of God, extremes of weather, earthquakes, tornadoes or similar occurrences; riot, insurrection or other hostilities; embargo; fuel or energy shortage; delays by unaffiliated suppliers or carriers; inability to obtain necessary labor, materials or utilities; or any epidemic, pandemic or disease outbreak (including COVID-19) or worsening thereof. Any delays, interruptions or failures to perform caused by such occurrences shall not be deemed to be a breach or failure to perform under this Agreement; *provided* that (i) this Section 2.05 only operates to suspend, and not to discharge, a party's obligations under this Agreement, and that when the causes of the failure or delay are removed or alleviated, the affected party shall resume performance of its obligations hereunder and to the extent such suspension adversely impacts the progress of the transition of any Service to a Service Recipient, the Service Recipient may request in writing that the Term for such Service shall be tolled for the duration of such suspension and (ii) this Section 2.05 shall not excuse a party's obligation to pay money; *provided, further*, that L Brands shall not be obligated to pay (other than previously accrued Service Costs) for any particular Service during the pendency of Service Provider's failure to provide such particular Service. Each party hereto shall use its good faith efforts to promptly notify the other upon learning of the occurrence of such event of a force majeure and (x) the affected party shall use its commercially reasonable efforts to mitigate and eliminate the force majeure in order to resume performance as promptly as practicable, *provided* that such affected party will have no obligation to incur any costs or liabilities to do so, and (y) the unaffected party shall have no obligation hereunder with respect to the obligations the affected party is unable to perform due to the force majeure event. If Service Provider is unable to provide any of the Services due to a force majeure event, the parties hereto shall use commercially reasonable efforts to cooperatively seek a solution that is mutually satisfactory, such as the subcontracting of all or part of the provision of the Services under the supervision of Service Provider for the period of time during or affected by the force majeure.

Section 2.06. *Limitations.* (a) L Brands agrees that the Services will be used by each Service Recipient solely in connection with the operation of the L Brands Business and to facilitate an orderly separation of the L Brands Business from the VS Business following the Distribution Time. No member of the L Brands Group may resell, license the use of or otherwise permit the use by any Person other than the Service Recipients of any Services, except with the prior written consent of Service Provider.

(b) In providing the Services, no Service Provider Party shall be obligated to, unless expressly agreed in writing by the parties or expressly set forth on the applicable Service Schedule: (i) hire any additional employees; (ii) maintain the employment of any specific employee; (iii) purchase, lease or license any additional equipment, hardware, Intellectual Property Right or software, except to the extent (A) software is reasonably necessary for the performance or receipt of a Service and (B) L Brands agrees to solely bear the applicable cost and expense (and which shall be subject to L Brands' prior written approval) or (iv) provide any Service to any Service Recipient for any fiscal year at a volume or level that is more than 120% of the volume or level of such Service in the preceding fiscal year.

Section 2.07. *Labor Matters.* All labor matters relating to any TSA Employees shall be within the exclusive control of Service Provider (or its applicable Affiliate or Third-Party Provider), and L Brands and its Affiliates shall not take any action affecting such matters. Except as expressly provided in Article 4, nothing in this Agreement is intended to transfer the employment of any TSA Employee to L Brands or any of its Affiliates. All TSA Employees will be deemed for all compensation, employee benefits, tax and social security contribution purposes to be employees of Service Provider (or its applicable Affiliate or Third-Party Provider) and not employees of L Brands or any of its Affiliates. In providing the Services, the TSA Employees will be under the direction, control and supervision of Service Provider or its Affiliates or Third-Party Provider and not of L Brands or any of its Affiliates. Except with respect to the L Brands Assets, or any other assets and materials provided by L Brands in accordance with Section 2.08(b), all procedures, methods, systems, strategies, tools, equipment, facilities and other resources of any Service Provider Party that are used by any Service Provider Party in connection with the provision of Services hereunder (including any Intellectual Property Right whether existing or created in connection with the provision of the Services or otherwise) shall remain the property of such Service Provider Party and shall at all times be under the sole direction and control of Service Provider.

Section 2.08. *Facilities; Cooperation; Further Actions.* (a) Service Provider and L Brands shall use commercially reasonable efforts to obtain, and to keep and maintain in effect (or to cause their respective Affiliates to obtain, and to keep and maintain in effect) all governmental or third-party licenses and consents required for the provision of any Service by a Service Provider Party in accordance with the terms of this Agreement; *provided* that if Service Provider or any of its Affiliates is unable to obtain any such license or consent, Service Provider shall promptly notify L Brands in writing and shall, and shall cause its Affiliates to, use commercially reasonable efforts to implement an appropriate alternative arrangement. The costs relating to obtaining any such licenses or consents shall be borne solely by L Brands (the “**Third-Party Consent Costs**”) and none of Service Provider or any of its Affiliates shall be required to pay any money or other consideration or grant any other accommodation to any Person (including any amendment to any contract) or initiate any action, suit or proceeding against any Person to obtain any such license or consent; *provided* that Service Provider and its Affiliates shall not incur any such costs without the prior written consent of L Brands. If any such license, consent or alternative arrangement is not available despite the commercially reasonable efforts of Service Provider and its Affiliates or as a result of L Brands failing to consent to the incurrence of costs relating to obtaining any such license or consent, Service Provider shall not be required to cause to be provided the affected Services.

(b) To the extent necessary, or upon Service Provider’s reasonable request, L Brands shall make all L Brands Assets or other facilities (including all ancillary facilities-related services), assets, information technology systems and applications or materials of the Service Recipients available to Service Provider or the applicable Service Provider Party for the provision of the Services (it being understood that, as between the parties hereto, title to all L Brands Assets and such other facilities, assets, information technology systems and applications or materials shall at all times remain with the applicable Service Recipient and such Service Recipient shall at all times be the owner of record of such L Brands Assets and other facilities, assets, information technology systems and applications or materials and shall be solely responsible for any matters arising therefrom or related thereto); *provided* that in the event L Brands fails to make any such L Brands Assets or other facilities, assets, information technology systems and applications or materials available to Service Provider or the applicable Service Provider Party, Service Provider shall have no further obligation to provide any affected Services to the extent such L Brands Assets or other facilities, assets, information technology systems and applications or materials are required for the provision of such Services.

Section 2.09. *Intellectual Property.* (a) Subject to the terms and conditions of this Agreement, with respect to each Service, Service Provider (on behalf of itself and its Affiliates) hereby grants to each Service Recipient and its Affiliates a limited, non-exclusive, non-sublicenseable, non-assignable (except as expressly provided for in Section 9.04) license, solely during the Term for such Service, to use any Intellectual Property Right (other than Trademarks), software and data that is (i) owned by Service Provider or its Affiliates and (ii) provided or otherwise made available by Service Provider or its Affiliates to such Service Recipient as part of such Service, but in each case solely to the extent necessary for such Service Recipient and its Affiliates to receive and use such Service as provided for and in accordance with this Agreement, subject to any applicable third-party restrictions or limitations.

(b) Subject to the terms and conditions of this Agreement, with respect to each Service, each Service Recipient (on behalf of itself and its Affiliates) hereby grants to Service Provider and its Affiliates a limited, non-exclusive, royalty-free, non-sublicenseable (except as expressly set forth herein), non-assignable (except as expressly provided for in Section 9.04) license, solely during the Term for such Service, in and to any Intellectual Property Right (other than Trademarks), software and data owned or controlled by such Service Recipient or any of its Affiliates, but in each case solely to the extent necessary for Service Provider, its Affiliates or any Third-Party Provider to perform such Service as provided for and in accordance with this Agreement, subject to any applicable third-party restrictions or limitations (it being understood that Service Provider shall have the right to grant a sublicense under the foregoing license to any Third-Party Provider).

(c) ALL SERVICES AND INTELLECTUAL PROPERTY RIGHTS LICENSED HEREUNDER ARE PROVIDED ON AN "AS IS" BASIS WITH NO REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, OF ANY KIND, INCLUDING WITH RESPECT TO MERCHANTABILITY, FITNESS FOR PARTICULAR PURPOSE OR NON-INFRINGEMENT. EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, NO LICENSES OR OTHER RIGHTS TO ANY SOFTWARE, INTELLECTUAL PROPERTY RIGHTS, DATA OR OTHER ASSETS ARE GRANTED TO EITHER PARTY HERETO UNDER THIS AGREEMENT, WHETHER BY IMPLICATION, ESTOPPEL, EXHAUSTION OR OTHERWISE, AND EACH PARTY HERETO RETAINS AND RESERVES ALL RIGHTS NOT EXPRESSLY GRANTED UNDER THIS AGREEMENT.

(d) The parties hereto acknowledge and agree that, as between the parties, Service Provider shall solely own all right, title and interest in and to all Intellectual Property Rights (other than Trademarks) authored, conceived, developed or reduced to practice by any Service Provider Party (whether solely or jointly with others) in connection with the Services (“**Developed Intellectual Property**”), *provided* that L Brands shall own all right, title and interest in and to all Developed Intellectual Property exclusively used in the L Brands Business (“**L Brands Developed Intellectual Property**”). L Brands hereby irrevocably assigns, and shall cause the other Service Recipients to assign, to Service Provider all of its or their right, title and interest in and to all Developed Intellectual Property (other than L Brands Developed Intellectual Property), and hereby waives any and all moral rights that it or they may have in all such Developed Intellectual Property. Service Provider hereby irrevocably assigns, and shall cause the other Service Provider Parties to assign, to L Brands all of its or their right, title and interest in and to all L Brands Developed Intellectual Property, and hereby waives any and all moral rights that it or they may have in any L Brands Developed Intellectual Property. The parties hereto agree to execute all other documents and take all actions as may be necessary or desirable to enable the other party to prosecute, perfect, enforce, defend, register and/or record its right, title and interest in, to and under the Developed Intellectual Property or L Brands Developed Intellectual Property, as applicable.

Section 2.10. *Data Ownership and Data Protection.* As between the parties hereto, the applicable Service Recipient shall be the owner of all data collected, used, stored or otherwise processed by or on behalf of such Service Recipient under this Agreement to the extent related to the L Brands Business. Service Provider shall, and L Brands shall cause the Service Recipients to, comply with the Data Processing Addendum attached as Annex A hereto and all applicable privacy and data protection laws that are or that may in the future be applicable to the provision of Services hereunder.

Section 2.11. *Information Technology.* L Brands shall cause each Service Recipient, its employees and any subcontractors to: (a) not attempt to obtain access to or use any information technology systems of any Service Provider Party, or any data owned by any Service Provider Party, or any data used or processed by any Service Provider Party (other than any data of any Service Recipient), except to the extent required to receive the Services; (b) maintain reasonable security measures to protect the systems of each Service Provider Party to which it has access pursuant to this Agreement from access by unauthorized third parties, and any “back door”, “time bomb”, “Trojan Horse”, “worm”, “drop dead device”, “virus” or other computer software routine intended or designed to disrupt, disable, harm or otherwise impede in any manner the operation of such systems; (c) not permit access or use of information technology systems of any Service Provider Party by a third party other than as authorized by prior written consent of Service Provider; (d) not disable, damage or erase or disrupt or impair the normal operation of the information technology systems of any Service Provider Party; and (e) comply with the security policies and procedures of each Service Provider Party (to the extent previously provided to each Service Recipient in writing). Each party hereto shall promptly notify the other party in the event it or any of its respective Affiliates becomes aware of or suspects that there has been a breach of security or a loss, theft or unauthorized access, use or disclosure of any information technology systems (collectively, “**IT Breach**”) of any Service Provider Party or any Service Recipient to the extent such (i) IT Breach could adversely affect the provision or receipt of the Services hereunder or such other party’s data or Confidential Information or (ii) notice is required by Applicable Law.

Section 2.12. *Policies and Procedures.* L Brands shall cause each Service Recipient and its employees, officers, directors, advisors and representatives (collectively, “**Representatives**”) and any subcontractors to comply with the internal policies, procedures, rules and regulations of the Service Provider Parties (as may be updated from time to time) applicable to (a) the use of the Service Provider Parties’ information technology systems, computers, networks, telephone systems, software, data, equipment or other facilities in connection with the Services or (b) such Service Recipient’s conduct while on a Service Provider Party’s premises or utilizing a Service Provider Party’s facilities in connection with the Services, in each case to the extent such policies, procedures, rules or regulations are generally applicable to such Service Provider Party’s own organization.

Section 2.13. *Access to Information.* (a) Subject to Applicable Law, L Brands shall, and shall cause the other Service Recipients to, with respect to any Service during the Term of such Service, upon reasonable advance notice, afford Service Provider and its Representatives, including Service Provider’s internal and external auditors, reasonable access, during normal business hours, to the employees, properties, books and records and other documents of the Service Recipients that are reasonably requested by Service Provider in connection with the provision and receipt of such Service hereunder.

(b) Subject to Applicable Law, Service Provider shall, upon reasonable advance notice, afford L Brands’ internal audit associates and L Brands’ current external audit firm (who has executed an appropriate confidentiality agreement reasonably acceptable to Service Provider) reasonable access, during normal business hours, to the information technology systems used by Service Provider with respect to the provision of any Service hereunder solely during the Term of such Service and solely for the purpose of performing audit procedures to support the audit of L Brands’ financial statements and L Brands’ internal control environment, including L Brands’ Report on Internal Control over Financial Reporting. L Brands’ internal audit associates and L Brands’ external audit firm shall be authorized to maintain documentation supporting the findings of their respective audit procedures. If L Brands wishes to use a new external audit firm for its 2021 or 2022 fiscal year audits, L Brands must obtain prior written consent from Service Provider, and such new firm must execute an appropriate confidentiality agreement reasonable acceptable to Service Provider, before such new firm is granted access to Service Provider’s information technology systems pursuant to this Section 2.13(b).

Section 2.14. *Transition Governance.* Service Provider, on the one hand, and L Brands, on the other hand, shall each designate a service manager (that party's "**Service Manager**"), who shall be directly responsible for coordinating and managing for the party he or she represents all activities undertaken by such party hereunder, including making available to the other party the information, facilities, resources and other support services required for the performance of, or receipt of, the Services in accordance with the terms of this Agreement. The Service Managers shall meet or confer, by telephone or in person, from time to time as necessary, and at least once per month or otherwise as the parties agree, during the term of this Agreement in order to promote open and efficient communication regarding effective and coordinated performance of, and the resolution of questions and issues related to, the Services. The Service Managers shall also discuss progress in the transition of the Services hereunder and may establish a set of procedures, including frequency of meetings and reporting, and other reasonable structures for their cooperation and the cooperation of the parties in the execution of their obligations pursuant to this Agreement. Service Provider, on the one hand, and L Brands, on the other hand, may, in its sole discretion, replace its respective Service Manager from time to time with a substitute upon notice to the other party.

ARTICLE 3
SERVICE FEES

Section 3.01. *Fees for Services.*

(a) In consideration for the Services provided under this Agreement, L Brands shall pay to Service Provider (or the Service Provider Party designated by Service Provider) the fees for each Service, as calculated below.

(b) Each Service Schedule indicates, with respect to each Service listed therein, whether the costs to be charged to the Service Recipients for such Service are determined by (i) the customary billing method described in Section 3.02 ("**Customary Billing**"), (ii) the pass-through billing method described in Section 3.03 ("**Pass-Through Billing**"), (iii) the percentage of net sales method described in Section 3.04 ("**Percent of Sales Billing**"), (iv) the fixed fee method described in Section 3.05 ("**Fixed Fee Billing**"), (v) a specific billing method to be mutually agreed upon by the applicable Service Recipients and Service Provider ("**Specific Billing**") or (vi) some combination thereof. The amounts calculated by the Service Provider pursuant to the Customary Billing, Pass-Through Billing, Percent of Sales Billing, Fixed Fee Billing and Specific Billing methods applicable to Services provided to the Service Recipients and charged to the Service Recipients as provided herein, together with any and all Disengagement Costs incurred in connection with the provision of any and all Disengagement Services, are collectively referred to herein as the "**Service Fees.**"

(c) The Service Fees calculated pursuant to each of the specific billing methods described herein may include without limitation (and without duplication) one or more of the following costs: (i) direct (i.e., out-of-pocket) costs incurred by the Service Provider Parties in providing the Services, (ii) subject to the express terms of any applicable Service Schedule, a reasonably and fairly allocated portion of costs or expenses (including the allocable portion of the compensation, benefits and other employment-related costs relating to the TSA Employees (including with respect to participation by such TSA Employees in any VS H&W Plan (as defined in the Employee Matters Agreement), but, excluding the cost of any severance and other termination-related payments and benefits (which shall be reimbursable in accordance with Section 4.04), and service-specific overhead costs and the costs of depreciation of new and existing assets) incurred by one or more of the Service Provider Parties in providing services to one or more of the Service Provider and its Affiliates and the Service Recipients (each, an “**Allocated Cost**”), and (iii) third-party costs, including but not limited to Third-Party Consent Costs, incurred by one or more of the Service Provider Parties in providing the Services (each of (i)-(iii), a “**Cost Component**,” and collectively, the “**Cost Components**”). To the extent expressly set forth in the Service Schedules, the Service Fees may include a cost-plus billing method based upon the aggregate costs incurred by Service Provider or its Affiliates relative to a particular Service plus a percentage of such costs in consideration of Service Provider’s or its Affiliates’ procurement and administration (“**Administrative Charge**”) of such Service.

(d) The parties hereto intend and agree that this Agreement provides for the orderly and efficient separation of the L Brands Business from the VS Business following the Distribution Time and that the methods of calculation of the Service Fees hereunder shall permit the Service Provider (or its Affiliates, if so designated) to receive full reimbursement for all overhead, administrative and supervisory costs and expenses incurred directly or indirectly by the Service Provider Parties in connection with the provision of the Services consistent with the manner in which the Service Provider Party charges and/or receives reimbursement from its Affiliates from time to time (including one or more of the Cost Components, together with any other amounts agreed to by the parties hereto) as provided in the applicable Service Schedule or as otherwise agreed by the parties hereto. It is further understood and agreed that when any Service Fees for Services hereunder are to be determined or agreed upon by Service Provider and L Brands (whether before or after the Distribution Time), such Service Fees shall, except as otherwise set forth in this Agreement, in all events, include all pertinent Cost Components and any other amounts therefor mutually agreed to by the parties hereto, including any Administrative Charge to the extent expressly set forth in the Service Schedule.

Section 3.02. *Customary Billing.* The Service Fees to which the Customary Billing method applies shall, subject to Section 3.01(c) and (d), be calculated on a basis that is substantially equivalent to the basis on which costs are attributed (whether through direct or indirect charges, allocations or otherwise) from time to time, now or in the future, to other companies or businesses operated by Service Provider for the same or comparable services (including one or more of the Cost Components); *provided* that (i) in respect of any particular Services, if Service Provider does not generally attribute costs associated with the same or comparable services to other companies or businesses operated by Service Provider as provided above, then the Customary Billing method for such Services shall be equivalent to the market value of all Services provided by Service Provider personnel and other Persons (including all Cost Components) which are reasonably allocable to the provision of such Services to the Service Recipients and (ii) if Service Provider provides financial relief from time to time to any companies or businesses operated by Service Provider with respect to any costs, fees, expenses and/or allocations that are otherwise generally allocated to or paid by companies or businesses operated by Service Provider, the Service Recipients shall not be entitled to the same financial relief.

Section 3.03. *Pass-Through Billing.* The costs of Services to which the Pass-Through Billing method applies shall, subject to Section 3.01(c) and (d), be equal to the aggregate amount of the third-party costs and expenses incurred (which costs shall include but not be limited to adjustments for attributable rebates and Third-Party Consent Costs) by any Service Provider Party on behalf of the Service Recipients.

Section 3.04. *Percent of Sales Billing.* The costs of Services to which the Percent-of-Sales Billing method applies shall, subject to Section 3.01(c) and (d), be equal to the amount obtained by multiplying (x) the aggregate cost incurred each month by the Service Provider and its Affiliates in providing such Services to one or more businesses of Service Provider or its Affiliates and to all Service Recipients by (y) the Net Sales Ratio for such month. “**Net Sales Ratio**” means the net sales of the applicable Service Recipients for a particular month divided by the aggregate net sales of all businesses of Service Provider, combined with (i) the net sales of the Service Recipient to which costs for such month are being allocated and (ii) the net sales of any Service Recipient other than the Service Recipient identified in clause (i) receiving such Services to which costs for such month are being allocated. In order to permit Service Provider to calculate the billing method provided for in this Section 3.04 (and for no other purpose), the applicable Service Recipient shall provide Service Provider with all reasonably necessary sales information not later than the close of business on the first Business Day immediately following such calendar month.

Section 3.05. *Fixed Fee Billing.* The cost of Services to which the Fixed Fee Billing method applies shall be in the amount set forth in the applicable Service Schedule.

Section 3.06. *Invoicing of Fees.* (a) Service Provider shall invoice, or shall cause the applicable Service Provider Party to invoice, L Brands on a monthly basis (not later than the 15th day of the following month), for the Service Costs and any applicable Disengagement Costs incurred in the prior month, including reasonable supporting data. Service Provider shall use its commercially reasonable efforts to cause invoices to be presented to L Brands on the schedule set forth in this Section 3.06, but no delay in presentation of an invoice shall affect L Brands’ obligation to pay the full amount of such invoice, when presented, on the terms set forth herein.

(b) Except as specifically provided on the applicable Service Schedule, L Brands shall pay, or shall cause to be paid, each invoice delivered pursuant to Section 3.06(a) on or before the date (each, a “**Payment Date**”) that is 30 days after the date of receipt of such invoice. Such payments shall be made by wire transfer of immediately available funds to an account designated by Service Provider.

(c) If L Brands fails to pay the full amount of any invoice under this Agreement within 15 days of the applicable Payment Date, L Brands shall be obligated to pay, in addition to the amount due on such Payment Date, interest on such amount at the rate of 12% per annum, compounded monthly from the applicable Payment Date through the date of payment; *provided* that such interest rate shall not exceed the maximum rate permitted by Applicable Law. All payments made shall be applied first to unpaid interest and then to amounts invoiced but unpaid. If L Brands fails to pay the full amount of any invoice within 30 days of the applicable Payment Date, such failure shall be considered a material breach of this Agreement, and to the extent the aggregate amount of such overdue unpaid invoices exceeds \$1,000,000, Service Provider may, after 10 days' prior notice to L Brands, elect to suspend, without liability, its obligations hereunder to cause to be provided any or all Services to L Brands until such time as such invoices have been paid in full.

(d) If any Service requires any Service Provider Party to make any payment to any third party on behalf of any Service Recipient or any of its Affiliates, L Brands shall deposit, by wire transfer of immediately available funds to an account designated by Service Provider, the amount of such payment at least one Business Day prior to the date on which such payment is to be made; *provided* that, notwithstanding anything to the contrary in this Agreement, Service Provider shall have no obligation to cause any such payment to be made unless and until L Brands deposits the full amount of any such payment in accordance with this Section 3.06(d).

Section 3.07. *Right to Set Off.* Notwithstanding anything in this Agreement or the L Brands to VS TSA to the contrary and without limiting any of L Brands' or any of its Affiliates' other remedies under contract or Applicable Law, L Brands shall have the right, but not the obligation, to set off any payments that are past due by Service Provider or any member of the VS Group under the L Brands to VS TSA and not yet paid by Service Provider or any such VS Group member against any Service Fees that have become payable and not yet been paid by L Brands hereunder; *provided* that such set-off amount shall be identified in reasonable detail in the next applicable invoice sent to Service Provider. Except as set forth herein, L Brands hereby unconditionally and irrevocably waives any rights of set-off, netting, offset, recoupment or similar right that L Brands has or may have with respect to the payment of the Service Fees or any other payments to be made by L Brands pursuant to this Agreement.

Section 3.08. *Taxes.* (a) L Brands shall bear and pay all applicable sales, use, transaction, consumption, excise, services, value-added, transfer, payroll, employment and other similar Taxes (and any related interest, penalty, addition to tax or additional amount imposed) incurred or imposed with respect to the provision of the Services, to this Agreement or to any payment hereunder ("**Service Taxes**"), whether or not such Service Taxes are shown on any invoices. If any Service Provider Party pays any portion of such Service Taxes, L Brands shall reimburse such Service Provider Party within five (5) days of receipt of evidence that such Service Taxes have been paid. Any Service Taxes shall be incremental to other payments or charges identified in this Agreement.

(b) All sums payable under this Agreement shall be paid free and clear of all deductions or withholdings unless such deduction or withholding is required by Applicable Law, in which event L Brands shall promptly inform the Service Provider Party of such required deduction or withholding and the amount of the payment due from L Brands shall be increased to an amount that after any deduction or withholding leaves an amount equal to the payment that would have been due if no such deduction or withholding had been required. L Brands shall pay (or cause to be paid) such deducted or withheld amounts over to the applicable Governmental Authority in accordance with the requirements of Applicable Law and provide the applicable Service Provider Party with an official receipt confirming payment.

Section 3.09. *Audits.* Throughout the term of this Agreement and for one year thereafter, L Brands shall have the right once within each calendar year, at its own expense and on 30 days' advance written notice to Service Provider, to have an independent auditor reasonably acceptable to Service Provider (and who has executed an appropriate confidentiality agreement reasonably acceptable to Service Provider) audit the books and records of Service Provider or any of its Affiliates for the sole purpose of certifying the accuracy of the Service Fees and Cost Components charged by Service Provider to the Service Recipients in accordance with the terms of this Agreement for the preceding calendar year; *provided* that (i) any such audit shall take place during reasonable business hours on a mutually agreed-upon date, (ii) such auditor shall in no event be entitled to any contingency fee (or otherwise have any portion of its compensation be directly or indirectly determined based on the outcome of such audit) and (iii) no such books and records may be audited more than one time. Service Provider may designate competitively sensitive information which such auditor may see and review but which it may not disclose to L Brands, and all such books and records, and any applicable audit report and findings, shall be the Confidential Information of Service Provider. L Brands shall provide to Service Provider a copy of each such audit report promptly after its receipt thereof. In the event that any such audit indicates any overpayment or underpayment of amounts paid to Service Provider by any Service Recipient, the applicable party shall pay to the other party (within 30 days following the date of delivery of such audit report to Service Provider) the amount of such overpayment or underpayment, as the case may be, plus (if the overpayment or underpayment amount exceeds \$250,000.00) interest accruing monthly from the date of such overpayment or underpayment until such amount is paid at 12% per annum, compounded monthly from the relevant payment due date through the date of payment (*provided* that such interest rate shall not exceed the maximum rate permitted by Applicable Law). If either party hereto has a good faith dispute with respect to the findings of such audit, the parties shall follow the dispute resolution procedures set forth in Section 9.07.

ARTICLE 4

HIRING PLAN; TRANSITION EMPLOYEES; SEVERANCE

Section 4.01. *Hiring Plan.* With respect to each applicable Service, each of Service Provider and L Brands (or their applicable Service Managers) shall mutually cooperate to establish a hiring plan setting forth the additional number of new employees to be hired by Service Provider and its Affiliates following the Distribution Date for purposes of providing the applicable Services (the "**Hiring Plan**").

Section 4.02. *Employment of Transition Employees.* Notwithstanding anything to the contrary in this Agreement or in the Employee Matters Agreement:

(a) Service Provider or an Affiliate of Service Provider shall retain in its employ each Transition Employee until the Transition Date applicable to such Transition Employee (unless the employment of the relevant Transition Employee is otherwise terminated by such Transition Employee or by the employer of such Transition Employee in the ordinary course of business); and

(b) L Brands shall, or shall cause one of its Affiliates to, offer employment to each Transition Employee, effective as of the Transition Date applicable to such Transition Employee, in accordance with Section 4.03 below.

(c) For these purposes:

(i) **“Transition Employee”** means each TSA Employee with respect to whom Service Provider and L Brands have mutually identified and agreed in writing will transfer employment from Service Provider or one of its Affiliates to L Brands or one of its Affiliates.

(ii) **“Transition Date”** means, with respect to each Transition Employee who accepts an offer of employment from L Brands or its applicable Affiliate pursuant to this Article 4, the date on which such Transition Employee’s employment commences with L Brands or an applicable Affiliate of L Brands, which shall be the earliest of (A) the first day immediately following the last day of the applicable Term, as identified in the applicable Service Schedule, (B) the termination of (x) the applicable Service in which such Transition Employee is engaged or (y) this Agreement, in each case pursuant to Section 7.01 or (C) any other day mutually agreed upon in writing by L Brands and Service Provider.

Section 4.03. *Transfer of Transition Employees.*

(a) Each of Service Provider and L Brands will cooperate in good faith to mutually identify the Transition Employees as promptly as practicable following the date of this Agreement.

(b) L Brands shall, or shall cause an Affiliate of L Brands to, offer employment to each Transition Employee on terms and conditions consistent with (i) the Employee Matters Agreement and (ii) the terms and conditions of employment applicable to such Transition Employee as of immediately prior to the applicable Transition Date. Subject to such Transition Employee’s acceptance of such offer, such employment shall commence effective as of the Transition Date applicable to such Transition Employee. Such offer of employment shall be communicated by L Brands (or its applicable Affiliate) to such Transition Employee in a reasonable amount of time prior to such Transition Date in accordance with procedures to be mutually determined by Service Provider and L Brands.

(c) Subject to such Transition Employee’s acceptance of such offer of employment, such Transition Employee shall be deemed a Delayed L Brands Transfer Employee (as defined in the Employee Matters Agreement), effective as of such Transition Employee’s applicable Transition Date, for all purposes under the Employee Matters Agreement, and the provisions of Employee Matters Agreement shall apply with respect to such Transition Employee.

(d) As provided under the Employee Matters Agreement, and without limiting any other provisions of this Agreement or the Employee Matters Agreement, L Brands (or its applicable Affiliate) will take all measures that are required or appropriate in order to (i) effectuate the transfer of employment of each Transition Employee to L Brands (or its applicable Affiliate) as of the Transition Date applicable to such Transition Employee (including by making an offer of employment to such Transition Employee in accordance with the terms of this Article 4) and (ii) avoid and mitigate, to the maximum extent possible, the incurrence of any severance obligations or termination-related obligations in connection with the transfer of employment of any Transition Employee to L Brands (or its applicable Affiliate) in accordance with this Section 4.03 (including by the provision of all appropriate notices, assurances and offers of employment and the assignment and assumption of obligations or undertakings with respect to the employment, compensation, benefits, protections or other obligations relating to any such Transition Employee).

(e) Service Provider and L Brands shall reasonably cooperate to (i) enable L Brands and its applicable Affiliates to communicate with the Transition Employees and receive information with respect to the terms of employment of the Transition Employees as necessary and appropriate to facilitate L Brands' obligations under this Article 4 and (ii) transfer and assign to L Brands (or its applicable Affiliate), and effectuate the assumption by L Brands (or its applicable Affiliate), all employment- and benefit-related obligations of the Service Provider (and its Affiliates) with respect to each Transition Employee who accepts and commences employment with L Brands (or its applicable Affiliate) in accordance with the Employee Matters Agreement, other than the obligations expressly retained by the Service Provider (and its Affiliates) pursuant to the Employee Matters Agreement. L Brands shall notify Service Provider in writing of each offer of employment made by L Brands (or its applicable Affiliate) to each Transition Employee, including the date of the offer, the proposed employment date and the terms and conditions of the offer.

Section 4.04. *TSA Employee Severance Obligations.*

(a) Notwithstanding anything to the contrary in this Agreement or the Employee Matters Agreement, in the event of a termination of employment of any Covered TSA Employee (as defined below) that occurs (i) during the Term of the applicable Service in which such Covered TSA Employee is engaged (as may be extended in accordance with the terms of this Agreement) or (ii) in connection with the termination or cessation of the applicable Service in which such Covered TSA Employee is engaged, each of Service Provider and L Brands shall bear fifty percent (50%) (or such other applicable percentage as set forth in the applicable Service Schedule) of any Covered Severance Costs (as defined below), if any, incurred by Service Provider and its Affiliates relating to such termination of the applicable Covered TSA Employee's employment.

(b) For purposes of this Agreement:

(i) **“Covered Severance Costs”** means the total cost of any severance and other termination-related payments and benefits payable in respect of the applicable TSA Employee that are incurred in the ordinary course of business pursuant to the terms of any applicable VS Plan (as defined in the Employee Matters Agreement) then in effect (including, without limitation, pursuant to (A) any applicable severance guidelines of Service Provider or any of its Affiliates covering such TSA Employee, (B) any applicable employment, retention, severance or similar agreement with such TSA Employee or (C) Applicable Law).

(ii) **“Covered TSA Employee”** means, with respect to any applicable Service, any TSA Employee who (A) is engaged in such Service and (B) is either (x) employed by Service Provider or one of its Affiliates as of the Distribution Date or (B) hired by Service Provider or one of its Affiliates following the Distribution Date in accordance with the Hiring Plan.

(c) Notwithstanding anything to the contrary herein, with respect to any TSA Employee who is not a Covered TSA Employee (for the avoidance of doubt, as a result of being hired by Service Provider or one of its Affiliates following the Distribution Date outside of the scope of the Hiring Plan) (each, an **“Excluded TSA Employee”**), in the event of a termination of the employment of such Excluded TSA Employee at any time, Service Provider shall bear 100% of the cost of any severance and other termination-related payments and benefits (including any Covered Severance Costs) payable in respect of such Excluded TSA Employee.

(d) For the avoidance of doubt, each Covered TSA Employee and Excluded TSA Employee shall constitute a TSA Employee for all purposes of this Agreement (including, without limitation, for purposes of Article 3 of this Agreement).

(e) Notwithstanding anything to the contrary herein, in the event that (i) any Covered TSA Employee or Excluded TSA Employee, as applicable, is identified as a Transition Employee in accordance with Section 4.02(c) of this Agreement and (ii) such Covered TSA Employee or Excluded Employee, as applicable, transfers employment to L Brands or one of its Affiliates in accordance with Section 4.03 of this Agreement, then effective as of the applicable Transition Date (and following the effective time of such employment transfer on the Transition Date), the terms of the Employee Matters Agreement shall apply with respect to the allocation of responsibility amongst Service Provider and L Brands with respect to the cost of any severance or other termination-related obligations in respect of any termination of employment of such Covered TSA Employee or Excluded TSA Employee, as applicable, that occurs following the applicable Transition Date (and, for the avoidance of doubt, the terms of this Section 4.04 shall not apply to any such termination of employment that occurs following such transfer of employment to L Brands or one of its Affiliates).

ARTICLE 5
CONFIDENTIALITY

Section 5.01. *Confidentiality.* From and after the Effective Date, each party hereto shall hold, and cause its Representatives to hold, in confidence, unless compelled to disclose by judicial or administrative process or by other requirements of law (in which event the disclosing party first notifies the other party hereto of such process or requirement and allows such party a reasonable opportunity to seek a protective order or other appropriate remedy to prevent such disclosure), all documents and information concerning the other party hereto provided to it pursuant to this Agreement (“**Confidential Information**”), and shall not, without the prior written consent of the other party hereto, disclose or use any Confidential Information of the other party hereto except as necessary in the performance of its obligations under this Agreement; *provided* that the term “Confidential Information” (a) does not include information that is or becomes generally available to the public (other than as a result of a breach of this Agreement), (b) does not include information that was available to the receiving party or any of its Affiliates on a non-confidential basis prior to its disclosure to such receiving party or its Affiliates pursuant to this Agreement (except that this clause (b) shall not apply to information of either party hereto in the possession of the other party prior to the date hereof by virtue of their previous Affiliate relationship), (c) does not include information that is or becomes available to the receiving party or any of its Affiliates from a third party not known by the receiving party or its Affiliates to be bound by a confidentiality agreement or any legal, fiduciary or other obligation restricting disclosure of such information and (d) does not include information that is or was independently developed by the receiving party or any of its Affiliates without use of Confidential Information or otherwise violating this Agreement. Nothing in this Section 5.01 shall limit any other confidentiality obligations among the parties to this Agreement pursuant to any other agreement among such parties.

Section 5.02. *No Rights to Confidential Information.* Each party hereto acknowledges that it will not acquire any right, title or interest in or to any Confidential Information of the other party hereto by reason of this Agreement or the provision or receipt of Services hereunder.

Section 5.03. *Third-Party Non-Disclosure Agreements.* To the extent that any third-party proprietor of information or software to be disclosed or made available to any Service Recipient in connection with the performance of Services requires a specific form of non-disclosure agreement as a condition of its consent to use of the same for the benefit of such Service Recipient or to permit any Service Recipient access to such information or software, L Brands shall cause such Service Recipient to execute (and will cause such Service Recipient’s employees to execute, if required) any such form.

Section 5.04. *Safeguards.* Each party hereto agrees to establish and maintain administrative, physical and technical safeguards, information technology and data security procedures and other protections against the destruction, loss, unauthorized access or alteration of the other party’s Confidential Information which are no less rigorous than those otherwise maintained for its own Confidential Information.

Section 6.01. *Indemnification.* (a) L Brands agrees to indemnify and hold harmless Service Provider and each other Service Provider Party, their respective Affiliates and their and their respective Representatives (collectively, the “**Service Provider Indemnitees**”) from and against any and all damage, loss and expense (including reasonable expenses of investigation and reasonable attorneys’ fees and expenses in connection with any action, suit or proceeding whether involving a third-party claim or a claim solely between the parties hereto) (“**Damages**”) asserted against or incurred by any Service Provider Indemnitee as a result or arising out of (i) a Service Recipient’s or any of its Affiliates’ breach of this Agreement, (ii) the provision of the Services by such Service Provider Indemnitee or the use of the Services by a Service Recipient or any of its Affiliates or (iii) a Service Recipient’s or any of its Affiliates’ gross negligence, fraud or willful misconduct; *provided* that L Brands shall not be responsible for any Damages to the extent Service Provider is required to indemnify a Service Recipient Indemnitee pursuant to Section 6.01(b).

(b) Service Provider agrees to indemnify and hold harmless each Service Recipient, its Affiliates and its and their respective Representatives (collectively, the “**Service Recipient Indemnitees**”) from and against any and all Damages asserted against or incurred by any Service Recipient Indemnitee as a result or arising out of (i) a Service Provider Party’s breach of this Agreement or (ii) a Service Provider’s gross negligence, fraud or willful misconduct; *provided* that Service Provider shall not be responsible for any Damages to the extent L Brands is required to indemnify a Service Provider Indemnitee pursuant to Section 6.01(a).

Section 6.02. *Third-Party Claim Procedures.* (a) The party seeking indemnification under Section 6.01 (the “**Indemnified Party**”) agrees to give prompt notice in writing to the party against whom indemnity is to be sought (the “**Indemnifying Party**”) of the assertion of any claim or the commencement of any suit, action or proceeding by any third-party (“**Third-Party Claim**”) in respect of which indemnity may be sought under such Section. Such notice shall set forth in reasonable detail such Third-Party Claim and the basis for indemnification (taking into account the information then available to the Indemnified Party). The failure to so notify the Indemnifying Party shall not relieve the Indemnifying Party of its obligations hereunder, except to the extent such failure shall have materially and adversely prejudiced the Indemnifying Party.

(b) The Indemnifying Party shall be entitled to participate in the defense of any Third-Party Claim and, subject to the limitations set forth in this Section 6.02, shall be entitled to control and appoint lead counsel for such defense, in each case at its own expense.

(c) If the Indemnifying Party shall assume the control of the defense of any Third-Party Claim in accordance with the provisions of this Section 6.02, (i) the Indemnifying Party shall obtain the prior written consent of the Indemnified Party (which shall not be unreasonably withheld, conditioned or delayed) before entering into any settlement of such Third-Party Claim, if the settlement does not release the Indemnified Party and its Affiliates from all liabilities and obligations with respect to such Third-Party Claim or the settlement imposes injunctive or other equitable relief against the Indemnified Party or any of its Affiliates and (ii) the Indemnified Party shall be entitled to participate in the defense of any Third-Party Claim and to employ separate counsel of its choice for such purpose. The fees and expenses of such separate counsel shall be paid by the Indemnified Party.

(d) Each party hereto shall cooperate, and cause their respective Affiliates to cooperate, in the defense or prosecution of any Third-Party Claim and shall furnish or cause to be furnished such records, information and testimony, and attend such conferences, discovery proceedings, hearings, trials or appeals, as may be reasonably requested in connection therewith.

Section 6.03. *Direct Claim Procedures.* In the event an Indemnified Party has a claim for indemnity under Section 6.01 against an Indemnifying Party that does not involve a Third-Party Claim, the Indemnified Party agrees to give prompt notice in writing of such claim to the Indemnifying Party. Such notice shall set forth in reasonable detail such claim and the basis for indemnification (taking into account the information then available to the Indemnified Party). The failure to so notify the Indemnifying Party shall not relieve the Indemnifying Party of its obligations hereunder, except to the extent such failure shall have materially and adversely prejudiced the Indemnifying Party. If the Indemnifying Party does not notify the Indemnified Party within 30 days following the receipt of a notice with respect to any such claim that the Indemnifying Party disputes its indemnity obligation to the Indemnified Party for any Damages with respect to such claim, such Damages shall be conclusively deemed a liability of the Indemnifying Party and the Indemnifying Party shall promptly pay to the Indemnified Party any and all Damages arising out of such claim. If the Indemnifying Party has timely disputed its indemnity obligation for any Damages with respect to such claim, the parties shall follow the dispute resolution procedures set forth in Section 9.07.

Section 6.04. *Calculation of Damages.* The amount of any Damages payable under Section 6.01 by the Indemnifying Party shall be net of any amounts recovered by the Indemnified Party under applicable insurance policies or from any other Person alleged to be responsible therefor. If the Indemnified Party receives any amounts under applicable insurance policies, or from any other Person alleged to be responsible for any Damages, subsequent to an indemnification payment by the Indemnifying Party, then such Indemnified Party shall promptly reimburse the Indemnifying Party for any payment made or expense incurred by such Indemnifying Party in connection with providing such indemnification payment up to the amount received by the Indemnified Party, net of any expenses incurred by such Indemnified Party in collecting such amount.

Section 6.05. *No Warranties.* Except as expressly set forth in this Agreement, neither party hereto makes, and no party hereto is relying on, any warranty, express or implied, with respect to the Services and each party hereto hereby specifically disclaims any implied warranty of reasonable care or workmanlike effort.

Section 6.06. *Limitation of Liability; Exclusion of Damages.* (a) TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, EXCEPT FOR A PARTY'S BREACH OF ITS CONFIDENTIALITY OBLIGATIONS HEREUNDER OR A PARTY'S GROSS NEGLIGENCE, FRAUD OR WILLFUL MISCONDUCT, NO PARTY HERETO WILL BE LIABLE FOR ANY (I) PUNITIVE, SPECIAL, CONSEQUENTIAL, EXEMPLARY OR TREBLED DAMAGES (IN EACH CASE, EXCEPT TO THE EXTENT PAYABLE TO A THIRD PARTY IN RESPECT OF A THIRD-PARTY PROCEEDING BASED ON A FINAL JUDGMENT OF A COURT OF COMPETENT JURISDICTION) OR (II) LOST PROFITS, DIMINUTION IN VALUE, MULTIPLE-BASED OR OTHER DAMAGES CALCULATED BASED ON A MULTIPLE OF ANOTHER FINANCIAL MEASURE, IN EACH CASE, ARISING OUT OF OR RELATING TO THIS AGREEMENT EVEN IF THE OTHER PARTY HAD BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

(b) NOTWITHSTANDING ANYTHING ELSE HEREIN TO THE CONTRARY, EXCEPT FOR SERVICE PROVIDER'S GROSS NEGLIGENCE, FRAUD OR WILLFUL MISCONDUCT, THE MAXIMUM AGGREGATE LIABILITY OF SERVICE PROVIDER TO THE SERVICE RECIPIENTS OR TO ANY THIRD PARTY UNDER OR IN CONNECTION WITH THIS AGREEMENT SHALL NOT EXCEED AND SHALL BE LIMITED TO THE FEES ACTUALLY RECEIVED BY SERVICE PROVIDER FOR THE SERVICES HEREUNDER (THE "CAP"); PROVIDED THAT, WITH RESPECT TO ANY DAMAGES FOR WHICH SERVICE PROVIDER IS OBLIGATED TO INDEMNIFY L BRANDS UNDER SECTION 6.01(b) AND THAT RELATE TO DATA PRIVACY, CYBERSECURITY OR OTHER SIMILAR MATTERS, IF SERVICE PROVIDER, USING COMMERCIALY REASONABLE EFFORTS AND EXERCISING GOOD FAITH, IS ABLE TO RECOVER AN AMOUNT GREATER THAN THE CAP FROM ITS APPLICABLE THIRD-PARTY SERVICE PROVIDERS, SUCH EXCESS RECOVERY SHALL BE PASSED THROUGH TO L BRANDS ON A PRO-RATA BASIS TO THE EXTENT OF SUCH DAMAGES.

ARTICLE 7 TERMINATION OF SERVICES

Section 7.01. *Termination.* (a) Notwithstanding Section 2.01, except as expressly set forth otherwise in the applicable Service Schedule, L Brands may, at any time during the term of this Agreement and for any reason, terminate Service Provider's obligations to cause to be provided any or all Services, or any part of any Service, by giving at least 60 days' prior written notice of such termination to Service Provider; provided that in the event L Brands elects to terminate any (but not all) of the Services, (i) Service Provider may, within 10 Business Days following its receipt of such termination notice, provide L Brands with written notice of all applicable Dependent Services, (ii) upon receiving Service Provider's notice pursuant to the foregoing clause (i), L Brands may provide notice within five Business Days of such receipt of its withdrawal of its termination notice and (iii) if L Brands does not withdraw its termination notice within such five Business Day period, the Dependent Services shall automatically terminate upon the effective date of termination of such terminated Service. If L Brands notifies Service Provider of its intent to terminate any Service in part or reduce any Service, the Service Fees shall be reduced accordingly. For the avoidance of doubt, subject to the first sentence of this Section 7.01(a), if L Brands elects to terminate the provision of less than all Services, Service Provider shall continue to be obligated to cause to be provided any and all remaining Services.

(b) Service Provider may terminate its obligations to cause to be provided any or all Services at any time if L Brands shall have failed to perform any of its material obligations under this Agreement relating to any such Service (including the failure to provide any access, information or data required to effectuate such Service), but only if Service Provider shall have notified L Brands in writing of such failure and such failure shall have continued for a period of 30 days after receipt by L Brands of such written notice.

(c) If the performance of any Service subjects any Service Provider Party to a reasonable risk of violating an Applicable Law or would reasonably be expected to, individually or in the aggregate, materially and adversely affect the business of Service Provider or its Affiliates, then the relevant Service Provider Party, (i) in the case of a violation of an Applicable Law, may immediately upon Service Provider providing written notice of such fact and the applicable Dependent Services to L Brands (it being understood that Service Provider shall provide L Brands with as much advance notice as is reasonably practicable under the circumstances and permitted by Applicable Law), suspend performance of such Service and any and all Dependent Services without liability to Service Provider or any Service Provider Party and (ii) in the case of a material and adverse effect to the business of Service Provider or its Affiliates, may, upon Service Provider providing written notice of such fact to L Brands sufficiently in advance to permit L Brands (acting reasonably) to arrange for replacement services, suspend performance of such Service without liability; *provided* that, (A) following delivery of such notice, the parties hereto will cooperate in good faith to promptly amend this Agreement to the extent necessary to eliminate such violation of Applicable Law or such effect while as nearly as possible accomplishing the purpose of the intended Service in a mutually satisfactory manner and (B) L Brands shall not be obligated to pay for any such suspended Services during the pendency of any Service Provider Party's suspension of such Services (it being understood that L Brands shall remain liable for any Service Costs incurred or accrued for such Services prior to such suspension). If the parties hereto are unable to agree upon such an amendment to this Agreement within 30 days of such notification, then either party hereto may terminate its obligation with respect to such suspended Services upon written notice to the other party hereto; *provided* that the applicable Dependent Services shall also automatically terminate upon the effective date of termination of such suspended Services.

(d) L Brands may terminate Service Provider's obligation to cause to be provided any Service at any time if Service Provider shall have failed to perform any of its material obligations under this Agreement relating to such Service, but only if L Brands shall have notified Service Provider in writing of such failure and such failure shall have continued for a period of 30 days after receipt by Service Provider of such written notice.

(e) Subject to Section 7.02, this Agreement shall terminate in its entirety on the date when no additional Services are to be provided as set forth in each applicable Service Schedules, as the same may hereafter be amended.

Section 7.02. *Effect of Termination.* Other than as required by Applicable Law, upon expiration or termination of any or all Service(s) pursuant to Section 7.01 or otherwise pursuant to this Agreement, Service Provider shall have no further obligation to cause to be provided the terminated Service(s) and L Brands shall have no obligation to pay any Service Fees relating to such terminated Service(s); *provided that*, notwithstanding such termination, the Service Recipients shall remain liable to Service Provider for (a) Service Costs incurred prior to the effective date of the expiration or termination of such Service(s), (b) the Disengagement Costs relating to the termination of such Service(s), and (c) in the case of a termination under Section 7.01(a), Section 7.01(b) or Section 7.01(c), without duplication of any Disengagement Costs, any fees, costs and expenses incurred by Service Provider (or any of its Affiliates) between the time of such termination and the time the provision of such Service(s) would have terminated under this Agreement absent such early termination (including early termination charges, kill fees, wind-down costs, reasonable minimum volume make-up fees and other fees and costs, in each case actually payable or that have been paid in advance by any Service Provider Party to a third party, and unamortized costs that Service Provider or its Affiliates previously incurred or are required to pay to a third party for services, equipment, licenses or other assets used for the provisions of such terminated Service) (collectively, “**Termination Fees**”) to the extent Service Provider or such other Service Provider Party cannot avoid the incurrence of any such Termination Fees using commercially reasonable efforts. For clarity, no Disengagement Costs are payable in case of a termination under Section 7.01(d) or upon the expiration of the Term of any Service. All amounts payable pursuant to this Section 7.02 shall be invoiced to and payable by L Brands within 30 days after the date of invoice and otherwise in accordance with Section 3.06. Notwithstanding any expiration or termination pursuant to Section 7.01, Section 2.10 (but solely with respect to the first sentence), Section 3.08 and Articles 4, 5, 6, 7, and 9 shall survive any such expiration or termination indefinitely.

ARTICLE 8 REPRESENTATIONS AND WARRANTIES

Section 8.01. *Representations and Warranties of Service Provider.* Service Provider represents and warrants to L Brands that:

(a) Service Provider is an entity duly organized, validly existing and in good standing (with respect to jurisdictions that recognize such concept) under the laws of its jurisdiction of organization and has all corporate powers required to carry on its business as now conducted.

(b) The execution, delivery and performance by Service Provider of this Agreement and the consummation of the transactions contemplated hereby by Service Provider are within Service Provider’s corporate powers and have been duly authorized by all necessary corporate action on the part of Service Provider. This Agreement constitutes a valid and binding agreement of Service Provider enforceable against Service Provider in accordance with its terms (subject to applicable bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium and other laws affecting creditors’ rights generally and general principles of equity).

(c) The execution, delivery and performance by Service Provider of this Agreement and the consummation of the transactions contemplated hereby by Service Provider require no action by or in respect of, or filing with, any Governmental Authority other than any such action or filing that has already been taken or made or as to which the failure to make or obtain would not reasonably be expected to materially impede or delay the performance by Service Provider of its obligations hereunder.

Section 8.02. *Representations and Warranties of L Brands.* L Brands represents and warrants to Service Provider that:

(a) L Brands is a corporation duly incorporated, validly existing and in good standing (with respect to jurisdictions that recognize such concept) under the laws of Delaware and has all corporate powers required to carry on its business as now conducted.

(b) The execution, delivery and performance by L Brands of this Agreement and the consummation of the transactions contemplated hereby by L Brands are within L Brands' corporate powers and have been duly authorized by all necessary corporate action on the part of L Brands. This Agreement constitutes a valid and binding agreement of L Brands, enforceable against L Brands in accordance with its terms (subject to applicable bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium and other laws affecting creditors' rights generally and general principles of equity).

(c) The execution, delivery and performance by L Brands of this Agreement and the consummation of the transactions contemplated hereby by L Brands require no action by or in respect of, or filing with, any Governmental Authority other than any such action or filing that has already been taken or made or as to which the failure to make or obtain would not reasonably be expected to materially impede or delay the performance by L Brands of its obligations hereunder.

ARTICLE 9
MISCELLANEOUS

Section 9.01. *Notices.* Any notice, instruction, direction or demand under the terms of this Agreement required to be in writing shall be duly given upon delivery, if delivered by hand, facsimile transmission, mail, or email transmission to the following addresses:

if to Service Provider, to:

Victoria's Secret & Co.
4 Limited Parkway East
Reynoldsburg, Ohio 43068
Attention: Melinda McAfee
Email: MMcAfee@lb.com

with a copy (which shall not constitute notice) to:

Davis Polk & Wardwell LLP
450 Lexington Avenue
New York, New York 10017
Attention: William H. Aaronson
Cheryl Chan
Email: william.aaronson@davispolk.com
cheryl.chan@davispolk.com

if to L Brands, to:

L Brands, Inc.
Three Limited Parkway
Columbus, Ohio 43230
Attention: Michael Wu
Tim Faber
Email: MiWu@lb.com
TFaber@lb.com

with a copy (which shall not constitute notice) to:

Davis Polk & Wardwell LLP
450 Lexington Avenue
New York, New York 10017
Attention: William H. Aaronson
Cheryl Chan
Email: william.aaronson@davispolk.com
cheryl.chan@davispolk.com

or such other address or facsimile number as such party may hereafter specify for the purpose by notice to the other parties hereto. All such notices, requests and other communications shall be deemed received on the date of receipt by the recipient thereof if received prior to 5:00 p.m. in the place of receipt and such day is a Business Day in the place of receipt. Otherwise, any such notice, request or communication shall be deemed not to have been received until the next succeeding Business Day in the place of receipt.

Section 9.02. *Amendments; No Waivers.* (a) Any provision of this Agreement may be amended or waived if, but only if, such amendment or waiver is in writing and is signed, in the case of an amendment, by each party to this Agreement, or in the case of a waiver, by the party against whom the waiver is to be effective.

(b) No failure or delay by any party hereto in exercising any right, power or privilege hereunder shall operate as a waiver thereof nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege. Except as set forth in Section 6.06, the rights and remedies herein provided shall be cumulative and not exclusive of any rights or remedies provided by law.

Section 9.03. *Expenses.* Except as otherwise provided herein, all third-party fees, costs and expenses paid or incurred in connection with this Agreement shall be paid by the party hereto incurring such fees, cost or expenses.

Section 9.04. *Independent Contractor Status.* Nothing in this Agreement shall constitute or be deemed to constitute a partnership or joint venture between the parties hereto. Neither party hereto is now, nor shall it be made by this Agreement, an agent, employee or legal representative of the other party hereto or any of its Affiliates for any purpose. Each party hereto acknowledges and agrees that neither party hereto shall have authority or power to bind the other party hereto or any of its Affiliates or to contract in the name of, or create a liability against, the other party hereto or any of its Affiliates, in any way or for any purpose, to accept any service of process upon the other party hereto or any of its Affiliates or to receive any notices of any kind on behalf of the other party hereto or any of its Affiliates. Each party hereto is and shall be an independent contractor in the performance of Services hereunder and nothing herein shall be construed to be inconsistent with this status.

Section 9.05. *Successors and Assigns.* The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. Neither this Agreement nor any right, remedy, obligations or liability arising hereunder or by reason hereof nor any of the documents executed in connection herewith may be assigned by any party hereto without the consent of the other party, which consent may be granted or withheld in the discretion of such other party. Notwithstanding the foregoing, either party hereto may assign or transfer this Agreement and all of its rights and obligations hereunder to an Affiliate or to any third party that acquires all or substantially all of such party's assets or business to which this Agreement relates (whether by sale of assets, stock, merger, consolidation, reorganization or otherwise); *provided* that this Agreement and the Services shall not apply to any other business of such third-party acquirer.

Section 9.06. *Governing Law.* This Agreement shall be governed by and construed in accordance with the law of the State of Delaware, without regard to the conflicts of law rules of such state.

Section 9.07. *Dispute Resolution.* (a) With respect to matters relating to the Services or under this Agreement requiring dispute resolution (each, a "**Dispute**"), the disputing party shall notify the other party hereto of such Dispute in writing and, upon the non-disputing party's receipt of such written notice, the parties' respective Service Managers shall attempt to resolve such Dispute in good faith within 30 days of such receipt, and if such Service Managers are unable to resolve such Dispute in such 30-day period, then such Service Managers shall escalate such Dispute to each party's Chief Financial Officer for resolution.

(b) If the parties' Chief Financial Officers are unable to resolve such Dispute within 30 days following such receipt of such notice, then either party hereto shall initiate a non-binding mediation by providing written notice ("**Mediation Notice**") to the other party hereto within five Business Days following the expiration of such 30-day period.

(c) Upon receipt of a Mediation Notice, the applicable Dispute shall be submitted within five Business Days following such receipt of such Mediation Notice for non-binding mediation conducted in accordance with the Commercial Mediation Rules of the American Arbitration Association ("**Arbitration Association**"), and the parties hereto agree to bear equally the costs of such mediation (including any fees or expenses of the applicable mediator); *provided, however*, that each party hereto shall bear its own costs in connection with participating in such mediation. The parties hereto agree to participate in good faith in such mediation for a period of 45 days or such longer period as the parties hereto may mutually agree following receipt of such Mediation Notice (the "**Mediation Period**").

(d) In connection with such mediation, the parties hereto shall cooperate with the Arbitration Association and with one another in selecting a neutral mediator with relevant industry experience and in scheduling the mediation proceedings during the applicable Mediation Period. If the parties hereto are unable to agree on a neutral mediator within five Business Days of submitting a Dispute for mediation pursuant to Section 9.07(c), application shall be made by the parties to the Arbitration Association for the Arbitration Association to select and appoint a neutral mediator on the parties' behalf in accordance with the Commercial Mediation Rules of the Arbitration Association.

(e) The parties hereto further agree that all information, whether oral or written, provided in the course of any such mediation by either party hereto, their agents, employees, experts and attorneys, and by the applicable mediator and any employees of the mediation service, is confidential, privileged, and inadmissible for any purpose, including impeachment, in any Action involving the parties hereto; *provided* that any such information that is otherwise admissible or discoverable shall not be rendered inadmissible or non-discoverable as a result of its use in such mediation.

(f) If the parties hereto cannot resolve the Dispute for any reason, on and following the expiration of the Mediation Period, either party may commence litigation in a court of competent jurisdiction pursuant to the provisions of Section 9.08. Nothing contained in this Agreement shall deny either party hereto the right to seek injunctive or other equitable relief from a court of competent jurisdiction in the context of a bona fide emergency or prospective irreparable harm, and such an Action may be filed and maintained notwithstanding any ongoing efforts under this Section 9.07.

Section 9.08. *Jurisdiction.* The parties hereto agree that any suit, action or proceeding seeking to enforce any provision of, or based on any matter arising out of or in connection with, this Agreement or the transactions contemplated hereby shall be brought in the Chancery Court of the State of Delaware and any state appellate court therefrom within the State of Delaware (or if the Chancery Court of the State of Delaware declines to accept jurisdiction over a particular matter, any federal or state court sitting in the State of Delaware and any federal or state appellate court therefrom), and each of the parties hereto hereby irrevocably consents to the exclusive jurisdiction of such courts (and of the appropriate appellate courts therefrom) in any such suit, action or proceeding and irrevocably waives, to the fullest extent permitted by law, any objection that it may now or hereafter have to the laying of the venue of any such suit, action or proceeding in any such court or that any such suit, action or proceeding brought in any such court has been brought in an inconvenient forum. Process in any such suit, action or proceeding may be served on any party hereto anywhere in the world, whether within or without the jurisdiction of any such court. Without limiting the foregoing, each party hereto agrees that service of process on such party as provided in Section 9.01 shall be deemed effective service of process on such party.

Section 9.09. *WAIVER OF JURY TRIAL.* EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

Section 9.10. *Counterparts; Effectiveness; Third-Party Beneficiaries.* This Agreement may be signed in any number of counterparts (which may include counterparts delivered by any standard form of telecommunication), each of which shall be an original, with the same effect as if the signatures thereto and hereto were upon the same instrument. The words “execution,” “signed,” “signature,” and words of like import in this Agreement or in any other certificate, agreement or document related to this Agreement shall include images of manually executed signatures transmitted by facsimile or other electronic format (including “pdf”, “tif” or “jpg”) and other electronic signatures (including DocuSign and AdobeSign). The use of electronic signatures and electronic records (including any contract or other record created, generated, sent, communicated, received or stored by electronic means) shall be of the same legal effect, validity and enforceability as a manually executed signature or use of a paper-based recordkeeping system to the fullest extent permitted by Applicable Law. This Agreement shall become effective when each party hereto shall have received a counterpart hereof signed by the other party hereto. Until and unless each party hereto has received a counterpart hereof signed by the other party hereto, this Agreement shall have no effect and no party hereto shall have any right or obligation hereunder (whether by virtue of any other oral or written agreement or other communication). Except for the indemnification and release provisions of Article 6, neither this Agreement nor any provision hereof is intended to confer any rights, benefits, remedies, obligations, or liabilities hereunder upon any Person other than the parties hereto and their respective successors and permitted assigns.

Section 9.11. *Entire Agreement.* This Agreement, together with the other Distribution Documents, constitutes the entire agreement between the parties hereto with respect to the subject matter of this Agreement and supersedes all prior agreements and understandings, both oral and written, between the parties with respect to the subject matter of this Agreement. No representation, inducement, promise, understanding, condition or warranty not set forth herein or in the other Distribution Documents has been made or relied upon by either party hereto with respect to the transactions contemplated by this Agreement.

Section 9.12. *Severability.* If any one or more of the provisions contained in this Agreement should be declared invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained in this Agreement shall not in any way be affected or impaired thereby so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to any party hereto. Upon such a declaration, the parties hereto shall modify this Agreement so as to effect the original intent of the parties as closely as possible in an acceptable manner so that the transactions contemplated hereby are consummated as originally contemplated to the fullest extent possible.

Section 9.13. *Specific Performance.* The parties hereto acknowledge and agree that damages for a breach or threatened breach of any of the provisions of this Agreement would be inadequate and irreparable harm would occur. In recognition of this fact, each party hereto agrees that, if there is a breach or threatened breach, in addition to any damages, the other non-breaching party to this Agreement, without posting any bond, shall be entitled to seek and obtain equitable relief in the form of specific performance, temporary restraining order, temporary or permanent injunction, attachment, or any other equitable remedy which may then be available to obligate the breaching party (i) to perform its obligations under this Agreement or (ii) if the breaching party is unable, for whatever reason, to perform those obligations, to take any other actions as are necessary, advisable or appropriate to give the other party to this Agreement the economic effect which comes as close as possible to the performance of those obligations (including transferring, or granting liens on, the assets of the breaching party to secure the performance by the breaching party of those obligations).

Section 9.14. *Interpretation.* In the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the parties hereto, and no presumption or burden of proof shall arise favoring or disfavoring any party hereto by virtue of its authorship of any of the provisions of this Agreement.

Section 9.15. *Integration.* The parties hereto agree that each of (a) this Agreement, (b) each of the Service Schedules, (c) the L Brands to VS Transition Services Agreement, dated as of the date hereof between L Brands and Service Provider (the “**L Brands to VS TSA**”), (d) each of the Service Schedules (as defined in the L Brands to VS TSA), and (e) all addenda, supplemental agreements, amendments and letter agreements executed in connection with the foregoing, ((a) through (e) collectively, the “**Integrated Agreements**”) are integrated and non-severable parts of one and the same transaction among the parties hereto, each representing an essential, necessary and interdependent component of such transaction forming part of the consideration given by the parties hereto under and in connection with this Agreement, and the parties hereto agree that all of the Integrated Agreements comprising such transaction constitute one single agreement and are integrated and non-severable for all purposes at law and equity, including for purposes of section 365 of title 11 of the United States Code and New York law, and that any breach of any one of such agreements shall be deemed a breach under all such agreements. The Integrated Agreements embody the entire understanding of the parties hereto, and there are no further or other agreements or understandings, written or oral, in effect between the parties hereto, relating to the subject matter of this Agreement. In addition to, and without limitation of, the rights of the parties hereto set forth above or any right available in law or in equity, pursuant to contract or otherwise, in the event of the failure by a party to this Agreement or any Affiliate of such party to make timely payment of amounts due and owing (following the expiration of any relevant cure periods thereunder) under any of the Integrated Agreements, the Separation Agreement or any other agreement related to the transactions contemplated hereby and thereby (together, the “**Applicable Agreements**”), such amounts may at the election of the non-defaulting party be reduced by set-off against any sum or obligation (whether or not matured or contingent and irrespective of the currency or place of payment) owed by the non-defaulting party or any Affiliate of the non-defaulting party to the defaulting party or any Affiliate of the defaulting party under any Applicable Agreement.

[Signature page follows]

IN WITNESS WHEREOF the parties hereto have caused this Agreement to be duly executed by their respective authorized officers as of the day and year first above written.

VICTORIA'S SECRET & CO.

By: /s/ Martin Waters

Name: Martin Waters

Title: Chief Executive Officer

L BRANDS, INC.

By: /s/ Andrew Meslow

Name: Andrew Meslow

Title: Chief Executive Officer

TAX MATTERS AGREEMENT

between

L BRANDS, INC.,
on behalf of itself
and the members
of the L Brands Group

and

VICTORIA'S SECRET & CO.,
on behalf of itself
and the members
of the VS Group

Dated as of August 2, 2021

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TAX MATTERS AGREEMENT

This TAX MATTERS AGREEMENT (the “**Agreement**”) is entered into as of August 2, 2021 between L Brands, Inc., a Delaware corporation (“**L Brands**”), on behalf of itself and the members of the L Brands Group, as defined below, and Victoria’s Secret & Co., a Delaware corporation (“**VS**,” and together with L Brands, the “**Parties**”), on behalf of itself and the members of the VS Group, as defined below.

W I T N E S S E T H:

WHEREAS, pursuant to the Tax laws of various jurisdictions, certain members of the VS Group presently file certain Tax Returns on an affiliated, consolidated, combined, unitary, fiscal unity or other group basis (including as permitted by Section 1501 of the Internal Revenue Code of 1986, as amended (the “**Code**”)) with certain members of the L Brands Group;

WHEREAS, L Brands and VS have entered into a Separation and Distribution Agreement, dated as of August 2, 2021 (the “**Separation Agreement**”), pursuant to which the Contribution, the Distribution and other related transactions will be consummated;

WHEREAS, the Restructuring, together with the Contribution and the Distribution, are intended to qualify for the Intended Tax Treatment; and

WHEREAS, L Brands and VS desire to set forth their agreement on the rights and obligations of L Brands, VS and the members of the L Brands Group and the VS Group respectively, with respect to (a) the administration and allocation of U.S. federal, state, local and non-U.S. Taxes incurred in Taxable periods beginning prior to the Distribution Date, (b) Taxes resulting from the Distribution and transactions effected in connection with the Distribution and (c) various other Tax matters.

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth, the Parties agree as follows:

Section 1. *Definitions.* (a) As used in this Agreement:

“**Active Trade or Business**” means, (i) with respect to VS, the VS Business (as defined in the Separation Agreement), (ii) with respect to IBUS, the Subsidiary 1 Business (as defined in Schedule C-1) and (iii) with respect to IBIH, the Subsidiary 2 Business (as defined in Schedule C-2).

“**Affiliate**” has the meaning set forth in the Separation Agreement.

“**Agreement**” has the meaning set forth in the recitals hereto.

“**Applicable Law**” (or “**Applicable Tax Law**,” as the case may be) means, with respect to any Person, any federal, state, county, municipal, local, multinational or foreign statute, treaty, law, common law, ordinance, rule, regulation, order, writ, injunction, judicial decision, decree, permit or other legally binding requirement of any Governmental Authority applicable to such Person or any of its respective properties, assets, officers, directors, employees, consultants or agents (in connection with such officer’s, director’s, employee’s, consultant’s or agent’s activities on behalf of such Person).

“**Business Day**” has the meaning set forth in the Separation Agreement.

“**Cash Management Transfer**” means the transactions described on Schedule B and undertaken in anticipation of the Distribution.

“**Cash Management Transfer Taxes**” means any Tax (excluding any Tax imposed on, or measured by reference to, net income but including, for the avoidance of doubt, any withholding Tax imposed with respect to a Cash Management Transfer) incurred in connection with any Cash Management Transfer.

“**Closing of the Books Method**” means the apportionment of items between portions of a Taxable period based on a closing of the books and records on the close of the Distribution Date (in the event that the Distribution Date is not the last day of the Taxable period, as if the Distribution Date were the last day of the Taxable period), subject to adjustment for items accrued on the Distribution Date that are properly allocable to the Taxable period following the Distribution, as determined by L Brands in accordance with Applicable Law; *provided* that Taxes not based upon or measured by net or gross income or specific events shall be apportioned between the Pre- and Post-Distribution Periods on a *pro rata* basis in accordance with the number of days in each Taxable period.

“**Code**” has the meaning set forth in the recitals hereto.

“**Combined Group**” means any group consisting of at least one member that filed or was required to file (or will file or be required to file) a Tax Return on an affiliated, consolidated, combined, unitary, fiscal unity or other group basis (including as permitted by Section 1501 of the Code) that includes at least one member of the L Brands Group and at least one member of the VS Group.

“**Combined Tax Return**” means a Tax Return filed in respect of U.S. federal, state, local or non-U.S. income Taxes for a Combined Group.

“**Company**” means L Brands or VS (or the appropriate member of each of their respective Groups), as appropriate.

“**Contribution**” has the meaning set forth in the Separation Agreement.

“**Distribution**” has the meaning set forth in the Separation Agreement.

“**Distribution Date**” has the meaning set forth in the Separation Agreement.

“**Distribution Documents**” has the meaning set forth in the Separation Agreement.

“**Distribution Taxes**” means any Taxes incurred solely as a result of the failure of the Intended Tax Treatment of the Restructuring, the Contribution or the Distribution.

“**Distribution Time**” has the meaning set forth in the Separation Agreement.

“**Escheat Payment**” has the meaning set forth in the Separation Agreement.

“**Equity Interests**” means any stock or other securities treated as equity for Tax purposes, options, warrants, rights, convertible debt, or any other instrument or security that affords any Person the right, whether conditional or otherwise, to acquire stock or to be paid an amount determined by reference to the value of stock.

“**Final Determination**” means (i) with respect to U.S. federal income Taxes, (A) a “determination” as defined in Section 1313(a) of the Code (including, for the avoidance of doubt, an executed IRS Form 906) or (B) the execution of an IRS Form 870-AD (or any successor form thereto), as a final resolution of Tax liability for any Taxable period, except that a Form 870-AD (or successor form thereto) that reserves the right of the taxpayer to file a claim for refund or the right of the IRS to assert a further deficiency shall not constitute a Final Determination with respect to the item or items so reserved; (ii) with respect to Taxes other than U.S. federal income Taxes, any final determination of liability in respect of a Tax that, under Applicable Tax Law, is not subject to further appeal, review or modification through proceedings or otherwise; (iii) with respect to any Tax, any final disposition by reason of the expiration of the applicable statute of limitations (giving effect to any extension, waiver or mitigation thereof); or (iv) with respect to any Tax, the payment of such Tax by any member of the L Brands Group or any member of the VS Group, whichever is responsible for payment of such Tax under Applicable Tax Law, with respect to any item disallowed or adjusted by a Taxing Authority; *provided*, in the case of this clause (iv), that the provisions of Section 15 hereof have been complied with, or, if such section is inapplicable, that the Company responsible under this Agreement for such Tax is notified by the Company paying such Tax that it has determined that no action should be taken to recoup such disallowed item, and the other Company agrees with such determination.

“**Governmental Authority**” has the meaning set forth in the Separation Agreement.

“**Group**” has the meaning set forth in the Separation Agreement.

“**IBIH**” means IB International Holdings, Inc., a Delaware corporation.

“**IBUS**” means IB US Retail Holdings, Inc., a Delaware corporation.

“**Income Tax**” means any Tax imposed on, or measured by reference to, net income or gains.

“**Income Tax Return**” means any Tax Return in respect of an Income Tax.

“**Indemnitee**” means the Party which is entitled to seek indemnification from another Party pursuant to the provisions of Section 11.

“Intended Tax Treatment” means the qualification of (i) the Contribution and the Distribution, taken together, (A) as a reorganization described in Sections 355(a) and 368(a)(1)(D) of the Code, (B) as a transaction in which the stock distributed thereby is “qualified property” for purposes of Sections 355(c) and 361(c) of the Code, (C) as a transaction in which L Brands, VS and the holders of L Brands Common Stock recognize no income or gain for U.S. federal income Tax purposes pursuant to Sections 355, 361 and 1032 of the Code, other than, in the case of L Brands and VS, any intercompany items or excess loss accounts taken into account pursuant to the Treasury Regulations promulgated pursuant to Section 1502 of the Code and, in the case of the holders of L Brands Common Stock, with respect to any fractional shares of VS Common Stock and (ii) the transactions described on Schedule A as being free from Tax to the extent set forth therein.

“IRS” means the United States Internal Revenue Service.

“Joint Tax Return” means any (i) Combined Tax Return or (ii) Tax Return that includes Tax Items attributable to both the L Brands Business and the VS Business.

“L Brands” has the meaning set forth in the recitals hereto.

“L Brands Business” has the meaning set forth in the Separation Agreement.

“L Brands Compensatory Equity Interests” means any options, stock appreciation rights, restricted stock, stock units or other rights with respect to the capital stock of L Brands that are granted on or prior to the Distribution Date by any member of the L Brands Group in connection with employee, independent contractor or director compensation or other employee benefits (including, for the avoidance of doubt, options, stock appreciation rights, restricted stock, restricted stock units, performance share units or other rights issued in respect of any of the foregoing by reason of the Distribution or any subsequent transaction).

“L Brands Group” has the meaning set forth in the Separation Agreement.

“L Brands Separate Tax Return” means any Separate Tax Return of or including any member of the L Brands Group.

“L Brands Specified Tax Attributes” means any Tax Attributes listed on Schedule D-1.

“Person” has the meaning set forth in Section 7701(a)(1) of the Code.

“Post-Distribution Period” means any Taxable period (or portion thereof) beginning after the Distribution Date.

“Pre-2021 Period” means any Taxable period ending on or before January 30, 2021.

“Pre-2021 VS Separate Tax Return” means any VS Separate Tax Return that relates solely to a Pre-2021 Period.

“Pre-Distribution Period” means any Taxable period (or portion thereof) ending on or before the Distribution Date.

“**Restructuring**” has the meaning set forth in the Separation Agreement.

“**Separate Tax Return**” means any Tax Return required to be filed by a member of the L Brands Group or a member of the VS Group that is not a Joint Tax Return.

“**Separation Agreement**” has the meaning set forth in the recitals hereto.

“**Specified Administrative Matter**” has the meaning set forth in Schedule E.

“**Specified Event**” means (i) any failure of the Intended Tax Treatment with respect to (A) the Restructuring, (B) the Contribution or (C) the Distribution or (ii) any event that results in (A) a liability for Taxes with respect to a Pre-Distribution Period imposed on any member of the L Brands Group and (B) a Tax Attribute with respect to any member of the VS Group.

“**Tax**” (and the correlative meaning, “**Taxes**,” “**Taxing**” and “**Taxable**”) means (i) any tax, including any net income, gross income, gross receipts, recapture, alternative or add-on minimum, sales, use, business and occupation, value-added, trade, goods and services, ad valorem, franchise, profits, net wealth, license, business royalty, withholding, payroll, employment, capital, excise, transfer, recording, severance, stamp, occupation, premium, property, asset, real estate acquisition, environmental, custom duty, impost, obligation, assessment, levy, tariff or other tax, governmental fee or other like assessment or charge of any kind whatsoever (including any Escheat Payment), together with any interest and any penalty, addition to tax or additional amount imposed by a Taxing Authority; or (ii) any liability of any member of the L Brands Group or the VS Group for the payment of any amounts described in clause (i) as a result of any express or implied obligation to indemnify any other Person.

“**Tax Attribute**” means a net operating loss, net capital loss, unused investment credit, unused foreign tax credit, excess charitable contribution, unused general business credit, alternative minimum tax credit or any other Tax Item that could reduce a Tax liability.

“**Tax Benefit**” means any Tax refund, credit in lieu thereof, offset or other similar item that results in a reduction in otherwise required Tax payments.

“**Tax Adviser**” means Davis Polk & Wardwell LLP.

“**Tax Item**” means any item of income, gain, loss, deduction, credit, recapture of credit or any other item that can increase or decrease Taxes paid or payable.

“**Tax Opinion**” shall mean the legal opinion delivered to L Brands by the Tax Adviser with respect to certain U.S. federal income Tax consequences of the Restructuring, the Contribution and the Distribution.

“**Tax Proceeding**” means any Tax audit, dispute, examination, contest, litigation, arbitration, action, suit, claim, cause of action, review, inquiry, assessment, hearing, complaint, demand, investigation or proceeding (whether administrative, judicial or contractual).

“Tax-Related Losses” means, with respect to any Taxes imposed pursuant to any settlement, determination, judgment or otherwise, (i) all accounting, legal and other professional fees, and court costs incurred in connection with such Taxes, as well as any other out-of-pocket costs incurred in connection with such Taxes and (ii) all damages, costs, and expenses associated with stockholder litigation or controversies and any amount paid by any member of the L Brands Group or any member of the VS Group in respect of the liability of shareholders, whether paid to shareholders or to the IRS or any other Taxing Authority, in each case, resulting from the failure of the Intended Tax Treatment of the Restructuring, the Contribution or the Distribution.

“Tax Representation Letters” means the representations provided by VS and L Brands to the Tax Adviser in connection with the rendering by the Tax Adviser of the Tax Opinion.

“Tax Return” means any Tax return, statement, report, form, election, bill, certificate, claim or surrender (including estimated Tax returns and reports, extension requests and forms, and information returns and reports), or statement or other document or written information filed or required to be filed with any Taxing Authority, including any amendment thereof and any appendix, schedule or attachment thereto.

“Taxing Authority” means any Governmental Authority (domestic or foreign), including, without limitation, any state, municipality, political subdivision or governmental agency, responsible for the imposition, assessment, administration, collection, enforcement or determination of any Tax.

“Transfer Taxes” means all U.S. federal, state, local or non-U.S. sales, use, privilege, transfer, documentary, stamp, duties, real estate transfer, controlling interest transfer, recording and similar Taxes and fees (including any penalties, interest or additions thereto) imposed upon any member of the L Brands Group or any member of the VS Group in connection with the Restructuring, the Contribution or the Distribution.

“VS Business” has the meaning set forth in the Separation Agreement.

“VS Carried Item” means any Tax Attribute of the VS Group that may or must be carried from one Taxable period to another prior Taxable period, or carried from one Taxable period to another subsequent Taxable period, under the Code or other Applicable Tax Law.

“VS Common Stock” has the meaning set forth in the Separation Agreement.

“VS Compensatory Equity Interests” means any options, stock appreciation rights, restricted stock, stock units or other rights with respect to the capital stock of VS that are granted on or prior to the Distribution Date by any member of the VS Group in connection with employee, independent contractor or director compensation or other employee benefits (including, for the avoidance of doubt, options, stock appreciation rights, restricted stock, restricted stock units, performance share units or other rights issued in respect of any of the foregoing by reason of the Distribution or any subsequent transaction).

“**VS Disqualifying Action**” means (a) any action (or the failure to take any action) by any member of the VS Group after the Distribution Time (including entering into any agreement, understanding or arrangement or any negotiations with respect to any transaction or series of transactions), (b) any event (or series of events) after the Distribution Time involving the capital stock of VS or any assets of any member of the VS Group or (c) any breach by any member of the VS Group after the Distribution Time of any representation, warranty or covenant made by them in this Agreement, that, in each case, would affect the Intended Tax Treatment; *provided, however*, that the term “VS Disqualifying Action” shall not include any action entered into pursuant to any Distribution Document (other than this Agreement) or that is undertaken pursuant to the Restructuring, the Contribution or the Distribution.

“**VS Group**” has the meaning set forth in the Separation Agreement.

“**VS Post-2020 Separate Income Tax Return**” means any VS Separate Tax Return that is an Income Tax Return, other than a Pre-2021 VS Separate Tax Return.

“**VS Post-2020 Separate Non-Income Tax Return**” means any VS Separate Tax Return that is not a VS Separate Income Tax Return, other than a Pre-2021 VS Separate Tax Return.

“**VS Separate Tax Return**” means any Separate Tax Return of or including any member of the VS Group.

“**VS Specified Tax Attributes**” means any Tax Attributes listed on Schedule D-2.

(b) Each of the following terms is defined in the Section set forth opposite such term:

<u>Term</u>	<u>Section</u>
Due Date	Section 12(a)
Internal Tax-Free Transactions	Schedule A
Past Practices	Section 4(f)(i)
Reimbursable Payment	Section 7(b)
Reimbursement Adjustment	Section 7(b)
Section 336(e) Election	Section 10(a)
Section 9(b)(iv)(F) Acquisition Transaction	Section 9(b)(iv)(F)
Tax Arbiter	Section 25
Tax Benefit Recipient	Section 8(c)

(c) All capitalized terms used but not defined herein shall have the same meanings as in the Separation Agreement. Any term used in this Agreement which is not defined in this Agreement or the Separation Agreement shall, to the extent the context requires, have the meaning assigned to it in the Code or the applicable Treasury Regulations thereunder (as interpreted in administrative pronouncements and judicial decisions) or in comparable provisions of Applicable Tax Law.

Section 2. *Sole Tax Sharing Agreement.* Any and all existing Tax sharing agreements or arrangements, written or unwritten, between any member of the L Brands Group, on the one hand, and any member of the VS Group, on the other hand, if not previously terminated, shall be terminated as of the Distribution Date without any further action by the Parties thereto. Following the Distribution, no member of the VS Group or the L Brands Group shall have any further rights or liabilities thereunder, and this Agreement and the Distribution Documents (to the extent such Distribution Documents reflect an agreement between the Parties as to Tax sharing) shall be the sole Tax sharing agreements between the members of the VS Group, on the one hand, and the members of the L Brands Group, on the other hand.

Section 3. *Allocation of Taxes.*

(a) *General Allocation Principles.* Except as provided in Section 3(c), all Taxes shall be allocated as follows:

(i) *Allocation of Taxes Reflected on Joint Tax Returns.* Except as provided in Section 3(b), L Brands shall be allocated all Taxes reported, or required to be reported, on any Joint Tax Return that any member of the L Brands Group or VS Group files or is required to file under the Code or other Applicable Tax Law; *provided, however*, that to the extent any such Joint Tax Return includes any Tax Item attributable to (A) any member of the VS Group or (B) the VS Business, in each case, in respect of any Post-Distribution Period, VS shall be allocated all Taxes attributable to such Tax Items as determined by L Brands in its reasonable discretion.

(ii) *Allocation of Taxes Reflected on Separate Tax Returns.*

(A) L Brands shall be allocated all Taxes reported, or required to be reported, on (x) an L Brands Separate Tax Return, (y) a Pre-2021 VS Separate Tax Return or (z) a VS Post-2020 Separate Non-Income Tax Return to the extent such Taxes are attributable to any Pre-Distribution Period (as determined in accordance with Section 3(b)).

(B) VS shall be allocated all Taxes reported, or required to be reported, on (x) a VS Post-2020 Separate Income Tax Return or (y) a VS Post-2020 Separate Non-Income Tax Return to the extent such Taxes are attributable to any Post-Distribution Period (as determined in accordance with Section 3(b)).

(iii) *Taxes Not Reported on Tax Returns.*

(A) L Brands shall be allocated any Tax attributable to any member of the L Brands Group that is not required to be reported on a Tax Return.

(B) VS shall be allocated any Tax attributable to any member of the VS Group that is not required to be reported on a Tax Return.

(b) *Allocation Conventions.*

(i) All Taxes allocated pursuant to Section 3(a), other than Income Taxes allocated pursuant to Section 3(a)(ii)(B)(x), shall be allocated in accordance with the Closing of the Books Method; *provided, however*, that if Applicable Tax Law does not permit a VS Group member to close its Taxable year on the Distribution Date, the Tax attributable to the operations of the members of the VS Group for any Pre-Distribution Period shall be the Tax computed using a hypothetical closing of the books consistent with the Closing of the Books Method (except to the extent otherwise agreed upon by L Brands and VS).

(ii) Any Tax Item of VS or any member of the VS Group arising from a transaction engaged in outside the ordinary course of business on the Distribution Date after the Distribution Time shall be allocable to VS and any such transaction by or with respect to VS or any member of the VS Group occurring after the Distribution Time shall be treated for all Tax purposes (to the extent permitted by Applicable Tax Law) as occurring at the beginning of the day following the Distribution Date in accordance with the principles of Treasury Regulations Section 1.1502-76(b) (assuming no election is made under Treasury Regulations Section 1.1502-76(b)(2)(ii) (relating to a ratable allocation of a year's Tax Items)); *provided* that the foregoing shall not include any action that is undertaken pursuant to the Restructuring, the Contribution or the Distribution.

(c) *Special Allocation Rules.* Notwithstanding any other provision in this Section 3, the following Taxes shall be allocated as follows:

(i) *Transfer Taxes.* Transfer Taxes shall be allocated 50% to VS and 50% to L Brands

(ii) *Taxes Relating to L Brands Compensatory Equity Interests.* Any Tax liability (including, for the avoidance of doubt, the satisfaction of any withholding Tax obligation) relating to the issuance, exercise, vesting or settlement of any L Brands Compensatory Equity Interest shall be allocated in a manner consistent with Section 7.

(iii) *Distribution Taxes and Tax-Related Losses.* Any liability for Distribution Taxes and Tax-Related Losses resulting from a VS Disqualifying Action shall be allocated in a manner consistent with Section 11(a)(iii).

(iv) *Section 965 Taxes.* Any installment payments required to be made pursuant to the election made by a member of the L Brands Group or a member of the VS Group (that was a member of such VS Group prior to the Distribution Date) under Section 965(h) of the Code, and any adjustments thereto, shall be allocated to L Brands.

(v) *Taxes Covered by Distribution Documents.* Subject to the preceding clauses of Section 3(c), any liability or other matter relating to Taxes that is specifically addressed in any Distribution Document shall be allocated or governed as provided in such Distribution Document.

(vi) *Cash Management Transfer Taxes.* Notwithstanding anything in this Agreement to the contrary, L Brands shall be allocated any and all Cash Management Transfer Taxes.

(a) *L Brands Prepared Tax Returns.* L Brands shall prepare and file, or cause to be prepared and filed, all (i) Joint Tax Returns, (ii) L Brands Separate Tax Returns and (iii) Pre-2021 VS Separate Tax Returns; *provided*, that to the extent any such Tax Return includes an MFE APA Period, such Tax Return shall be prepared in a manner consistent with the MFE APA. To the extent any Joint Tax Return reflects operations of the VS Group for a Taxable period that includes the Distribution Date, L Brands shall include in such Joint Tax Return the results of such member of the VS Group, as the case may be, on the basis of the Closing of the Books Method to the extent permitted by Applicable Tax Law. If a member of the VS Group is responsible for the filing of any such Tax Return under Applicable Tax Law, L Brands shall, subject to the procedures set forth in Sections 4(c), 4(d) and 4(e), deliver such prepared Tax Return to VS in advance of the applicable filing deadline.

(b) *VS Prepared Tax Returns.* VS shall prepare and file (or cause to be prepared and filed) any VS Post-2020 Separate Income Tax Return and any VS Post-2020 Separate Non-Income Tax Return.

(c) *Determination of Responsible Party.* L Brands, in consultation with VS, shall determine which Party or their respective Affiliates is required to file any Joint Tax Return or Separate Tax Return under Applicable Tax Law.

(d) *Provision of Information; Timing.* VS shall maintain all necessary information for L Brands (or any of its Affiliates) to file any Tax Return that L Brands is required or permitted to file under this Section 4, and shall provide to L Brands all such necessary information in accordance with the L Brands Group's past practice. L Brands shall maintain all necessary information for VS (or any of its Affiliates) to file any Tax Return that VS is required or permitted to file under this Section 4, and shall provide VS with all such necessary information in accordance with the L Brands Group's past practice.

(e) *Right to Review.*

(i) The Party responsible for preparing (or causing to be prepared) any Tax Return under this Section 4 shall make such Tax Return and related workpapers available for review by the other Party, if requested, to the extent (i) such Tax Return relates to Taxes for which the requesting Party would be liable under Section 3, (ii) such Tax Return relates to such Taxes described in clause (i) and the requesting Party would reasonably be expected to be liable in whole or in part for any additional Taxes owing as a result of adjustments to the amount of such Taxes reported on such Tax Return or (iii) such Tax Return relates to Taxes for which the requesting Party would reasonably be expected to have a claim for Tax Benefits under this Agreement. The Party responsible for preparing (or causing to be prepared) the relevant Tax Return shall (x) use its reasonable best efforts to make such portion of such Tax Return available for review as required under this paragraph sufficiently in advance of the due date for the filing of such Tax Return to provide the requesting Party with a meaningful opportunity to analyze and comment on such Tax Return and (y) use reasonable best efforts to have such Tax Return modified before filing, taking into account the Person responsible for payment of the Tax (if any) reported on such Tax Return and whether the amount of Tax liability allocable to the requesting Party with respect to such Tax Return is material. The Parties shall attempt in good faith to resolve any issues arising out of the review of such Tax Return.

(ii) Notwithstanding the foregoing, other than a VS Separate Non-Income Tax Return that relates solely to a Post-Distribution Period, VS shall submit a draft of any VS Separate Non-Income Tax Return that it is required to prepare and that is required to be filed after the Distribution Date to L Brands. With respect to such VS Separate Non-Income Tax Return, VS (A) shall make such Tax Return available for review as required under this paragraph sufficiently in advance of the due date for the filing of such Tax Return to provide L Brands with a meaningful opportunity to analyze and comment on such Tax Return, and (B) shall not file or cause to be filed any such Tax Return without the consent of L Brands, which consent shall not be unreasonably withheld or delayed.

(f) *Special Rules Relating to the Preparation of Tax Returns.*

(i) *General Rule.* Except as provided in this Section 4(f)(i), VS shall prepare (or cause to be prepared) any Tax Return, with respect to Taxable periods (or portions thereof) ending prior to or on the Distribution Date, for which it is responsible under this Section 4 in accordance with past practices, accounting methods, elections or conventions (“**Past Practices**”) used by the members of the L Brands Group prior to the Distribution Date with respect to such Tax Return to the extent permitted by Applicable Law, and to the extent any items, methods or positions are not covered by Past Practices, as directed by L Brands in its sole discretion to the extent permitted by Applicable Law.

(ii) *Consistency with Intended Tax Treatment.* All Tax Returns that include any member of the L Brands Group or any member of the VS Group shall be prepared in a manner that is consistent with the Intended Tax Treatment.

(iii) *VS Separate Tax Returns.* With respect to any VS Post-2020 Separate Income Tax Return or any VS Post-2020 Separate Non-Income Tax Return, VS and the other members of the VS Group shall include such Tax Items in such Tax Return in a manner that is consistent with the inclusion of such Tax Items in any related Tax Return for which L Brands is responsible to the extent such Tax Items are allocated in accordance with this Agreement.

(iv) *Election to File Joint Tax Returns.* L Brands shall be entitled in its sole discretion to file any Combined Tax Return if the filing of such Tax Return is elective under Applicable Tax Law. Each member of any such Combined Group shall execute and file such consents, elections and other documents as may be required, appropriate or otherwise requested by L Brands in connection with the filing of such Joint Tax Returns.

(v) *Preparation of Transfer Tax Returns.* The Company required under Applicable Tax Law to file any Tax Returns in respect of Transfer Taxes shall prepare and file (or cause to be prepared and filed) such Tax Returns. If required by Applicable Tax Law, L Brands and VS shall, and shall cause their respective Affiliates to, cooperate in preparing and filing, and join the execution of, any such Tax Returns.

(g) *Payment of Taxes.* L Brands shall pay (or cause to be paid) to the proper Taxing Authority the Tax shown as due on any Tax Return for which a member of the L Brands Group is responsible for filing under this Section 4, and VS shall pay (or cause to be paid) to the proper Taxing Authority the Tax shown as due on any Tax Return for which a member of the VS Group is responsible for filing under this Section 4. If any member of the L Brands Group is required to make a payment to a Taxing Authority for Taxes allocated to VS under Section 3, VS shall pay the amount of such Taxes to L Brands in accordance with Section 11 and Section 12. If any member of the VS Group is required to make a payment to a Taxing Authority for Taxes allocated to L Brands under Section 3, L Brands shall pay the amount of such Taxes to VS in accordance with Section 11 and Section 12.

Section 5. *Apportionment of Earnings and Profits and Tax Attributes.*

(a) Any Tax Attributes arising in a Pre-Distribution Period will be allocated to (and the benefits and burdens of such Tax Attributes will inure to) the members of the L Brands Group and the members of the VS Group in accordance with L Brands' historical practice (including historical methodologies for making corporate allocations), the Code, Treasury Regulations, and any applicable state, local and foreign law, as determined by L Brands in its sole discretion.

(b) L Brands shall in good faith, based on information reasonably available to it, advise VS in writing, as soon as reasonably practicable after the close of the relevant Taxable period in which the Distribution occurs, of L Brands' estimate of the portion, if any, of any earnings and profits, previously taxed earnings and profits (within the meaning of Section 959 of the Code ("PTI"), Tax Attributes, Tax basis, overall foreign loss or other consolidated, combined or unitary attribute which L Brands determines is expected to be allocated or apportioned to the members of the VS Group under Applicable Tax Law. In the event of any adjustment to the previously delivered estimates of the portion of earnings and profits, Tax Attributes, Tax basis, overall foreign loss or other consolidated, combined or unitary attribute determined by L Brands, L Brands shall promptly advise VS in writing of such adjustment. For the avoidance of doubt, L Brands shall not be liable to any member of the VS Group for any failure of any determination under this Section 5(b) to be accurate under Applicable Tax Law, provided such determination was made in good faith. All members of the VS Group shall prepare all Tax Returns in accordance with the written notices provided by L Brands to VS pursuant to this Section 5(b).

(c) Except as otherwise provided herein, to the extent that the amount of any earnings and profits, PTI, Tax Attributes, Tax basis, overall foreign loss or other consolidated, combined or unitary attribute allocated to members of the L Brands Group or the VS Group pursuant to Section 5(b) is later reduced or increased by a Taxing Authority or as a result of a Tax Proceeding, such reduction or increase shall be allocated to the Company to which such earnings and profits, Tax Attributes, Tax basis, overall foreign loss or other consolidated, combined or unitary attribute was allocated pursuant to this Section 5, as determined by L Brands in good faith.

Section 6. *Utilization of Tax Attributes.*

(a) *Amended Returns.* Any amended Tax Return or claim for a refund with respect to any member of the VS Group may be made only by the Party responsible for preparing the original Tax Return with respect to such member of the VS Group pursuant to Section 4.

(b) *No Carryback Election.* The Parties hereby agree, except with respect to any L Brands Specified Tax Attribute (as to which L Brands shall have sole discretion), (i) not to make or cause to be made any election to claim (A) in any Pre-Distribution Period or (B) in any Joint Tax Return a VS Carried Item from a Post-Distribution Period and (ii) to elect, to the extent permitted by Applicable Tax Law, to forgo the right to carry back any VS Carried Item from a Post-Distribution Period to (A) a Pre-Distribution Period or (B) a Joint Tax Return.

(c) *VS Carrybacks.*

(i) If a member of the VS Group reasonably determines that it is required by Applicable Tax Law to carry back any VS Carried Item from a Post-Distribution Period to (i) a Pre-Distribution Period or (ii) a Joint Tax Return, it shall notify L Brands in writing of such determination at least ninety (90) days prior to filing the Tax Return on which such carryback will be reflected. Such notification shall include a description in reasonable detail of the basis for any expected Tax Benefit and the amount thereof. If L Brands disagrees with such determination, the Parties shall resolve their disagreement pursuant to the procedures set forth in Section 25.

(ii) If a VS Carried Item from a Post-Distribution Period (other than an L Brands Specified Tax Attribute) is carried back to (i) a Pre-Distribution Period or (ii) a Joint Tax Return pursuant to Section 6(c)(i), L Brands shall be required to make a payment to the VS Group in an amount equal to the Tax Benefit in respect of such VS Carried Item in accordance with Section 8(c).

(d) *Carryforwards to Separate Tax Returns.* If a portion or all of any Tax Attribute is allocated to a member of a Combined Group pursuant to Section 5 and carried forward to a VS Post-2020 Separate Income Tax Return, any Tax Benefits arising from such carryforward shall be retained by the VS Group. If a portion or all of any Tax Attribute is allocated to a member of a Combined Group pursuant to Section 5, and is carried forward to a L Brands Separate Tax Return, any Tax Benefits arising from such carryforward shall be retained by the L Brands Group.

Section 7. *Deductions and Reporting for Certain Awards.*

(a) *Deductions.* To the extent permitted by Applicable Tax Law, income Tax deductions with respect to the issuance, exercise, vesting or settlement after the Distribution Date of any L Brands Compensatory Equity Interests or VS Compensatory Equity Interests shall be claimed (i) in the case of an active officer or employee, solely by the Group that employs such Person at the time of such issuance, exercise, vesting, or settlement, as applicable; (ii) in the case of a former officer or employee, solely by the Group that was the last to employ such Person; and (iii) in the case of a director or former director (who is not an officer or employee or former officer or employee of a member of either Group), (x) solely by the L Brands Group if such person was, at any time before or after the Distribution, a director of any member of the L Brands Group, and (y) in any other case, solely by the VS Group.

(b) If, notwithstanding clause (a), it is reasonably likely that the VS Group will, under Applicable Tax Law, utilize a deduction for a Taxable period ending after the Distribution Date with respect to any liability with respect to compensation required to be paid or satisfied by, or otherwise allocated to, any member of the L Brands Group in accordance with any Distribution Document (the “**Reimbursable Payment**”), L Brands shall reduce the amount payable to the relevant member of the VS Group with respect to the Reimbursable Payment by 25% (the “**Reimbursement Adjustment**”).

(c) *Withholding and Reporting.* All applicable withholding and reporting responsibilities (including all income, payroll or other Tax reporting related to income to any current or former employee) with respect to the issuance, exercise, vesting or settlement of any L Brands Compensatory Equity Interests or VS Compensatory Equity Interests shall be the responsibility of the Party to which such responsibility has been prescribed by Section 8.04 of the Employee Matters Agreement. L Brands and VS acknowledge and agree that the Parties shall cooperate with each other and with third-party providers to effectuate withholding and remittance of Taxes, as well as required Tax reporting, in a timely manner.

Section 8. *Tax Benefits.*

(a) *L Brands Tax Benefits.* L Brands shall be entitled to any Tax Benefits (including, in the case of any refund received, any interest actually received on or in respect thereof) received by any member of the L Brands Group or any member of the VS Group, other than any Tax Benefits (or any amounts in respect of Tax Benefits) to which VS is entitled pursuant to Section 8(b) (or, with respect to any VS Carried Item, Section 6). VS shall not be entitled to any Tax Benefits received by any member of the L Brands Group or the VS Group, except as set forth in Section 8(b).

(b) *VS Tax Benefits.* VS shall be entitled to any Tax Benefits (including, in the case of any refund received, any interest actually received on or in respect thereof) received by any member of the L Brands Group or any member of the VS Group after the Distribution Date (i) with respect to any Tax allocated to a member of the VS Group under this Agreement (including, for the avoidance of doubt, any amounts allocated to VS pursuant to Section 3(c)(iii)) or (ii) resulting from a VS Specified Tax Attribute, in each case, other than (x) any Tax Benefits resulting from a VS Carried Item, which shall be governed by Section 6 and (y) any Tax Benefit resulting from an L Brands Specified Tax Attribute.

(c) A Company receiving (or realizing) a Tax Benefit to which another Company is entitled hereunder (a “**Tax Benefit Recipient**”) shall pay over the amount of such Tax Benefit (including interest received from the relevant Taxing Authority, but net of any Taxes imposed with respect to such Tax Benefit and any other reasonable costs associated therewith) within thirty (30) days of receipt thereof (or from the due date for payment of any Tax reduced thereby); *provided, however*, that the other Company, upon the request of such Tax Benefit Recipient, shall repay the amount paid to the other Company (plus any penalties, interest or other charges imposed by the relevant Taxing Authority) in the event that, as a result of a subsequent Final Determination, a Tax Benefit that gave rise to such payment is subsequently disallowed.

(a) *Representations.*

(i) VS and each other member of the VS Group represents that as of the date hereof, and covenants that as of the Distribution Date, there is no plan or intention:

(A) to liquidate VS or to merge or consolidate any member of the VS Group with any other Person subsequent to the Distribution;

(B) to sell, transfer or otherwise dispose of any material asset of any member of the VS Group, except in the ordinary course of business;

(C) to take or fail to take any action in a manner that is inconsistent with the written information and representations furnished by VS to the Tax Adviser in connection with the Tax Representation Letters or the Tax Opinion;

(D) to repurchase stock of VS other than in a manner that satisfies the requirements of Section 4.05(1)(b) of IRS Revenue Procedure 96-30 (as in effect prior to the amendment of such Revenue Procedure by IRS Revenue Procedure 2003-48) and consistent with any representations made to the Tax Adviser in connection with the Tax Representation Letters;

(E) to take or fail to take any action in a manner that management of VS knows, or should know, is reasonably likely to contravene any agreement with a Taxing Authority entered into prior to the Distribution Date to which any member of the VS Group or the L Brands Group is a party; or

(F) to enter into any negotiations, agreements, or arrangements with respect to transactions or events (including stock issuances, pursuant to the exercise of options or otherwise, option grants, the adoption of, or authorization of shares under, a stock option plan, capital contributions, or acquisitions, but not including the Distribution) that could reasonably be expected to cause the Distribution to be treated as part of a plan (within the meaning of Section 355(e) of the Code) pursuant to which one or more Persons acquire directly or indirectly VS stock representing a 50% or greater interest within the meaning of Section 355(d)(4) of the Code.

(b) *Covenants.*

(i) VS shall not, and shall not permit any other member of the VS Group to, take or fail to take any action that constitutes a VS Disqualifying Action.

(ii) VS shall not, and shall not permit any other member of the VS Group to, take or fail to take any action that is inconsistent with the information and representations furnished by VS to the Tax Adviser in connection with the Tax Representation Letters or the Tax Opinion.

(iii) VS shall not, and shall not permit any other member of the VS Group to, take or fail to take any action in a manner that management of VS knows, or should know, is reasonably likely to contravene any agreement with a Taxing Authority entered into prior to the Distribution Date to which any member of the VS Group or the L Brands Group is a party.

(iv) During the two-year period following the Distribution Date:

(A) VS shall (v) maintain its status as a company engaged in the Active Trade or Business for purposes of Section 355(b)(2) of the Code, (w) not engage in any transaction that would result in it ceasing to be a company engaged in the Active Trade or Business for purposes of Section 355(b)(2) of the Code, (x) cause each other member of the VS Group whose Active Trade or Business is relied upon for purposes of qualifying the Distribution or any component of the Restructuring for the Intended Tax Treatment to maintain its status as a company engaged in such Active Trade or Business for purposes of Section 355(b)(2) of the Code and any such other Applicable Tax Law, (y) not engage in any transaction or permit any other member of the VS Group to engage in any transaction that would result in a member of the VS Group described in clause (x) hereof ceasing to be a company engaged in the relevant Active Trade or Business for purposes of Section 355(b)(2) of the Code or such other Applicable Tax Law, taking into account Section 355(b)(3) of the Code for purposes of each of clauses (v) through (y) hereof and (z) not dispose of or permit a member of the VS Group to dispose of, directly or indirectly, any interest in a member of the VS Group described in clause (x) hereof or permit any such member of the VS Group to make or revoke any election under Treasury Regulation Section 301.7701-3;

(B) VS shall not repurchase stock of VS in a manner contrary to the requirements of Section 4.05(1)(b) of IRS Revenue Procedure 96-30 (as in effect prior to the amendment of such Revenue Procedure by IRS Revenue Procedure 2003-48) or inconsistent with any representations made by VS to the Tax Adviser in connection with the Tax Representation Letters;

(C) VS shall not, and shall not agree to, merge, consolidate or amalgamate with any other Person;

(D) VS shall not, and shall not permit any other member of the VS Group to, or to agree to, sell or otherwise issue to any Person, any Equity Interests of VS or of any other member of the VS Group; *provided, however,* that VS may issue Equity Interests to the extent such issuances satisfy Safe Harbor VIII (relating to acquisitions in connection with a person's performance of services) or Safe Harbor IX (relating to acquisitions by a retirement plan of an employer) of Treasury Regulations Section 1.355-7(d);

(E) VS shall not, and shall not permit any other member of the VS Group to (I) solicit any Person to make a tender offer for, or otherwise acquire or sell, the Equity Interests of VS or any member of the VS Group, (II) participate in or support any unsolicited tender offer for, or other acquisition, issuance or disposition of, the Equity Interests of VS or any member of the VS Group or (III) approve or otherwise permit any proposed business combination or any transaction which, in the case of clauses (I) or (II), individually or in the aggregate, together with any transaction occurring within the four-year period beginning on the date which is two years before the Distribution Date and any other transaction which is part of a plan or series of related transactions (within the meaning of Section 355(e) of the Code) that includes the Distribution, could result in one or more Persons acquiring (except for acquisitions that otherwise satisfy Safe Harbor VIII (relating to acquisitions in connection with a person's performance of services) or Safe Harbor IX (relating to acquisitions by a retirement plan of an employer) of Treasury Regulation Section 1.355-7(d)) directly or indirectly stock representing a 25% or greater interest, by vote or value, in VS, IBUS or IBIH (or any successor thereto) (any such transaction, a "**Proposed Acquisition Transaction**"); *provided further* that any clarification of, or change in, the statute or regulations promulgated under Section 355(e) of the Code shall be incorporated in the restrictions in this clause (iv) and the interpretation thereof;

(F) if any member of the VS Group proposes to enter into any transaction or series of transactions that is not a Proposed Acquisition Transaction but would be a Proposed Acquisition Transaction if the percentage reflected in the definition of Proposed Acquisition Transaction were 15% instead of 25% (a "**Section 9(b)(iv)(F) Acquisition Transaction**") or, to the extent VS has the right to prohibit any Section 9(b)(iv)(F) Acquisition Transaction, proposes to permit any Section 9(b)(iv)(F) Acquisition Transaction to occur, in each case, VS shall provide L Brands, no later than 10 Business Days following the signing of any written agreement with respect to the Section 9(b)(iv)(F) Acquisition Transaction, a written description of such transaction (including the type and amount of Equity Interests to be issued or sold in such transaction) and a certificate of the board of directors of VS to the effect that the Section 9(b)(iv)(F) Acquisition Transaction is not a Proposed Acquisition Transaction; and

(G) VS shall not, and shall not permit any other member of the VS Group to, amend its certificate of incorporation (or other organizational documents), or take any other action, whether through a stockholder vote or otherwise, affecting the voting rights of the Equity Interests of VS (including, without limitation, through the conversion of one class of Equity Interests of VS into another class of Equity Interests of VS).

(H) VS shall not transfer, to any member of the VS Group that is treated as a corporation for U.S. federal income tax purposes, any asset that was transferred to VS in the Contribution.

(v) VS shall not take or fail to take, or permit any other member of the VS Group to take or fail to take, any action which prevents or could reasonably be expected to result in Tax treatment that is inconsistent with the Intended Tax Treatment.

(c) *VS Covenants Exceptions.* Notwithstanding the provisions of Section 9(b), VS and the other members of the VS Group may take any action that would reasonably be expected to be inconsistent with the covenants contained in Section 9(b), if either: (i) VS notifies L Brands of its proposal to take such action and VS and L Brands obtain a ruling from the IRS to the effect that such action will not affect the Intended Tax Treatment, *provided* that VS agrees in writing to bear any expenses associated with obtaining such a ruling and, *provided further* that the VS Group shall not be relieved of any liability under Section 11(a) of this Agreement by reason of seeking or having obtained such a ruling; or (ii) VS notifies L Brands of its proposal to take such action and obtains an unqualified opinion of counsel (A) from a Tax advisor recognized as an expert in federal income Tax matters and acceptable to L Brands in its sole discretion, (B) on which L Brands may rely and (C) to the effect that such action “will” not affect the Intended Tax Treatment, *provided* that the VS Group shall not be relieved of any liability under Section 11(a) of this Agreement by reason of having obtained such an opinion.

Section 10. *Tax Receivables Arrangements.*

(a) *Section 336(e) Election.* Pursuant to Treasury Regulations Sections 1.336-2(h)(1)(i) and 1.336-2(j), L Brands and VS agree that L Brands may make a timely protective election under Section 336(e) of the Code and the Treasury Regulations issued thereunder and under any comparable provisions of state, local or foreign law for each member of the VS Group that is a domestic corporation for U.S. federal income Tax purposes with respect to the Distribution (a “**Section 336(e) Election**”). It is intended that a Section 336(e) Election will have no effect unless the Distribution is a “qualified stock disposition,” as defined in Treasury Regulations Section 1.336(e)-1(b)(6), by reason of the application of Treasury Regulations Section 1.336-1(b)(5)(i)(B) or Treasury Regulations Section 1.336-1(b)(5)(ii), or under any comparable provisions of state, local or foreign law in any other jurisdiction.

(b) *L Brands TRA.* If any Specified Event results in the imposition of a liability for Taxes (including any Taxes attributable to the Section 336(e) Election) that are not allocated to VS pursuant to Section 3, (i) L Brands shall be entitled to periodic payments from VS equal to the product of (x) 85% of the Tax savings attributable to Tax Attributes arising from such Specified Event and (y) the percentage of Taxes arising from such Specified Event that are not allocated to VS pursuant to Section 3, and (ii) the Parties shall negotiate in good faith the terms of a tax receivable agreement to govern the calculation of such payments; *provided* that any such tax savings in clause (i) shall be determined using a “with and without” methodology (treating any Tax Attribute arising from any Specified Event as the last items claimed for any Taxable year, including after the utilization of any carryforwards). Notwithstanding the foregoing, L Brands may, at its sole discretion, waive its right to receive any and all payments pursuant to this Section 10(b).

(a) *VS Indemnity to L Brands.* Except in the case of any liabilities described in Section 11(b), VS and each other member of the VS Group shall jointly and severally indemnify L Brands and the other members of the L Brands Group against, and hold them harmless, without duplication, from:

(i) any Tax liability allocated to VS pursuant to Section 3;

(ii) any Tax liability and Tax-Related Losses attributable to a breach, after the Distribution Time, by VS or any other member of the VS Group of any representation, covenant or provision contained in this Agreement (including, for the avoidance of doubt, any Taxes and Tax-Related Losses resulting from any breach for which the conditions set forth in Section 9(c) are satisfied);

(iii) any Distribution Taxes and Tax-Related Losses attributable to a VS Disqualifying Action (including, for the avoidance of doubt, any Taxes and Tax-Related Losses resulting from any action for which the conditions set forth in Section 9(c) are satisfied); and

(iv) all liabilities, costs, expenses (including, without limitation, reasonable expenses of investigation and attorneys' fees and expenses), losses, damages, assessments, settlements or judgments arising out of or incident to the imposition, assessment or assertion of any Tax liability or damage described in (i), (ii) or (iii), including those incurred in the contest in good faith in appropriate proceedings relating to the imposition, assessment or assertion of any such Tax, liability or damage.

(b) *L Brands Indemnity to VS.* Except in the case of any liabilities described in Section 11(a), L Brands and each other member of the L Brands Group will jointly and severally indemnify VS and the other members of the VS Group against, and hold them harmless, without duplication, from:

(i) any Tax liability allocated to L Brands pursuant to Section 3;

(ii) any Taxes imposed on any member of the VS Group under Treasury Regulations Section 1.1502-6 (or similar or analogous provision of state, local or foreign law) solely as a result of any such member being or having been a member of a Combined Group; and

(iii) all liabilities, costs, expenses (including, without limitation, reasonable expenses of investigation and attorneys' fees and expenses), losses, damages, assessments, settlements or judgments arising out of or incident to the imposition, assessment or assertion of any Tax liability or damage described in (i) or (ii), including those incurred in the contest in good faith in appropriate proceedings relating to the imposition, assessment or assertion of any such Tax, liability or damage.

(c) *Discharge of Indemnity.* VS, L Brands and the members of their respective Groups shall discharge their obligations under Section 11(a) or Section 11(b) hereof, respectively, by paying the relevant amount in accordance with Section 12, within thirty (30) Business Days of demand therefor or, to the extent such amount is required to be paid to a Taxing Authority prior to the expiration of such thirty (30) Business Days, at least ten (10) Business Days prior to the date by which the demanding party is required to pay the related Tax liability. Any such demand shall include a statement showing the amount due under Section 11(a) or Section 11(b), as the case may be. Notwithstanding the foregoing, if any member of the VS Group or any member of the L Brands Group disputes in good faith the fact or the amount of its obligation under Section 11(a) or Section 11(b), then no payment of the amount in dispute shall be required until any such good faith dispute is resolved in accordance with Section 25 hereof; *provided, however*, that any amount not paid within thirty (30) Business Days of demand therefor shall bear interest as provided in Section 12.

(d) *Corresponding Tax Benefits.* If an indemnification obligation of any member of the L Brands Group or any member of the VS Group, as the case may be, under this Section 11 arises in respect of an adjustment that makes allowable to an Indemnitee any reduction in Taxes payable by the Indemnitee or other Tax benefit which would not, but for such adjustment, be allowable, then any such indemnification obligation shall be an amount equal to (i) the amount otherwise due but for this Section 11(d), minus (ii) the reduction in actual cash Taxes payable by the Indemnitee in the Taxable year in which such indemnification obligation arises, determined on a “with and without” basis.

Section 12. *Payments.*

(a) *Timing.* All payments to be made under this Agreement (excluding, for the avoidance of doubt, any payments to a Taxing Authority described herein) shall be made in immediately available funds. Except as otherwise provided, all such payments will be due thirty (30) Business Days after the receipt of notice of such payment or, where no notice is required, thirty (30) Business Days after the fixing of liability or the resolution of a dispute (the “**Due Date**”). Payments shall be deemed made when received. Any payment that is not made on or before the Due Date shall bear interest at the rate equal to the “prime” rate as published on such Due Date in the Wall Street Journal, Eastern Edition, for the period from and including the date immediately following the Due Date through and including the date of payment. With respect to any payment required to be made under this Agreement, L Brands has the right to designate, by written notice to VS, which member of the L Brands Group will make or receive such payment.

(b) *Treatment of Payments.* To the extent permitted by Applicable Tax Law, any payment made by L Brands or any member of the L Brands Group to VS or any member of the VS Group, or by VS or any member of the VS Group to L Brands or any member of the L Brands Group, pursuant to this Agreement, the Separation Agreement or any other Distribution Document that relates to Taxable periods (or portions thereof) ending on or before the Distribution Date shall be treated by the parties hereto for all Tax purposes as a distribution by VS to L Brands, or a capital contribution from L Brands to VS, as the case may be; *provided, however*, that any payment made pursuant to Sections 2.05 and 2.06 of the Separation Agreement shall instead be treated as if the party required to make a payment of received amounts had received such amounts as agent for the other party; *provided further* that any payment made pursuant to Section 3.01 of the L Brands to VS Transition Services Agreement or the VS to L Brands Transition Services Agreement, as the case may be, shall instead be treated as a payment for services; *provided further* that any reimbursement pursuant to Section 7.01 or 7.03 of the Employee Matters Agreement or Items 4-7 of Schedule 4.15 of the Separation Agreement, in each case, to the extent that the applicable underlying payment is properly deductible by a member of the L Brands Group, shall be treated as a reimbursement of amounts paid by VS as paying agent of L Brands; and *provided further* that any amount paid by VS under Schedule 4.15 of the Separation Agreement in respect of any deduction relating to an L Brands Compensatory Equity Interest shall be treated as a payment in exchange for the Equity Interest in L Brands underlying such L Brands Compensatory Equity Interest. In the event that a Taxing Authority asserts that a party’s treatment of a payment described in this Section 12(b) should be other than as required herein, such party shall use its reasonable best efforts to contest such assertion in a manner consistent with Section 15 of this Agreement.

(c) *No Duplicative Payment.* It is intended that the provisions of this Agreement shall not result in a duplicative payment of any amount required to be paid under the Separation Agreement or any other Distribution Document, and this Agreement shall be construed accordingly.

Section 13. *Guarantees.* L Brands and VS, as the case may be, each hereby guarantees and agrees to otherwise perform the obligations of each other member of the L Brands Group or the VS Group, respectively, under this Agreement.

Section 14. *Communication and Cooperation.*

(a) *Consult and Cooperate.* L Brands and VS shall consult and cooperate (and shall cause each other member of their respective Groups to consult and cooperate) fully at such time and to the extent reasonably requested by the other party in connection with all matters subject to this Agreement. Such cooperation shall include, without limitation:

(i) the retention, and provision on reasonable request, of any and all information including all books, records, documentation or other information pertaining to Tax matters relating to the VS Group (or, in the case of any Tax Return of the L Brands Group, the portion of such return that relates to Taxes for which the VS Group may be liable pursuant to this Agreement), any necessary explanations of information, and access to personnel, until one year after the expiration of the applicable statute of limitation (giving effect to any extension, waiver or mitigation thereof);

(ii) the execution of any document that may be necessary (including to give effect to Section 15) or helpful in connection with any required Tax Return or in connection with any audit, proceeding, suit or action; and

(iii) the use of the parties' commercially reasonable efforts to obtain any documentation from a Governmental Authority or a third party that may be necessary or helpful in connection with the foregoing.

(b) *Provide Information.* Except as set forth in Section 15, L Brands and VS shall keep each other reasonably informed with respect to any material development relating to the matters subject to this Agreement.

(c) *Tax Attribute Matters.* L Brands and VS shall promptly advise each other with respect to any proposed Tax adjustments that are the subject of an audit or investigation, or are the subject of any proceeding or litigation, and that may affect any Tax liability or any Tax Attribute (including, but not limited to, basis in an asset or the amount of earnings and profits) of any member of the VS Group or any member of the L Brands Group, respectively.

(d) *Confidentiality and Privileged Information.* Any information or documents provided under this Agreement shall be kept confidential by the party receiving the information or documents, except as may otherwise be necessary in connection with the filing of required Tax Returns or in connection with any audit, proceeding, suit or action. Without limiting the foregoing (and notwithstanding any other provision of this Agreement or any other agreement), (i) no member of the L Brands Group or VS Group, respectively, shall be required to provide any member of the VS Group or L Brands Group, respectively, or any other Person access to or copies of any information or procedures other than information or procedures that relate solely to VS, the business or assets of any member of the VS Group, or matters for which VS or L Brands Group, respectively, has an obligation to indemnify under this Agreement, and (ii) in no event shall any member of the L Brands Group or the VS Group, respectively, be required to provide any member of the VS Group or L Brands Group, respectively, or any other Person access to or copies of any information if such action could reasonably be expected to result in the waiver of any privilege. Notwithstanding the foregoing, in the event that L Brands or VS, respectively, determines that the provision of any information to any member of the VS Group or L Brands Group, respectively, could be commercially detrimental or violate any law or agreement to which L Brands or VS, respectively, is bound, L Brands or VS, respectively, shall not be required to comply with the foregoing terms of this Section 14(d) except to the extent that it is able, using commercially reasonable efforts, to do so while avoiding such harm or consequence (and shall promptly provide notice to L Brands or VS, to the extent such access to or copies of any information is provided to a Person other than a member of the L Brands Group or VS Group (as applicable)).

Section 15. *Audits and Contest.*

(a) *Notice.* Each of L Brands or VS shall promptly notify the other in writing upon the receipt of any notice of Tax Proceeding from the relevant Taxing Authority or upon becoming aware of an actual or potential Tax Proceeding by a Taxing Authority that may affect the liability of any member of the VS Group or the L Brands Group, respectively, for Taxes under Applicable Law or this Agreement; *provided*, that a Party's right to indemnification under this Agreement shall not be limited in any way by a failure to so notify, except to the extent that the indemnifying Party is prejudiced by such failure.

(b) *L Brands Control.* Notwithstanding anything in this Agreement to the contrary but subject to Sections 15(d) and 15(e), L Brands shall have the right to control all matters relating to any Joint Tax Return, any L Brands Separate Tax Return, any Pre-2021 VS Separate Tax Return, any VS Post-2020 Separate Non-Income Tax Return (to the extent related to Taxes attributable to a Pre-Distribution Period) and any Tax Return, or any Tax Proceeding, with respect to any Tax matters of a Combined Group or any member of a Combined Group (as such). L Brands shall have absolute discretion with respect to any decisions to be made, or the nature of any action to be taken, with respect to any Tax matter described in the preceding sentence; *provided, however,* that to the extent that any Tax Proceeding relating to such a Tax matter is reasonably likely to give rise to an indemnity obligation of VS under Section 11 hereof, (i) L Brands shall keep VS informed of all material developments and events relating to any such Tax Proceeding described in this proviso and (ii) at its own cost and expense, VS shall have the right to participate in (but not to control) the defense of any such Tax Proceeding.

(c) *VS Assumption of Control; Non-Distribution Taxes.* If L Brands determines that the resolution of any matter pursuant to a Tax Proceeding (other than a Tax Proceeding relating to Distribution Taxes) is reasonably likely to have an adverse effect on the VS Group with respect to any Post-Distribution Period, L Brands, in its sole discretion, may permit VS to elect to assume control over disposition of such matter at VS's sole cost and expense; *provided, however,* that if VS so elects, it will (i) be responsible for the payment of any liability arising from the disposition of such matter notwithstanding any other provision of this Agreement to the contrary and (ii) indemnify the L Brands Group for any increase in a liability and any reduction of a Tax asset of the L Brands Group arising from such matter.

(d) *VS Participation; Distribution Taxes.* L Brands shall have the right to control any Tax Proceeding relating to Distribution Taxes, *provided* that L Brands shall keep VS fully informed of all material developments and shall permit VS a reasonable opportunity to participate in the defense of the matter.

(e) *Specified Administrative Proceeding.* Notwithstanding the foregoing subsections of this Section 15, VS shall (A) control the Specified Administrative Matter at its own cost and expense, (B) keep L Brands informed of all material developments and events relating to the Specified Administrative Matter and (C) permit L Brands a reasonable opportunity to participate in (but not to control) the Specified Administrative Matter. Subject to the foregoing, L Brands shall cooperate reasonably with VS in connection with the Specified Administrative Matter, including by (i) transferring to VS, upon reasonable request by VS, any and all information, including all books, records, documentation, information regarding vendor mark-ups or other information, pertaining to the Specified Tax Matter, (ii) executing and delivering such documents, agreements or other instruments as are reasonably required to perfect the entry into an MFE APA and (iii) consenting to VS's engagement of any legal, accounting or economic advisor in connection with such Specified Tax Matter.

Section 16. *Notices.* Any notice, instruction, direction or demand under the terms of this Agreement required to be in writing shall be duly given upon delivery, if delivered by hand, facsimile transmission, email transmission, or mail, to the following addresses:

if to L Brands or the L Brands Group, to:

L Brands Corporation
Three Limited Parkway
Columbus, Ohio 43230
Attention: Michael Wu
Email: MiWu@lb.com

with a copy (which shall not constitute notice) to:

Davis Polk & Wardwell LLP
450 Lexington Avenue
New York, New York 10017
Attention: Patrick E. Sigmon
Email: patrick.sigmon@davispolk.com

if to VS or the VS Group, to:

Victoria's Secret & Co.
4 Limited Parkway East
Reynoldsburg, Ohio 43068
Attention: Melinda McAfee
Email: MMcAfee@lb.com

or such other address or facsimile number as such party may hereafter specify for the purpose by notice to the other party hereto. All such notices, requests and other communications shall be deemed received on the date of receipt by the recipient thereof if received prior to 5:00 p.m. in the place of receipt and such day is a Business Day in the place of receipt. Otherwise, any such notice, request or communication shall be deemed not to have been received until the next succeeding Business Day in the place of receipt.

Section 17. *Costs and Expenses.* The Party that prepares any Tax Return shall bear the costs and expenses incurred in the preparation of such Tax Return. Except as expressly set forth in this Agreement or the Separation Agreement, (i) each Party shall bear the costs and expenses incurred pursuant to this Agreement to the extent the costs and expenses are directly allocable to a liability or obligation allocated to such Party and (ii) to the extent a cost or expense is not directly allocable to a liability or obligation, it shall be borne by the Party incurring such cost or expense. For purposes of this Agreement, costs and expenses shall include, but not be limited to, reasonable attorneys' fees, accountants' fees and other related professional fees and disbursements.

Section 18. *Effectiveness; Termination and Survival.* Except as expressly set forth in this Agreement, as between L Brands and VS, this Agreement shall become effective upon the consummation of the Distribution. All rights and obligations arising hereunder shall survive until they are fully effectuated or performed; *provided* that, notwithstanding anything in this Agreement to the contrary, this Agreement shall remain in effect and its provisions shall survive for one year after the full period of all applicable statutes of limitation (giving effect to any extension, waiver or mitigation thereof) and, with respect to any claim hereunder initiated prior to the end of such period, until such claim has been satisfied or otherwise resolved. This agreement shall terminate without any further action at any time before the Distribution upon termination of the Separation Agreement.

Section 19. *Specific Performance.* Each Party to this Agreement acknowledges and agrees that damages for a breach or threatened breach of any of the provisions of this Agreement would be inadequate and irreparable harm would occur. In recognition of this fact, each Party agrees that, if there is a breach or threatened breach, in addition to any damages, the other nonbreaching Party to this Agreement, without posting any bond, shall be entitled to seek and obtain equitable relief in the form of specific performance, temporary restraining order, temporary or permanent injunction, attachment, or any other equitable remedy which may then be available to obligate the breaching Party (i) to perform its obligations under this Agreement or (ii) if the breaching Party is unable, for whatever reason, to perform those obligations, to take any other actions as are necessary, advisable or appropriate to give the other Party to this Agreement the economic effect which comes as close as possible to the performance of those obligations (including transferring, or granting liens on, the assets of the breaching party to secure the performance by the breaching party of those obligations).

Section 20. *Construction.* In this Agreement, unless the context clearly indicates otherwise:

- (a) words used in the singular include the plural and words used in the plural include the singular;
- (b) references to any Person include such Person's successors and assigns but, if applicable, only if such successors and assigns are permitted by this Agreement;
- (c) except as otherwise clearly indicated, reference to any gender includes the other gender;
- (d) the words "include," "includes" and "including" shall be deemed to be followed by the words "without limitation";
- (e) reference to any Article, Section, Exhibit or Schedule means such Article or Section of, or such Exhibit or Schedule to, this Agreement, as the case may be, and references in any Section or definition to any clause means such clause of such Section or definition;
- (f) the words "herein," "hereunder," "hereof," "hereto" and words of similar import shall be deemed references to this Agreement as a whole and not to any particular Section or other provision hereof;
- (g) reference to any agreement, instrument or other document means such agreement, instrument or other document as amended, supplemented and modified from time to time to the extent permitted by the provisions thereof and by this Agreement;

(h) reference to any law (including statutes and ordinances) means such law (including all rules and regulations promulgated thereunder) as amended, modified, codified or reenacted, in whole or in part, and in effect at the time of determining compliance or applicability;

(i) relative to the determination of any period of time, “from” means “from and including,” “to” means “to and including” and “through” means “through and including”;

(j) the titles to Articles and headings of Sections contained in this Agreement have been inserted for convenience of reference only and shall not be deemed to be a part of or to affect the meaning or interpretation of this Agreement;

(k) unless otherwise specified in this Agreement, all references to dollar amounts herein shall be in respect of lawful currency of the United States; and

(l) any capitalized term used in an Exhibit or Schedule but not otherwise defined therein shall have the meaning set forth in this Agreement.

Section 21. *Entire Agreement; Amendments and Waivers.*

(a) *Entire Agreement.*

(i) This Agreement and the other Distribution Documents constitute the entire understanding of the parties with respect to the subject matter hereof and thereof and supersede all prior agreements, understandings and negotiations, both written and oral, between the parties with respect to the subject matter hereof and thereof. No representation, inducement, promise, understanding, condition or warranty not set forth herein or in the other Distribution Documents has been made or relied upon by any party hereto or any member of their Group with respect to the transactions contemplated by the Distribution Documents. This Agreement is an “**Ancillary Agreement**” as such term is defined in the Separation Agreement and shall be interpreted in accordance with the terms of the Separation Agreement in all respects, *provided* that in the event of any conflict or inconsistency between the terms of this Agreement and the terms of the Separation Agreement, the terms of this Agreement shall control in all respects.

(ii) THE PARTIES ACKNOWLEDGE AND AGREE THAT NO REPRESENTATION, WARRANTY, PROMISE, INDUCEMENT, UNDERSTANDING, COVENANT OR AGREEMENT HAS BEEN MADE OR RELIED UPON BY ANY PARTY OTHER THAN THOSE EXPRESSLY SET FORTH IN THIS AGREEMENT AND IN THE OTHER DISTRIBUTION DOCUMENTS. WITHOUT LIMITING THE GENERALITY OF THE DISCLAIMER SET FORTH IN THE PRECEDING SENTENCE, NEITHER L BRANDS NOR ANY OF ITS AFFILIATES HAS MADE OR SHALL BE DEEMED TO HAVE MADE ANY REPRESENTATIONS OR WARRANTIES IN ANY PRESENTATION OR WRITTEN INFORMATION RELATING TO THE VS BUSINESS GIVEN OR TO BE GIVEN IN CONNECTION WITH THE CONTEMPLATED TRANSACTIONS OR IN ANY FILING MADE OR TO BE MADE BY OR ON BEHALF OF L BRANDS OR ANY OF ITS AFFILIATES WITH ANY GOVERNMENTAL AUTHORITY, AND NO STATEMENT MADE IN ANY SUCH PRESENTATION OR WRITTEN MATERIALS, MADE IN ANY SUCH FILING OR CONTAINED IN ANY SUCH OTHER INFORMATION SHALL BE DEEMED A REPRESENTATION OR WARRANTY HEREUNDER OR OTHERWISE. VS ACKNOWLEDGES THAT L BRANDS HAS INFORMED IT THAT NO PERSON HAS BEEN AUTHORIZED BY L BRANDS OR ANY OF ITS AFFILIATES TO MAKE ANY REPRESENTATION OR WARRANTY IN RESPECT OF THE VS BUSINESS OR IN CONNECTION WITH THE CONTEMPLATED TRANSACTIONS, UNLESS IN WRITING AND CONTAINED IN THIS AGREEMENT OR IN ANY OF THE OTHER DISTRIBUTION DOCUMENTS TO WHICH THEY ARE A PARTY.

(b) *Amendments and Waivers.*

(i) Any provision of this Agreement may be amended or waived if, and only if, such amendment or waiver is in writing and is signed, in the case of an amendment, by each of L Brands and VS, or in the case of a waiver, by the Party against whom the waiver is to be effective.

(ii) No failure or delay by any Party (or the applicable member of such Party's Group) in exercising any right, power or privilege hereunder shall operate as a waiver thereof nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The rights and remedies herein provided shall be cumulative and not exclusive of any rights or remedies provided by Applicable Law.

Section 22. *Governing Law.* This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware, without regard to the conflicts of law rules of such state.

Section 23. *Jurisdiction.* The Parties agree that any suit, action or proceeding seeking to enforce any provision of, or based on any matter arising out of or in connection with, this Agreement or the transactions contemplated hereby shall be brought in the Chancery Court of the State of Delaware and any state appellate court therefrom within the State of Delaware (or if the Chancery Court of the State of Delaware declines to accept jurisdiction over a particular matter, any federal or state court sitting in the State of Delaware and any federal or state appellate court therefrom), and each of the Parties hereto hereby irrevocably consents to the exclusive jurisdiction of such courts in any such suit, action or proceeding and irrevocably waives, to the fullest extent permitted by law, any objection that it may now or hereafter have to the laying of the venue of any such suit, action or proceeding in any such court or that any such suit, action or proceeding brought in any such court has been brought in an inconvenient forum. Process in any such suit, action or proceeding may be served on any Party anywhere in the world, whether within or without the jurisdiction of any such court. Without limiting the foregoing, each Party agrees that service of process on such Party as provided in Section 16 shall be deemed effective service of process on such Party.

Section 24. *WAIVER OF JURY TRIAL.* EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

Section 25. *Dispute Resolution.* In the event of any dispute relating to this Agreement, the Parties shall work together in good faith to resolve such dispute within thirty (30) days. In the event that such dispute is not resolved, upon written notice by a Party after such thirty (30)-day period, the matter shall be referred to a U.S. Tax counsel or other Tax advisor of recognized national standing (the “**Tax Arbiter**”) that will be jointly chosen by L Brands and VS; *provided, however,* that, if L Brands and VS do not agree on the selection of the Tax Arbiter after five (5) days of good faith negotiation, the Tax Arbiter shall consist of a panel of three U.S. Tax counsel or other Tax advisor of recognized national standing with one member chosen by L Brands, one member chosen by VS, and a third member chosen by mutual agreement of the other members within the following ten (10)-day period. Each decision of a panel Tax Arbiter shall be made by majority vote of the members. The Tax Arbiter may, in its discretion, obtain the services of any third party necessary to assist it in resolving the dispute. The Tax Arbiter shall furnish written notice to the Parties to the dispute of its resolution of the dispute as soon as practicable, but in any event no later than ninety (90) days after acceptance of the matter for resolution. Any such resolution by the Tax Arbiter shall be binding on the Parties, and the Parties shall take, or cause to be taken, any action necessary to implement such resolution. All fees and expenses of the Tax Arbiter shall be shared equally by the Parties to the dispute.

Section 26. *Counterparts; Effectiveness; Third-Party Beneficiaries.* This Agreement may be signed in any number of counterparts, each of which shall be an original, with the same effect as if the signatures thereto and hereto were upon the same instrument. This Agreement shall become effective when each Party hereto shall have received a counterpart hereof signed by the other Party hereto. Until and unless each Party has received a counterpart hereof signed by the other Party hereto, this Agreement shall have no effect and no Party shall have any right or obligation hereunder (whether by virtue of any other oral or written agreement or other communication). Except for Section 14(d) and the indemnification and release provisions of Section 11, neither this Agreement nor any provision hereof is intended to confer any rights, benefits, remedies, obligations, or liabilities hereunder upon any Person other than the Parties hereto and their respective successors and permitted assigns.

Section 27. *Successors and Assigns.* The provisions of this Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and permitted assigns; *provided* that neither Party may assign, delegate or otherwise transfer any of its rights or obligations under this Agreement without the consent of the other Party hereto. If any Party or any of its successors or permitted assigns (i) shall consolidate with or merge into any other Person and shall not be the continuing or surviving corporation or entity of such consolidation or merger or (ii) shall transfer all or substantially all of its properties and assets to any Person, then, and in each such case, proper provisions shall be made so that the successors and assigns of such Party shall assume all of the obligations of such Party under the Distribution Documents.

Section 28. *Authorization.* Each of L Brands and VS hereby represents and warrants that it has the power and authority to execute, deliver and perform this Agreement, on its behalf and on behalf of each member of its Group, that this Agreement has been duly authorized by all necessary corporate action on the part of such Party and each member of its Group, that this Agreement constitutes a legal, valid and binding obligation of each such Party and each member of its Group, and that the execution, delivery and performance of this Agreement by such Party and each member of its Group does not contravene or conflict with any provision or law or of its charter or bylaws or any agreement, instrument or order binding on such Party or member of its Group.

Section 29. *Change in Tax Law.* Any reference to a provision of the Code, Treasury Regulations or any other Applicable Tax Law shall include a reference to any applicable successor provision of the Code, Treasury Regulations or other Applicable Tax Law.

Section 30. *Performance.* Each party shall cause to be performed all actions, agreements and obligations set forth herein to be performed by any member of such party's Group.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Parties have executed and delivered this Agreement as of the day and year first written above.

L Brands on its own behalf and on behalf of the members of the L Brands Group

By: /s/ Wendy Arlin

Name: Wendy Arlin

Title: Senior Vice President, Finance

VS on its own behalf and on behalf of the members of the VS Group

By: /s/ Tim Johnson

Name: Tim Johnson

Title: Chief Financial Officer

[SIGNATURE PAGE TO THE TAX MATTERS AGREEMENT]

EMPLOYEE MATTERS AGREEMENT

by and between

L BRANDS, INC.

and

VICTORIA'S SECRET & CO.

Dated as of August 2, 2021

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EXHIBITS

Exhibit A Covered VS Inactive Employees

EMPLOYEE MATTERS AGREEMENT

EMPLOYEE MATTERS AGREEMENT dated as of August 2, 2021 (as the same may be amended from time to time in accordance with its terms, and together with the exhibits hereto, this “**Agreement**”), between L Brands, Inc., a Delaware corporation (“**L Brands**”), and Victoria’s Secret & Co., a Delaware corporation (“**VS**”) (each, a “**Party**” and together, the “**Parties**”).

WITNESSETH:

WHEREAS, the Board of Directors of L Brands (the “**L Brands Board**”) has determined that it is in the best interests of L Brands and its stockholders to separate the VS Business from the L Brands Business;

WHEREAS, VS is a wholly owned Subsidiary of L Brands that has been incorporated for the sole purpose of, and has not engaged in activities except in preparation for, the Distribution (as defined below) and the transactions contemplated by this Agreement, the Separation Agreement (as defined below) and the other Ancillary Agreements;

WHEREAS, in furtherance of the foregoing, the L Brands Board has determined that it is in the best interests of L Brands and its stockholders to distribute to the holders of the issued and outstanding shares of common stock, par value \$0.50 per share, of L Brands (the “**L Brands Common Stock**”) as of the Record Date, by means of a *pro rata* dividend, 100% of the issued and outstanding shares of common stock, par value \$0.01 per share, of VS (the “**VS Common Stock**”), on the basis of one share of VS Common Stock for every three then issued and outstanding shares of L Brands Common Stock (the “**Distribution**”);

WHEREAS, pursuant to the Separation Agreement, L Brands and VS have agreed to enter into this Agreement for the purpose of allocating between them assets, liabilities and responsibilities with respect to certain employee matters, including employee compensation and benefit plans and programs; and

WHEREAS, L Brands and VS have agreed that, except as otherwise expressly provided herein, the general approach and philosophy underlying this Agreement is to (a) allocate assets, Liabilities and responsibilities to the VS Group (as opposed to the L Brands Group) to the extent they relate to current or former employees and other service providers primarily related to the VS Business and (b) allocate assets, Liabilities and responsibilities (other than those described in clause (a) above) to the L Brands Group (as opposed to the VS Group).

NOW, THEREFORE, in consideration of the mutual promises contained herein and in the Separation Agreement, the Parties hereby agree as follows:

ARTICLE 1 DEFINITIONS

Section 1.01. *Definitions.* (a) For purposes of this Agreement, the following terms shall have the following meanings; *provided*, that capitalized terms used in this Agreement but not otherwise defined in this Agreement shall have the respective meanings ascribed to such terms in the Separation Agreement:

“**Adjusted L Brands Awards**” means, collectively, the Adjusted L Brands Options, the Adjusted L Brands PSUs and the Adjusted L Brands RSUs.

“**Adjusted L Brands Option**” means any L Brands Option adjusted pursuant to Section 8.03(b) hereto.

“**Adjusted L Brands PSU**” means any L Brands PSU adjusted pursuant to Section 8.02(b) hereto.

“**Adjusted L Brands RSU**” means any L Brands RSU adjusted pursuant to Section 8.01(b) hereto.

“**COBRA**” means the continuation coverage requirements for “group health plans” under Title X of the Consolidated Omnibus Budget Reconciliation Act of 1985, as codified in Section 4980B of the Code and Sections 601 through 608 of ERISA.

“**Code**” means the Internal Revenue Code of 1986.

“**Covered L Brands Service Provider**” means any L Brands Employee, L Brands Contractor, L Brands Director, New L Brands Employee or LB to VS TSA Service Employee.

“**Covered VS Inactive Employee**” means each VS Employee listed in Exhibit A to this Agreement who would otherwise constitute a “VS Inactive Employee” for purposes of this Agreement.

“**Covered VS Service Provider**” means any VS Employee, VS Contractor, VS Director, New VS Employee or VS to LB TSA Service Employee.

“**Delayed LB Transfer Employee**” means each (a) L Brands TSA Employee whose employment transfers to a member of the L Brands Group following the Distribution Date as contemplated by, and in accordance with, the terms of the VS to L Brands Transition Services Agreement or any other applicable Ancillary Agreement and (b) any other individual who, upon mutual agreement of the Parties, transfers employment from the VS Group to the L Brands Group following the Distribution Date (whether in connection with any other Ancillary Agreement or otherwise). For the avoidance of doubt, a New L Brands Employee shall not be deemed a Delayed LB Transfer Employee.

“**Delayed Transfer Date**” means, with respect to any applicable Delayed LB Transfer Employee or Delayed VS Transfer Employee, the applicable date he or she commences employment with a member of the L Brands Group or the VS Group, respectively, following the Distribution Date. For the avoidance of doubt, in the case of any L Brands TSA Employee or VS TSA Employee whose employment transfers to a member of the L Brands Group or the VS Group in accordance with the VS to L Brands Transition Services Agreement or the L Brands to VS Transition Services Agreement, respectively, his or her Transition Date (as defined in the VS to L Brands Transition Services Agreement or the L Brands to VS Transition Services Agreement, respectively) shall constitute his or her Delayed Transfer Date for purposes of this Agreement.

“**Delayed VS Transfer Employee**” means each (a) VS Inactive Employee whose employment transfers to a member of the VS Group in accordance with Section 3.01(d) following the Distribution Date, (b) Sponsored VS Employee whose employment transfers to a member of the VS Group following the Distribution Date, (c) VS TSA Employee whose employment transfers to a member of the VS Group following the Distribution Date as contemplated by, and in accordance with, the terms of the L Brands to VS Transition Services Agreement or any other applicable Ancillary Agreement and (d) any other individual who, upon mutual agreement of the Parties, transfers employment from the L Brands Group to the VS Group following the Distribution Date (whether in connection with any other Ancillary Agreement or otherwise). For the avoidance of doubt, a New VS Employee shall not constitute a Delayed VS Transfer Employee.

“**Employee Plan**” means any (a) “employee benefit plan” as defined in Section 3(3) of ERISA, (b) compensation, employment, consulting, severance, termination protection, change in control, transaction bonus, retention or similar plan, agreement, arrangement, program or policy or (c) other plan, agreement, arrangement, program or policy providing for compensation, bonuses, profit-sharing, equity or equity-based compensation or other forms of incentive or deferred compensation, vacation benefits, insurance (including any self-insured arrangement), medical, dental, vision, prescription or fringe benefits, life insurance, relocation or expatriate benefits, perquisites, disability or sick leave benefits, employee assistance program, supplemental unemployment benefits or post-employment or retirement benefits (including compensation, pension, health, medical or insurance benefits), in each case whether or not written.

“**ERISA**” means the Employee Retirement Income Security Act of 1974.

“**FLSA**” means the Fair Labor Standards Act of 1938.

“Former L Brands Employee” means each individual who, as of immediately prior to the Distribution Date, is a former employee of any member of the L Brands Group (other than any VS Employee). For the avoidance of doubt, a Delayed VS Transfer Employee shall not constitute a Former L Brands Employee.

“Former VS Employee” means each individual who, as of immediately prior to the Distribution Date, is a former employee who was last actively employed primarily with respect to the VS Business by any member of the L Brands Group or the VS Group. For the avoidance of doubt, a Delayed LB Transfer Employee shall not constitute a Former VS Employee.

“H&W Plan” means any L Brands H&W Plan or VS H&W Plan.

“Individual Retirement Account” has the meaning set forth in Section 408 of the Code.

“L Brands 401(k) Plan” means any L Brands Plan that is a defined contribution plan intended to qualify under Section 401(a) of the Code and related trust intended to be exempt under Section 501(a) of the Code.

“L Brands Awards” means, collectively, the L Brands Options, the L Brands PSUs and the L Brands RSUs.

“L Brands Bonus Plan” means any L Brands Plan that is a cash bonus or cash incentive plan. For the avoidance of doubt, and without limitation, the following plans are considered L Brands Bonus Plans: (a) the L Brands, Inc. 2015 Cash Incentive Compensation Performance Plan (the **“L Brands 2015 Bonus Plan”**) and (b) the L Brands Greater China Sales Incentive Scheme VSFA Store Leadership Team.

“L Brands Compensation Committee” means the Human Capital and Compensation Committee of the L Brands Board.

“L Brands Contractor” means each current or former individual independent contractor or consultant (other than a VS Contractor) of any member of the L Brands Group, and solely for purposes of Article 8, each non-employee L Brands Director.

“L Brands Director” means a member of the L Brands Board.

“L Brands Employee” means each individual who, (a) as of the Distribution Date, is (i) not a VS Employee and is (ii) either (x) actively employed by any member of the L Brands Group, (y) an inactive employee (including any employee on short- or long-term disability leave or other authorized leave of absence) of any member of the L Brands Group or (z) a Former L Brands Employee or (b) as of the applicable Delayed Transfer Date, is a Delayed LB Transfer Employee.

“L Brands ESPP” means the L Brands, Inc. Associate Stock Purchase Plan.

“L Brands Equity Plans” means, collectively, (a) the L Brands, Inc. 2020 Stock Option and Performance Incentive Plan, effective as of May 14, 2020, (b) the L Brands, Inc. 2015 Stock Option and Performance Incentive Plan, effective as of May 21, 2015 and (c) the Limited Brands, Inc. 2011 Stock Option and Performance Incentive Plan, effective as of July 21, 2011 (in each case, together with any successor plans thereto).

“L Brands FSA” means any L Brands Plan that is a flexible spending account for health and dependent care expenses under Sections 125 and 129 of the Code.

“L Brands H&W Plan” means any L Brands Plan that is (a) an “employee welfare benefit plan” or “welfare plan” (as defined under Section 3(1) of ERISA) or (b) a similar plan that is sponsored, maintained, administered, contributed to or entered into outside of the United States. For the avoidance of doubt, L Brands FSAs are L Brands H&W Plans.

“L Brands Option” means each option to acquire L Brands Common Stock granted under the L Brands Equity Plans.

“L Brands Participant” means any individual who is an L Brands Employee or L Brands Contractor, and any beneficiary, dependent or alternate payee of such individual, as the context requires.

“L Brands Plan” means any Employee Plan (other than a VS Plan) sponsored, maintained, administered, contributed to or entered into by any member of the L Brands Group. For the avoidance of doubt, no VS Plan is an L Brands Plan.

“L Brands Post-Distribution Stock Value” means the value of L Brands Common Stock immediately following the Distribution Date, determined based on the methodology specified by the L Brands Compensation Committee.

“L Brands Pre-Distribution Stock Value” means the value of L Brands Common Stock immediately prior to the Distribution Date, determined based on the methodology specified by the L Brands Compensation Committee.

“L Brands PSU” means each award of restricted stock units with respect to L Brands Common Stock granted under the L Brands Equity Plans that are subject to performance-based vesting conditions.

“L Brands RSU” means each award of restricted stock units with respect to L Brands Common Stock granted under the L Brands Equity Plans (other than L Brands PSUs).

“L Brands Specified Rights” means any and all rights to enjoy, benefit from or enforce any and all restrictive covenants, including covenants relating to non-disclosure, non-solicitation, non-competition, confidentiality or Intellectual Property, pursuant to any Employee Plan covering or with any VS Employee, VS Contractor, L Brands Employee or L Brands Contractor and to which any member of the VS Group or L Brands Group is a party (other than VS Specified Rights).

“L Brands TSA Employee” means each (a) Transition Employee (as defined in the VS to L Brands Transition Services Agreement) and (b) other individual who, on or after the Distribution Date, is employed by a member of the VS Group and whose employment is mutually agreed by the Parties to transfer to a member of the L Brands Group following the Distribution Date in connection with the VS to L Brands Transition Services Agreement or any other applicable Ancillary Agreement.

“LB to VS TSA Service Employee” means each TSA Employee (as defined under the L Brands to VS Transition Services Agreement).

“New L Brands Employee” means any employee externally hired by any member of the L Brands Group following the Distribution Date.

“New VS Employee” means any employee externally hired by any member of the VS Group following the Distribution Date.

“Non-U.S. LB Defined Contribution Plan” means any Employee Plan that is a defined contribution plan that provides benefits on retirement, and such other benefits as are provided for under the plan, to Non-U.S. LB Participants whether (i) exclusively or together with other participants and (ii) such plan is sponsored or maintained by a member of the L Brands Group, by a member of the VS Group or by any other Person.

“Non-U.S. LB Participant” means any L Brands Participant who is not a U.S. LB Participant.

“Non-U.S. VS Defined Contribution Plan” means any Employee Plan that is a defined contribution plan that provides benefits on retirement, and such other benefits as are provided for under the plan, to Non-U.S. VS Participants whether (i) exclusively or together with other participants and (ii) such plan is sponsored or maintained by a member of the VS Group, by a member of the L Brands Group or by any other Person.

“Non-U.S. VS Participant” means any VS Participant who is not a U.S. VS Participant.

“Restricted Period” means the period beginning on the Distribution Date and ending on the 24-month anniversary of the Distribution Date (or, with respect to any applicable LB to VS TSA Service Employee or VS to LB TSA Service Employee, if later, the date of the expiration or termination of the applicable Service (as defined in the L Brands to VS Transition Services Agreement or the VS to L Brands Transition Services Agreement, respectively) in which such LB to VS TSA Service Employee or VS to LB TSA Service Employee, as applicable, is engaged).

“Separation Agreement” means the Separation and Distribution Agreement dated as of August 2, 2021, by and between L Brands and VS, to which this Agreement is Exhibit E, as may be amended from time to time in accordance with its terms, together with all schedules and exhibits thereto.

“Sponsored VS Employee” means any VS Employee working on a visa or work permit sponsored by a member of the L Brands Group as of immediately prior to the Distribution Date.

“U.S. LB Participant” means any L Brands Participant who is employed or engaged (or, in the case of former employees, individual independent contractors or consultants, was last actively employed or engaged, as applicable) in the United States (which, for the avoidance of doubt, shall not include Puerto Rico for these purposes).

“U.S. LB Plan” means any L Brands Plan that primarily covers U.S. LB Participants.

“U.S. VS Participant” means any VS Participant who is employed or engaged (or, in the case of former employees, individual independent contractors or consultants, was last actively employed or engaged, as applicable) in the United States (which, for the avoidance of doubt, shall not include Puerto Rico for these purposes).

“U.S. VS Plan” means any VS Plan that primarily covers U.S. VS Participants.

“VS 2021 Bonus Plan” means the Victoria’s Secret & Co. 2021 Cash Incentive Compensation Performance Plan.

“VS 401(k) Plan” means any VS Plan that is a defined contribution plan intended to qualify under Section 401(a) of the Code and related trust intended to be exempt under Section 501(a) of the Code.

“VS Active Employee” means any individual actively employed primarily with respect to the VS Business by any member of the L Brands Group or the VS Group.

“VS Awards” means, collectively, the VS Options, the VS PSUs and the VS RSUs.

“VS Board” means the Board of Directors for VS.

“VS Contractor” means each individual independent contractor or consultant who, as of the Distribution Date, (a) is actively and primarily providing services with respect to the VS Business by any member of the L Brands Group or the VS Group or (b) who was last actively and primarily providing services with respect to the VS Business by any member of the L Brands Group or the VS Group.

“VS Director” means a member of the VS Board.

“VS Employee” means each individual who, (a) as of the Distribution Date, is (i) a VS Active Employee, (ii) subject to Section 3.01(d) with respect to VS Inactive Employees, an inactive employee (including any employee on short- or long-term disability leave or other authorized leave of absence) primarily employed with respect to the VS Business by any member of the L Brands Group or the VS Group, (iii) VS Furloughed Employee or (iv) a Former VS Employee, or (b) as of the applicable Delayed Transfer Date, is a Delayed VS Transfer Employee.

“VS Furloughed Employee” means each individual who, as of the Distribution Date, (a) is primarily employed with respect to the VS Business by any member of the VS Group and (b) is on a temporary leave of employment due to a furlough.

“VS H&W Plan” means any VS Plan that is (a) an “employee welfare benefit plan” or “welfare plan” (as defined under Section 3(1) of ERISA) or (b) a similar plan that is sponsored, maintained, administered, contributed to or entered into outside of the United States. For the avoidance of doubt, VS FSAs are VS H&W Plans.

“VS Inactive Employee” means each VS Employee who is on a leave of absence protected under the Family Medical Leave Act and/or receiving long-term or short-term disability benefits under an L Brands H&W Plan as of immediately prior to the Distribution Date.

“VS Participant” means any individual who is a VS Employee or VS Contractor, and any beneficiary, dependent, or alternate payee of such individual, as the context requires.

“VS Plan” means any Employee Plan (a) that is or was sponsored, maintained, administered, contributed to or entered into by any member of the VS Group, whether before, as of or after the Distribution Date or (b) for which Liabilities transfer to any member of the VS Group under this Agreement or pursuant to Applicable Law as a result of the Distribution.

“VS Specified Rights” means any and all rights to enjoy, benefit from or enforce any and all restrictive covenants, including covenants relating to non-disclosure, non-solicitation, non-competition, confidentiality or Intellectual Property, applicable or related, in whole or in part, to the VS Business pursuant to any Employee Plan covering or with any VS Employee or VS Contractor and to which any member of the VS Group or L Brands Group is a party; *provided*, that, with respect to any Intellectual Property existing, conceived, created, developed or reduced to practice prior to the Distribution Date, the foregoing rights to enjoy, benefit from or enforce any restrictive covenants related to Intellectual Property is limited to those restrictive covenants related to Intellectual Property included in the VS Assets.

“VS Stock Value” means the value of VS Common Stock determined based on the methodology specified by the L Brands Compensation Committee.

“VS to LB TSA Service Employee” means each TSA Employee (as defined under the VS to L Brands Transition Services Agreement).

“VS TSA Employee” means each (a) Transition Employee (as defined in the L Brands to VS Transition Services Agreement) and (b) other individual who, on or after the Distribution Date, is employed by a member of the L Brands Group and whose employment is mutually agreed by the Parties to transfer to a member of the VS Group following the Distribution Date in connection with the L Brands to VS Transition Services Agreement or any other applicable Ancillary Agreement.

(b) Each of the following terms is defined in the Section set forth opposite such term:

<u>Term</u>	<u>Section</u>
Agreement	Preamble
August 2021 Retention Bonus Distribution	Section 7.03
Forfeited LB Awards	Recitals
Forfeited VS Awards	Section 8.05(a)
L Brands	Section 8.05(b)
L Brands Board	Preamble
L Brands Change in Control	Recitals
L Brands Common Stock	Section 8.04(c)(i)
L Brands Retained Employee Liabilities	Recitals
Other L Brands Cash Bonuses	Section 2.01(a)(iii)
Paid Time Off	Section 7.01(b)
Party/Parties	Section 6.05(a)
Personnel Records	Preamble
Replacement LB Award	Section 9.01
Replacement VS Award	Section 8.05(b)
Spring 2021 L Brands Cash Bonuses	Section 8.05(a)
Vendor Contract	Section 7.01(a)
VS	Section 11.03(a)
VS Assumed Employee Liabilities	Preamble
VS Bonus Plan	Section 2.01(b)
VS Cash Bonuses	Section 7.02(a)
VS Change in Control	Section 7.02(a)
VS Common Stock	Section 8.04(c)(ii)
VS Equity Plan	Recitals
VS ESPP	Section 8.04(a)
VS FSAs	Section 8.06
VS Option	Section 6.03
VS PSU	Section 8.03(a)
VS RSU	Section 8.02(a)
	Section 8.01(a)

Section 2.01. *Allocation of Employee-Related Liabilities.*

(a) Subject to the terms and conditions of this Agreement, effective as of the Distribution Date, L Brands shall, or shall cause the applicable member of the L Brands Group to, assume and retain, and no member of the VS Group shall have any further obligation with respect to, any and all Liabilities (i) relating to, arising out of or in respect of any L Brands Participant (including, for the avoidance of doubt, any Former L Brands Employee) or any L Brands Plan, in each case, other than any VS Assumed Employee Liabilities (as defined below), (A) whether arising before, on or after the Distribution Date, (B) whether based on facts occurring before, on or after the Distribution Date and (C) irrespective of which Person such Liabilities are asserted against or which Person such Liabilities attached to as a matter of Applicable Law or contract or (ii) expressly assumed or retained, as applicable, by any member of the L Brands Group pursuant to this Agreement (collectively, “**L Brands Retained Employee Liabilities**”). For the avoidance of doubt, (1) any Liabilities relating to any Actions that are L Brands Liabilities, including those listed on Schedule 1.01(e) to the Separation Agreement relating to LB Participants or LB Plans shall constitute L Brands Retained Employee Liabilities and (2) all L Brands Retained Employee Liabilities are L Brands Liabilities for purposes of the Separation Agreement.

(b) Subject to the terms and conditions of this Agreement, effective as of the Distribution Date, VS shall, or shall cause the applicable member of the VS Group to, assume, and no member of the L Brands Group shall have any further obligation with respect to, any and all Liabilities (i) relating to, arising out of or in respect of any VS Participant (including, for the avoidance of doubt, any Former VS Employee) or any VS Plan, in each case, (x) whether arising before, on or after the Distribution Date, (y) whether based on facts occurring before, on or after the Distribution Date and (z) irrespective of which Person such Liabilities are asserted against or which Person such Liabilities attached to as a matter of Applicable Law or contract or (ii) expressly assumed or retained, as applicable, by any member of the VS Group pursuant to this Agreement (collectively, “**VS Assumed Employee Liabilities**”), including without limitation, in the case of clause (i) above:

(A) employment, separation or retirement agreements or arrangements to the extent applicable to any VS Participant;

(B) wages, salaries, incentive compensation, commissions, bonuses and other compensation payable to any VS Participants, without regard to when such wages, salaries, incentive compensation, equity compensation, commissions, bonuses and other compensation are or may have been earned;

(C) severance or similar termination-related pay or benefits applicable to any VS Participant relating to the termination or alleged termination of any VS Participant’s employment or service with the VS Group or L Brands Group that occurs prior to, at or after the Distribution;

(D) claims made by or with respect to any VS Participant in connection with any employee benefit plan, program or policy, without regard to when such claim is in respect of;

(E) subject to Section 6.04, workers’ compensation and unemployment compensation benefits for all VS Participants;

(F) change in control, transaction bonus, retention and stay bonuses payable to any VS Participants;

(G) any Applicable Law (including ERISA and the Code) to the extent related to participation by any VS Participant in any Employee Plan;

(H) any Actions, allegations, demands, assessments, settlements or judgments relating to or involving any VS Participant (including, without limitation, those relating to labor and employment, wages, hours, overtime, employee classification, hostile workplace, civil rights, discrimination, harassment, affirmative action, work authorization, immigration, safety and health, information privacy and security, workers' compensation, continuation coverage under group health plans, wage payment, hiring practice and the payment and withholding of Taxes);

(I) any costs or expenses incurred in designing, establishing and administering any VS Plans or payroll or benefits administration for VS Participants; and

(J) the employer portion of any employment, payroll or similar Taxes relating to any of the foregoing or any VS Participant.

For the avoidance of doubt, (1) any Liabilities relating to any Actions that are VS Liabilities, including those listed on Schedule 1.01(l) to the Separation Agreement relating to VS Participants or VS Plans shall constitute VS Assumed Employee Liabilities and (2) all VS Assumed Employee Liabilities are VS Liabilities for purposes of the Separation Agreement.

Section 2.02. *Indemnification.* For the avoidance of doubt, the provisions of Article 5 of the Separation Agreement shall apply to and govern the indemnification rights and obligations of the Parties with respect to the matters addressed by this Agreement.

Section 2.03. *No Duplicate Reimbursements.* For the avoidance of doubt, and notwithstanding anything to the contrary in this Agreement or any other Ancillary Agreement, neither Party shall be required to reimburse the other Party for any amounts under this Agreement if and to the extent that such Party (or an applicable member of its Group) has otherwise previously reimbursed the other Party (or an applicable member of its Group) for such amounts pursuant to the L Brands to VS Transition Services Agreement or the VS to L Brands Transition Services Agreement, as applicable.

ARTICLE 3

EMPLOYEES AND CONTRACTORS; EMPLOYEE AGREEMENTS

Section 3.01. *Transfers of Employment.*

(a) Except as provided for in this Section 3.01, effective as of or prior to the Distribution Date, (A) the employment of each VS Employee (other than any applicable Delayed VS Transfer Employee), to the extent employed at such time, will be transferred to or continued by, as applicable, a member of the VS Group and (B) the employment of each L Brands Employee (other than any applicable Delayed LB Transfer Employee), to the extent employed at such time, will be continued by a member of the L Brands Group. Before the Distribution Date, the Parties shall mutually cooperate in good faith and use their reasonable best efforts to cause all such transfers of employment contemplated by this Section 3.01(a) to occur no later than the Distribution Date. For the avoidance of doubt, effective as of the Distribution Date, all VS Furloughed Employees shall be employed by a member of the VS Group and shall constitute a VS Employee for all purposes of this Agreement and, to the extent applicable, upon such employee's return to active service following the end of the applicable furlough period, such VS Furloughed Employee shall commence employment with a member of the VS Group.

(b) Effective as of the applicable Delayed Transfer Date, (i) the employment of each applicable Delayed VS Transfer Employee, to the extent employed by a member of the L Brands Group at such time, shall transfer to a member of the VS Group, and (ii) the employment of each applicable Delayed LB Transfer Employee, to the extent employed by a member of the VS Group at such time, shall transfer to a member of the L Brands Group. Following the Distribution Date, the Parties shall mutually cooperate in good faith and use their reasonable best efforts to cause all such transfers of employment contemplated by this Section 3.01(b) to occur in the manner contemplated by this Agreement or any other applicable Ancillary Agreement, including, to the extent (x) required by Applicable Law, (y) required by any applicable Ancillary Agreement or (z) otherwise determined by the Parties to be necessary or appropriate, by having the applicable Party (or an applicable member of its Group) make an offer of employment to such Delayed VS Transfer Employee or Delayed LB Transfer Employee, as the case may be, on terms and conditions of employment consistent with (A) this Agreement, (B) the L Brands to VS Transition Services Agreement, the VS to L Brands Transition Services Agreement or such other applicable Ancillary Agreement, as applicable, and (C) the terms and conditions of employment applicable to such employee as of immediately prior to the applicable Delayed Transfer Date.

(c) Notwithstanding anything to the contrary herein, except as expressly provided in this Agreement, (i) each Delayed VS Transfer Employee shall be deemed to be a VS Employee for all purposes of this Agreement, effective as of the Delayed Transfer Date applicable to such Delayed VS Transfer Employee, and (ii) each Delayed LB Transfer Employee shall be deemed to be an L Brands Employee for all purposes of this Agreement, effective as of the Delayed Transfer Date applicable to such Delayed LB Transfer Employee, in each case including, without limitation, for purposes of determining the allocation of Liabilities set forth in Article 2 of this Agreement and plan participation pursuant to Article 4 of this Agreement. Accordingly, subject to the express terms of this Agreement (including, without limitation, Section 3.01(d) and Section 3.05) or any reimbursement provisions set forth in the L Brands to VS Transition Services Agreement, the VS to L Brands Transition Services Agreement or any other applicable Ancillary Agreement, unless and until an applicable Delayed Transfer Date occurs with respect to any VS Inactive Employee, Sponsored VS Employee, VS TSA Employee or L Brands TSA Employee, as applicable, (i) the L Brands Group shall be responsible for the cost of any compensation, benefits, severance and other employment-related costs in respect of any VS Inactive Employee, Sponsored VS Employee and VS TSA Employee prior to the applicable Delayed Transfer Date and (ii) the VS Group shall be responsible for the cost of any compensation, benefits, severance and other employment-related costs in respect of any L Brands TSA Employee prior to the applicable Delayed Transfer Date.

(d) Notwithstanding anything to the contrary in this Agreement, except in the case of the Covered VS Inactive Employees, each VS Inactive Employee will continue to be employed by a member of the L Brands Group until such individual returns to active service; *provided* that, in the event that such VS Inactive Employee returns to active service with the L Brands Group on or before the 12-month anniversary of the Distribution Date, VS will make an offer of employment to such VS Inactive Employee on terms and conditions of employment consistent with (i) this Agreement and (ii) the terms and conditions of employment applicable to such VS Inactive Employee at such time. For the avoidance of doubt, except in the case of the Covered VS Inactive Employees, (x) effective on or before the Distribution Date, the employment of each VS Employee who is on an approved leave of absence (other than any VS Inactive Employee) will continue with or be transferred to, as applicable, the VS Group in accordance with Section 3.01(a), (y) all costs relating to any compensation, benefits, severance or other employment-related costs in respect of VS Inactive Employees will constitute VS Assumed Employee Liabilities and (z) any VS Inactive Employee who does not return to active service with L Brands on or before the 12-month anniversary of the Distribution Date will not be considered a VS Employee for purposes of this Agreement, and the Parties shall mutually cooperate in good faith to determine the status of such employee. Notwithstanding anything to the contrary herein, the Parties acknowledge and agree that (i) effective as of or prior to the Distribution Date, the employment of each Covered VS Inactive Employee, to the extent employed at such time, will be transferred to or continued by, as applicable, a member of the VS group, and (ii) the Covered VS Inactive Employees shall not constitute VS Inactive Employees for purposes of this Agreement. Accordingly, each of L Brands and VS hereby agree that, notwithstanding anything to the contrary in this Section 3.01(d), the provisions of this Section 3.01(d) shall not apply with respect to any of the Covered VS Inactive Employees and each Covered VS Inactive Employee shall be deemed to be a VS Employee for all purposes of this Agreement, effective as of no later than the Distribution Date.

(e) To the extent required, each of the Parties hereto agrees to execute, and to use their reasonable best efforts to have the applicable employees execute, any such documentation or consents as may be necessary or desirable to reflect or effectuate any such assignments or transfers contemplated by this Section 3.01.

(f) Effective as of the Distribution Date, (i) VS shall adopt or maintain, and shall cause each member of the VS Group to adopt or maintain, leave of absence programs and (ii) VS shall honor, and shall cause each member of the VS Group to honor, all terms and conditions of authorized leaves of absence which have been granted to any VS Participant before the Distribution Date, including such leaves that are to commence on or after the Distribution Date.

(g) In the event that the Parties reasonably determine following the Distribution Date that (i) any individual employed outside the United States who is an L Brands Employee has inadvertently become or remained (as applicable) employed by a member of the VS Group due to the operation of transfer of undertakings or similar Applicable Law, the Parties shall cooperate and take such actions as may be reasonably necessary in order to cause the employment of such individual to be promptly transferred to a member of the L Brands Group, and L Brands shall reimburse the applicable members of the VS Group for all compensation, benefits, severance and other employment-related costs incurred by the VS Group members in employing and transferring such individuals or (ii) any individual employed outside the United States who is a VS Employee has inadvertently become or remained (as applicable) employed by a member of the L Brands Group due to the operation of transfer of undertakings or similar Applicable Law, the Parties shall cooperate and take such actions as may be reasonably necessary in order to cause the employment of such individual to be promptly transferred to a member of the VS Group, and VS shall reimburse the applicable members of the L Brands Group for all compensation, severance, benefits and other employment-related costs incurred by the L Brands Group members in employing and transferring such individuals.

Section 3.02. *Contractors.* With respect to any independent contractor or consulting agreements with VS Contractors or L Brands Contractors to which a VS Group member or an L Brands Group member, respectively, is not a party, or which do not otherwise transfer to a VS Group member or an L Brands Group member, respectively, by operation of Applicable Law, the Parties shall use reasonable best efforts to assign, effective on or before the Distribution Date, the applicable agreements to a member of the VS Group or a member of the L Brands Group, as applicable, in the applicable jurisdiction, and VS or L Brands, as applicable, shall, or shall cause a member of the VS Group or a member of the L Brands Group, respectively, to assume and perform any obligations under such independent contractor and consulting agreements with respect to VS Contractors and L Brands Contractors, respectively.

Section 3.03. *Employee Agreements.*

(a) With respect to any employment, retention, severance, restrictive covenant or similar agreements with VS Employees to which a member of the VS Group is not a party, or which do not otherwise transfer to a VS Group member by operation of Applicable Law, the Parties shall use reasonable best efforts to assign, effective on or before the Distribution Date (or, with respect to Delayed VS Transfer Employee, effective as of the applicable Delayed Transfer Date) the applicable employment, retention, severance, restrictive covenant or similar agreement, as applicable, to a member of the VS Group in the applicable jurisdiction, and VS shall, or shall cause a member of the VS Group to assume and perform such agreements in accordance with their terms, in each case as if originally entered into by such applicable member of the VS Group, and the L Brands Group shall cease to have any Liabilities or responsibilities with respect thereto; *provided, however*, that this Section 3.03(a) shall not apply to any employment, retention, severance, restrictive covenant or similar agreements with any VS Employees who are employed in a jurisdiction outside of the United States in which the Parties do not intend for such agreements to be transferred to the VS Group.

(b) With respect to any employment, retention, severance, restrictive covenant or similar agreements with L Brands Employees to which a member of the L Brands Group is not a party, or which do not otherwise transfer to an L Brands Group member by operation of Applicable Law, the Parties shall use reasonable best efforts to assign, effective on or before the Distribution Date (or, with respect to Delayed LB Transfer Employee, effective as of the applicable Delayed Transfer Date) the applicable employment, retention, severance, restrictive covenant or similar agreement, as applicable, to a member of the L Brands Group in the applicable jurisdiction, and L Brands shall, or shall cause a member of the L Brands Group to assume and perform such agreements in accordance with their terms, in each case as if originally entered into by such applicable member of the L Brands Group, and the VS Group shall cease to have any Liabilities or responsibilities with respect thereto; *provided, however*, that this Section 3.03(b) shall not apply to any employment, retention, severance, restrictive covenant or similar agreements with any L Brands Employees who are employed in a jurisdiction outside of the United States in which the Parties do not intend for such agreements to be transferred to the L Brands Group.

(c) From and after the Distribution Date (or, if applicable, the Delayed Transfer Date), each of VS and L Brands hereby agrees to comply with and honor any employment, services, retention or severance agreement between any member of the VS Group or the L Brands Group, as the case may be, on the one hand, and any VS Employee or VS Contractor or L Brands Employee or L Brands Contractor, respectively, on the other hand, and assumes responsibility for, and, to the extent applicable, L Brands or the relevant member of the L Brands Group and VS or the relevant member of the VS Group, respectively, shall cease to be responsible for or to otherwise have any Liability in respect of, such agreements.

Section 3.04. *Assignment of Specified Rights.* To the extent permitted by Applicable Law and the applicable agreement, if any, effective as of the Distribution Date, (a) L Brands hereby assigns, to the maximum extent possible, on behalf of itself and the L Brands Group, the VS Specified Rights, to VS (and VS shall be a third party beneficiary with respect thereto) and (b) VS hereby assigns, to the maximum extent possible, on behalf of itself and the VS Group, the L Brands Specified Rights, to L Brands (and L Brands shall be a third party beneficiary with respect thereto).

Section 3.05. *Sponsored VS Employees.* Each of VS and L Brands shall, and shall cause the members of the VS Group and the L Brands Group, respectively, to, cooperate in good faith with each other and the applicable Governmental Authorities with respect to the process of obtaining work authorization for each Sponsored VS Employee to work with VS or a VS Group member, including but not limited to, petitioning the applicable Governmental Authorities for the transfer of each Sponsored VS Employee's (as well as any spouse or dependent thereof, as applicable) visa or work permit, or the grant of a new visa or work permit, to any VS Group member. Any costs or expenses incurred with the foregoing shall constitute VS Assumed Employee Liabilities. In the event that it is not legally permissible for a Sponsored VS Employee to continue work with the VS Group from and after the Distribution Date, the Parties shall reasonably cooperate to provide for the services of such Sponsored VS Employee to be made available exclusively to the VS Group under an employee secondment or similar arrangement, which such costs incurred by the L Brands Group (including those relating to compensation and benefits in respect of such Sponsored VS Employee) shall constitute VS Assumed Employee Liabilities.

Section 3.06. *Transfer-Related Termination Liabilities.*

(a) Except as expressly contemplated by this Agreement, neither the Distribution, nor any assignment, transfer or continuation of the employment of any employees as contemplated by this Article 3 (or any other Ancillary Agreement) shall be deemed a termination of employment or service of any L Brands Participant or VS Participant for purposes of this Agreement or any L Brands Award, VS Award, L Brands Bonus Plan, VS Bonus Plan, L Brands Equity Plan, VS Equity Plan or any employment, severance, retention, consulting or similar agreements, plans, policies or arrangements. Each of the Parties shall cooperate in good faith and use reasonable best efforts to avoid and mitigate, to the maximum extent possible, the incurrence of any severance or other termination-related obligations (including, without limitation, by the provision of all appropriate notices, assurances and offers of employment and the assignment and assumption of obligations or undertakings with respect to employment, compensation, benefits, protections or other obligations) in connection with the Distribution and any assignment or transfer of employment contemplated by this Agreement or any other Ancillary Agreement.

(b) Without limiting the generality of Section 3.06(a):

(i) in the event that any severance or other termination-related payments become payable as a result of the transfer of the employment of a VS Employee contemplated by this Article 3, the VS Group shall be solely responsible for all such severance and termination-related payments, and such amounts shall constitute VS Assumed Employee Liabilities; and

(ii) in the event that any severance or other termination-related payments become payable as a result of the transfer of the employment of an L Brands Employee contemplated by this Article 3, the L Brands Group shall be solely responsible for all such severance and termination-related payments, and such amounts shall constitute L Brands Retained Employee Liabilities.

ARTICLE 4 PLANS

Section 4.01. *General; Plan Participation.*

(a) Except as otherwise expressly provided in this Agreement, subject to the terms of the L Brands to VS Transition Services Agreement and the VS to L Brands Transition Services Agreement, as applicable, effective as of immediately prior to the Distribution Date, (i)(A) all VS Participants shall cease any participation in, and benefit accrual under, the L Brands Plans and (B) all members of the VS Group shall cease to be participating employers under the L Brands Plans and shall have no further obligations with respect to any L Brands Plans and (ii) to the extent applicable, (A) all L Brands Participants shall cease any participation in, and benefit accrual under, the VS Plans and (B) all members of the L Brands Group shall cease to be participating employers under the VS Plans, and shall have no further obligations with respect to any VS Plans.

(b) Subject to, and in accordance with, the terms of this Agreement and the L Brands to VS Transition Services Agreement, to the extent necessary to comply with its obligations under this Agreement or any other Ancillary Agreement, VS or a member of the VS Group shall adopt, or cause to be adopted, at VS's expense, VS Plans for the benefit of VS Participants to be effective from and after the Distribution Date (or, if applicable, the Delayed Transfer Date).

(c) Prior to the Distribution Date, L Brands and VS shall take all actions necessary to effectuate the actions contemplated by this Section 4.01 and to cause (i) the applicable VS Group member to have in effect the applicable VS Plans no later than the Distribution Date (or the applicable Delayed Transfer Date), except as otherwise set forth in this Agreement or in the L Brands to VS Transition Services Agreement, (ii) the applicable VS Group Member to assume or retain all Liabilities with respect to each VS Plan and the applicable L Brands Group member to assume or retain all Liabilities with respect to each L Brands Plan, in each case, effective as of the Distribution Date and (iii) all assets of any VS Plan to be transferred to or retained by the applicable VS Group member in the applicable jurisdiction and all assets of any L Brands Plan to be transferred to or retained by the applicable L Brands Group member in the applicable jurisdiction, in each case, effective as of the Distribution Date. Effective as of the Distribution Date, no member of the L Brands Group shall be considered a fiduciary for any VS Plans and no member of the VS Group shall be considered a fiduciary for any L Brands Plans.

(d) Notwithstanding anything to the contrary herein, except as expressly provided in this Agreement, each Delayed LB Transfer Employee and each Delayed VS Transfer Employee shall continue to be eligible to participate in VS Plans and L Brands Plans, respectively, during the period from the Distribution Date until the applicable Delayed Transfer Date, subject to the terms of such VS Plans and L Brands Plans, respectively.

(e) For the avoidance of doubt, (i) any requirement in this Agreement that the VS Group will have established any applicable VS Plan effective as of the Distribution Date (or, if applicable, the Delayed Transfer Date), or that any VS Participant shall commence participation in any VS Plan effective as of the Distribution Date (or, if applicable, the Delayed Transfer Date), in each case shall be subject to the express terms of the L Brands to VS Transition Services Agreement and (ii) to the extent applicable, any requirement in this Agreement that the L Brands Group will have established any applicable L Brands Plan effective as of the Distribution Date (or, if applicable, the Delayed Transfer Date), or that any L Brands Participant shall commence participation in any L Brands Plan effective as of the Distribution Date (or, if applicable, the Delayed Transfer Date), in each case shall be subject to the express terms of the VS to L Brands Transition Services Agreement.

(f) The Parties agree that, to the extent the terms of this Agreement do not expressly prescribe the treatment of any specific compensation or benefits matter (including, without limitation, regarding the treatment of participation in any Employee Plans or the allocation of any Liabilities hereunder) applicable to any Delayed LB Transfer Employee or Delayed VS Transfer Employee, as the case may be, the Parties will reasonably cooperate in good faith to cause such matter to be treated in a manner consistent with the corresponding treatment provided under this Agreement of such matter as applicable to any Delayed VS Transfer Employee or Delayed LB Transfer Employee, respectively (or, if no such corresponding treatment is provided under the terms of this Agreement, then such matter shall otherwise be treated in accordance with the general approach and philosophy regarding the allocation of assets and Liabilities under the terms of this Agreement, as expressly set forth in the recitals to this Agreement).

(a) From and after the Distribution Date (or, if applicable, the Delayed Transfer Date), to the extent permitted by Applicable Law:

(i) for purposes of determining eligibility to participate, vesting and benefit accrual under any VS Plan in which a VS Employee is eligible to participate on and following the Distribution Date (or, if applicable, the Delayed Transfer Date), such VS Employee's service with any member of the L Brands Group or the VS Group, as the case may be, prior to the Distribution Date (or, if applicable, the Delayed Transfer Date) shall be treated as service with the VS Group, to the extent recognized by the L Brands Group or the VS Group, as applicable, under an analogous L Brands Plan or VS Plan, as applicable, prior to the Distribution Date (or, if applicable, the Delayed Transfer Date); *provided, however*, that such service shall not be recognized to the extent that such recognition would result in any duplication of benefits; and

(ii) for purposes of determining eligibility to participate, vesting and benefit accrual under any L Brands Plan in which an L Brands Employee is eligible to participate on and following the Distribution Date (or, if applicable, the Delayed Transfer Date), such L Brands Employee's service with any member of the L Brands Group or the VS Group, as the case may be, prior to the Distribution Date (or, if applicable, the Delayed Transfer Date) shall be treated as service with the L Brands Group, to the extent recognized by the L Brands Group or the VS Group, as applicable, under an analogous L Brands Plan or VS Plan, as applicable, prior to the Distribution Date (or, if applicable, the Delayed Transfer Date); *provided, however*, that such service shall not be recognized to the extent that such recognition would result in any duplication of benefits.

(b) Notwithstanding anything to the contrary herein, unless otherwise required by Applicable Law, (i) the VS Plans covering New VS Employees (which, for the avoidance of doubt, does not include any Delayed VS Transfer Employees) will not be required to recognize such employee's prior service with the L Brands Group (if any) and (ii) the L Brands Plans covering New L Brands Employees (which, for the avoidance of doubt, does not include any Delayed LB Transfer Employees) will not be required to recognize such employee's prior service with the VS Group (if any).

ARTICLE 5
DEFINED CONTRIBUTION RETIREMENT PLANS

Section 5.01. *401(k) Plan.*

(a) Effective as of the Distribution Date, VS or another member of the VS Group will adopt the VS 401(k) Plan. The VS 401(k) Plan will have terms and features (including employer contribution provisions) that are substantially similar to the L Brands 401(k) Plan, except (i) that the VS 401(k) Plan will not provide for a VS stock fund as a prospective investment election alternative (other than, for the avoidance of doubt, any "frozen" VS stock fund or "frozen" L Brands stock fund thereunder) or (ii) as may otherwise be mutually agreed between the Parties. From and after the Distribution Date, the applicable member of the VS Group shall be responsible for the administration of the VS 401(k) Plan, and no member of the L Brands Group shall have any Liability or obligation (including any administration obligation) with respect to the VS 401(k) Plan or any member of the VS Group with respect to the VS 401(k) Plan. A member of the VS Group will be solely responsible for taking all necessary, reasonable, and appropriate actions (including the submission of the VS 401(k) Plan to the Internal Revenue Service for a determination of tax-qualified status) to establish, maintain and administer the VS 401(k) Plan so that it is qualified under Section 401(a) of the Code and that the related trust thereunder is exempt under Section 501(a) of the Code.

(b) Effective as of the Distribution Date (or, in the case of the Delayed VS Transfer Employees, the applicable Delayed Transfer Date), each VS Participant who actively participates in the L Brands 401(k) Plan immediately prior to such date will (i) cease active participation in the L Brands 401(k) Plan and (ii) become eligible to participate in the VS 401(k) Plan. For the avoidance of doubt, (A) all employee pre-tax deferrals and employer contributions with respect to such active VS Participants will be made to the VS 401(k) Plan on and following the Distribution Date (or, if applicable, the Delayed Transfer Date) and (B) any VS Participants who are inactive or former participants under the L Brands 401(k) Plan as of immediately prior to the Distribution Date will not become eligible to participate in the VS 401(k) Plan in accordance with this Section 5.01(b) (and, for the avoidance of doubt, will continue participating under the L Brands 401(k) Plan, subject to the terms of the L Brands 401(k) Plan).

(c) On or as soon as reasonably practicable following the Distribution Date (but not later than 180 days thereafter), the account balances (whether vested or unvested) of all VS Participants (other than Delayed VS Transfer Employees) that are active participants in the L Brands 401(k) Plan as of immediately prior to the Distribution Date and any associated Liabilities will be transferred from the L Brands 401(k) Plan to the VS 401(k) Plan via a trust-to-trust transfer. The transfer of assets will be in cash or in kind (as determined by L Brands) and will be made in accordance with Applicable Law, including the Code and ERISA. For the avoidance of doubt, the account balances of any VS Participants who are inactive or former participants under the L Brands 401(k) Plan will not be transferred to the VS 401(k) Plan pursuant to this Section 5.01(c), and will instead remain under the L Brands 401(k) Plan (and such inactive or former participants will not become eligible to participate in the VS 401(k) Plan in accordance with Section 5.01(b)). Effective as of and following the time in which the applicable trust-to-trust transfer is complete, VS and/or the VS 401(k) Plan shall assume all Liabilities of L Brands under the L Brands 401(k) Plan with respect to all applicable participants in the L Brands 401(k) Plan whose account balances (whether vested or unvested) were transferred to the VS 401(k) Plan pursuant to this Section 5.01(c), and L Brands and the L Brands 401(k) Plan shall have no Liabilities to provide such participants with benefits under the L Brands 401(k) Plan following such transfer.

(d) On or as soon as reasonably practicable following any applicable Delayed Transfer Date:

(i) each Delayed VS Transfer Employee will be eligible to elect a distribution of his or her account balance under the L Brands 401(k) Plan, including a voluntary “rollover distribution” of such Delayed VS Transfer Employee’s eligible account balance under the L Brands 401(k) Plan to either the VS 401(k) Plan or an Individual Retirement Account (or, for the avoidance of doubt, such Delayed VS Transfer Employee may otherwise continue to maintain his or her account under the L Brands 401(k) Plan in accordance with the terms of the L Brands 401(k) Plan), as determined by each such Delayed VS Transfer Employee; *provided* that any portion of such Delayed VS Transfer Employee’s account balance under the L Brands 401(k) Plan to be “rolled over” to the VS 401(k) Plan shall be done in the form of cash (i.e., no in-kind or L Brands Common Stock transfers will be permitted). In the event that a Delayed VS Transfer Employee elects to roll over his or her account balance from the L Brands 401(k) Plan to the VS 401(k) Plan, VS agrees to cause the VS 401(k) Plan to accept such rollover, to the extent permitted by Applicable Law; and

(ii) each Delayed LB Transfer Employee will be eligible to elect a distribution of his or her account balance under the VS 401(k) Plan, including a voluntary “rollover distribution” of such Delayed LB Transfer Employee’s eligible account balance under the VS 401(k) Plan to either the L Brands 401(k) Plan or an Individual Retirement Account (or, for the avoidance of doubt, such Delayed LB Transfer Employee may otherwise continue to maintain his or her account under the VS 401(k) Plan in accordance with the terms of the VS 401(k) Plan), as determined by each such Delayed LB Transfer Employee; *provided* that any portion of such Delayed VS Transfer Employee’s account balance under the VS 401(k) Plan to be “rolled over” to the L Brands 401(k) Plan shall be done in the form of cash (i.e., no in-kind or VS Common Stock transfers will be permitted). In the event that a Delayed LB Transfer Employee elects to roll over his or her account balance from the VS 401(k) Plan to the L Brands 401(k) Plan, L Brands agrees to cause the L Brands 401(k) Plan to accept such rollover, to the extent permitted by Applicable Law.

In connection with the actions contemplated by this Section 5.01(d), the Parties shall cooperate in good faith to determine the treatment of any portion of a Delayed VS Transfer Employee's account balance under the L Brands 401(k) Plan or a Delayed LB Transfer Employee's account balance under the VS 401(k) Plan, in each case that is unvested as of immediately prior to the applicable Delayed Transfer Date.

(e) Effective as of the Distribution Date, with respect to VS Participants who become eligible to participate in the VS 401(k) Plan as of the Distribution Date in accordance with Section 5.01(b) (other than, for the avoidance of doubt, any Delayed Transfer Employees who become eligible to participate in the VS 401(k) Plan as of any subsequent applicable Delayed Transfer Date), the Parties will cooperate in good faith to cause the VS 401(k) Plan to recognize and maintain such VS Participant's elections (to the extent applicable and reasonable), including investment and payment form elections, beneficiary designations, and the rights of alternate payees under qualified domestic relations orders in effect under the L Brands 401(k) Plan as of immediately prior to the Distribution Date, subject to the terms of the VS 401(k) Plan and Applicable Law. For the avoidance of doubt, with respect to any Delayed VS Transfer Employees who become eligible to participate in the VS 401(k) Plan or any Delayed LB Transfer Employees who become eligible to participate in the L Brands 401(k) Plan, in each case, effective as of the applicable Delayed Transfer Date, such employees shall be required to submit new plan elections with the applicable plan administrator in accordance with the terms of the VS 401(k) Plan and the L Brands 401(k) Plan, respectively, in connection with their initial participation thereunder.

(f) All contributions to be made to the L Brands 401(k) Plan with respect to employee deferrals, matching contributions and employer contributions for VS Participants who are active participants in the L Brands 401(k) Plan (other than any Delayed VS Transfer Employees) as of immediately prior to the Distribution Date that relate to a time period ending on or prior to the Distribution Date, determined in accordance with the terms and provisions of the L Brands 401(k) Plan and Applicable Law, shall be the responsibility of VS under the VS 401(k) Plan. Without limiting the generality of the immediately preceding sentence, (i) with respect to any 2021 annual retirement contribution to be made under the L Brands 401(k) Plan relating to any VS Participants who are active participants in the L Brands 401(k) Plan as of immediately prior to the Distribution Date (other than any Delayed VS Transfer Employees), the amount of such 2021 annual retirement contribution shall be calculated in accordance with the terms of the L Brands 401(k) Plan based on eligible earnings for the full year (i.e., for the both the pre- and post-Distribution period), and shall be the responsibility of VS under the VS 401(k) Plan, and (ii) subject to any agreement between the Parties made in accordance with Section 5.01(g) below, with respect to any 2021 annual retirement contribution to be made under the L Brands 401(k) relating to any other eligible participant under the L Brands 401(k) Plan (other than those VS Participants described in clause (i)), the amount of such 2021 annual retirement contribution shall be calculated in accordance with the terms of the L Brands 401(k) Plan, and shall be the responsibility of L Brands under the L Brands 401(k) Plan.

(g) The Parties shall cooperate in good faith to determine the treatment of any contributions to be made to the L Brands 401(k) Plan or VS 401(k) Plan, as applicable, with respect to employee deferrals, matching contributions and employer contributions for Delayed VS Transfer Employees and Delayed LB Transfer Employees, respectively, relating to a time period ending on or prior to the applicable Delayed Transfer Date.

(h) Prior to the Distribution Date, the Parties shall cooperate in good faith to determine the allocation (if any) between the L Brands 401(k) Plan and the VS 401(k) Plan of the forfeiture account balance under the L Brands 401(k) Plan outstanding as of immediately prior to the Distribution Date and, to the extent applicable, the mechanics for transferring the applicable allocable portion of such account from the L Brands 401(k) Plan to the VS 401(k) Plan.

Section 5.02. *Non-U.S. Defined Contribution Plans.* As set forth in Article 10, the Parties shall reasonably cooperate in good faith to effect the provisions of this Agreement with respect to any Non-U.S. VS Defined Contribution Plans and Non-U.S. LB Defined Contribution Plans (including with respect to the creation of any "mirror" plans), which in all cases shall be consistent with the general approach and philosophy regarding the allocation of assets and Liabilities (as expressly set forth in the recitals to this Agreement).

Section 6.01. *Health and Welfare Benefit Plans.*

(a) Subject to the terms of the L Brands to VS Transition Services Agreement, effective as of the Distribution Date (or, in the case of any Delayed VS Transfer Employee, the applicable Delayed Transfer Date), VS or another member of the VS Group will provide all health and welfare benefits under VS H&W Plans to VS Participants and, to the extent necessary, establish certain VS H&W Plans having terms and features (including benefit coverage options and employer contribution provisions) that are substantially similar to the terms and features of the corresponding L Brands H&W Plans in which such VS Participants participated prior to the Distribution Date (or the Delayed Transfer Date, as applicable), except as may otherwise be mutually agreed between the Parties. Notwithstanding the foregoing, the VS Group will not be required to establish any voluntary employees' beneficiary association (VEBA).

(b) Without limiting the generality of Section 4.01, effective as of the Distribution Date (or, in the case of Delayed VS Transfer Employees or Delayed LB Transfer Employees, the applicable Delayed Transfer Date), except as otherwise provided by the terms of the L Brands to VS Transition Services Agreement, the VS to L Brands Transition Services Agreement or any other applicable Ancillary Agreement:

(i) (A) VS Participants shall cease to actively participate in the L Brands H&W Plans, (B) VS shall cause VS Participants who participate in (or who are otherwise entitled to present or future benefits under) an L Brands H&W Plan as of immediately prior to the Distribution Date (or the Delayed Transfer Date, as applicable) to be automatically enrolled in, and covered by, a corresponding VS H&W Plan, and (C) VS shall use reasonable best efforts to cause the VS H&W Plans to recognize all elections and designations (including coverage and contribution elections and beneficiary designations, continuation coverage and conversion elections, and qualified medical child support orders and other orders issued by courts of competent jurisdiction) in effect with respect to VS Participants as of immediately prior to the Distribution Date (or, if applicable, the Delayed Transfer Date) under the corresponding L Brands H&W Plan for the remainder of the period or periods for which such elections are by their terms applicable, subject to the terms of the applicable VS H&W Plan; and

(ii) (A) L Brands Participants shall cease to actively participate in the VS H&W Plans, (B) L Brands shall cause L Brands Participants who participate in (or who are otherwise entitled to present or future benefits under) a VS H&W Plan as of immediately prior to the Distribution Date (or the Delayed Transfer Date, as applicable) to be automatically enrolled in, and covered by, a corresponding L Brands H&W Plan, and (C) L Brands shall use reasonable best efforts to cause the L Brands H&W Plans to recognize all elections and designations (including coverage and contribution elections and beneficiary designations, continuation coverage and conversion elections, and qualified medical child support orders and other orders issued by courts of competent jurisdiction) in effect with respect to L Brands Participants as of immediately prior to the Distribution Date (or, if applicable, the Delayed Transfer Date) under the corresponding VS H&W Plan for the remainder of the period or periods for which such elections are by their terms applicable, subject to the terms of the applicable L Brands H&W Plan.

(c) Subject to the terms of the applicable VS H&W Plan and Applicable Law, VS shall use its reasonable best efforts to (i) waive all limitations as to preexisting conditions, exclusions and waiting periods with respect to participation and coverage requirements applicable to VS Participants under any VS H&W Plan in which any such VS Participant may be eligible to participate on or after the Distribution Date (or, if applicable, the Delayed Transfer Date) to the extent that such conditions, exclusions and waiting periods are not applicable to or had been previously satisfied by any such VS Participant under the corresponding L Brands H&W Plans and (ii) credit VS Participants under any applicable VS H&W Plan for any coinsurance or deductibles paid under any corresponding L Brands H&W Plan prior to the date such VS Participant becomes a participant in such applicable VS H&W Plan, if any, with respect to the calendar year in which such participation commences. Such credit, if any, shall be given for the purpose of satisfying any applicable coinsurance or deductible requirements under any of the applicable VS H&W Plans in which such VS Participant is eligible to participate after the Distribution Date (or, if applicable, the Delayed Transfer Date).

(d) Subject to the terms of the applicable L Brands H&W Plan and Applicable Law, L Brands shall use its reasonable best efforts to (i) waive all limitations as to preexisting conditions, exclusions and waiting periods with respect to participation and coverage requirements applicable to Delayed LB Transfer Employees under any L Brands H&W Plan in which any such Delayed LB Transfer Employee may be eligible to participate on or after his or her Delayed Transfer Date to the extent that such conditions, exclusions and waiting periods are not applicable to or had been previously satisfied by any such Delayed LB Transfer Employee under the corresponding VS H&W Plans and (ii) credit Delayed LB Transfer Employees under any applicable L Brands H&W Plan for any coinsurance or deductibles paid under any corresponding VS H&W Plan prior to the date such Delayed LB Transfer Employee becomes a participant in such applicable L Brands H&W Plan, if any, with respect to the calendar year in which such participation commences. Such credit, if any, shall be given for the purpose of satisfying any applicable coinsurance or deductible requirements under any of the applicable L Brands H&W Plans in which such Delayed LB Transfer Employee is eligible to participate after the applicable Delayed Transfer Date.

(e) Neither the transfer nor other movement of employment or service from any member of the L Brands Group to any member of the VS Group or from any member of the VS Group to the L Brands Group, as the case may be, at any time before the Distribution Date shall constitute or be treated as a "status change" under the L Brands H&W Plans or the VS H&W Plans.

Section 6.02. *Health and Welfare Benefit Plan Claims.*

(a) Except as otherwise expressly provided in this Agreement, effective as of the Distribution Date (or, in the case of Delayed VS Transfer Employees, the applicable Delayed Transfer Date), (A) all Liabilities relating to, arising out of, or resulting from health and welfare coverage or claims incurred prior to the Distribution Date (or the applicable Delayed Transfer Date) by each VS Participant under the L Brands H&W Plans shall remain Liabilities of the L Brands Group and shall be deemed to be L Brands Retained Employee Liabilities and (B) all Liabilities relating to, arising out of or resulting from health and welfare coverage or claims incurred on or after the Distribution Date (or the applicable Delayed Transfer Date) by each VS Participant shall be retained or assumed by the respective VS H&W Plans, and no portion of the Liability shall be treated as an L Brands Retained Employee Liability.

(b) Except as otherwise expressly provided in this Agreement, effective as of the Distribution Date (or, in the case of Delayed LB Transfer Employees, the applicable Delayed Transfer Date), (A) all Liabilities relating to, arising out of, or resulting from health and welfare coverage or claims incurred prior to the Distribution Date (or the applicable Delayed Transfer Date) by each L Brands Participant under the VS H&W Plans shall remain Liabilities of the VS Group and shall be deemed to be VS Assumed Employee Liabilities and (B) all Liabilities relating to, arising out of or resulting from health and welfare coverage or claims incurred on or after the Distribution Date (or the applicable Delayed Transfer Date) by each L Brands Participant shall be retained or assumed by the respective L Brands H&W Plans, and no portion of the Liability shall be treated as an VS Assumed Employee Liability.

(c) Without limiting the generality Section 3.01(c), (i) notwithstanding Section 6.02(a)(A), any and all costs, expenses or Liabilities relating to participation by any Delayed VS Transfer Employee in any L Brands H&W Plan during the period from the Distribution Date to the applicable Delayed Transfer Date shall be subject to reimbursement by VS to the L Brands Group in accordance with the terms of the L Brands to VS Transition Services Agreement (or any other applicable Ancillary Agreement) to the extent applicable and (ii) notwithstanding Section 6.02(b)(A), any and all costs, expenses or Liabilities relating to participation by any Delayed LB Transfer Employee in any VS H&W Plan during the period from the Distribution Date to the applicable Delayed Transfer Date shall be subject to reimbursement by L Brands to the VS Group in accordance with the terms of the VS to L Brands Transition Services Agreement (or any other applicable Ancillary Agreement) to the extent applicable.

(d) For purposes of this Section 6.02, (i) a medical, dental or vision benefit claim shall be “incurred” when the relevant service is provided or item purchased, (ii) a short- or long-term disability benefit claim shall be “incurred” when the applicable VS Participant or L Brands Participant, as applicable, commences short- or long-term disability leave and (iii) other benefit claims shall be “incurred” when any relevant benefit or payment is required to be provided or paid to the VS Participant or L Brands Participant, as applicable, regardless of the time of the circumstance or event giving rise to such claims.

Section 6.03. *Flexible Spending Account Plan Treatment.* Subject to the terms of the L Brands to VS Transition Services Agreement, effective as of the Distribution Date, VS shall establish or designate flexible spending accounts for health and dependent care expenses under Sections 125 and 129 of the Code (the “**VS FSAs**”). The Parties shall take all actions reasonably necessary or appropriate so that the account balances (positive or negative) under the L Brands FSAs of each VS Participant who has elected to participate therein in the year in which the Distribution Date (or, for any Delayed VS Transfer Employees, the applicable Delayed Transfer Date) occurs shall be transferred, effective as of the Distribution Date (or the Delayed Transfer Date, as applicable), from the L Brands FSAs to the corresponding VS FSAs. The VS FSAs shall assume responsibility as of the Distribution Date (or the applicable Delayed Transfer Date) for all outstanding dependent care and health care claims under the L Brands FSAs of each VS Participant for the year in which the Distribution Date (or the applicable Delayed Transfer Date) occurs and shall assume the rights of and agree to perform the obligations of the analogous L Brands FSA from and after the Distribution Date (or the applicable Delayed Transfer Date). The Parties shall cooperate in good faith to provide that the contribution elections of each such VS Participant as in effect immediately before the Distribution Date (or the applicable Delayed Transfer Date) remain in effect under the VS FSAs from and after the Distribution Date (or the applicable Delayed Transfer Date), subject to the terms of the VS FSAs. As soon as practicable after the Distribution Date (or, if applicable, the Delayed Transfer Date), with respect to the affected VS Participant, L Brands shall pay to VS (or its designee) the net aggregate amount of the account balances credited to VS FSAs under this Section 6.03, if such amount is positive, and VS shall pay L Brands (or its designee) the net aggregate amount of the account balances credited to the VS FSAs under this Section 6.03, if such amount is negative.

Section 6.04. *Workers’ Compensation Liabilities.* All workers’ compensation Liabilities relating to, arising out of or resulting from any claim by any VS Participant that result from an accident or from an occupational disease, to the extent incurred before the Distribution Date (or the applicable Delayed Transfer Date), shall be retained by L Brands and shall constitute L Brands Retained Employee Liabilities and (ii) all workers’ compensation Liabilities relating to, arising out of or resulting from any claim by any VS Participant that result from an accident or from an occupational disease, to the extent incurred on or after the Distribution Date (or the applicable Delayed Transfer Date), shall be assumed by VS and shall constitute VS Assumed Employee Liabilities. The Parties shall cooperate with respect to any notification to appropriate Governmental Authorities of the disposition and the issuance of new, or the transfer of existing, workers’ compensation insurance policies and contracts governing the handling of claims in accordance with this Section 6.04.

Section 6.05. *Paid Time Off.*

(a) Effective as of the Distribution Date (or, in the case, of any Delayed VS Transfer Employee, the applicable Delayed Transfer Date), the applicable VS Group member shall recognize, retain and assume all Liabilities with respect to vacation, holiday, sick leave, paid time off, floating holidays, personal days and other paid time off (collectively, “**Paid Time Off**”) with respect to VS Participants accrued on or prior to the Distribution Date (or the Delayed Transfer Date, as applicable), and VS shall credit each such VS Participant with such accrual; *provided*, that if any such Paid Time Off is required under Applicable Law to be paid out to the applicable VS Participant in connection with the Distribution (or his or her date of employment transfer), such payment will be made by VS as of the Distribution Date (or the Delayed Transfer Date, as applicable), and VS will credit such VS Participant with unpaid Paid Time Off in respect thereof; *it being understood* that any amount of Paid Time Off required to be paid out to any VS Participant in connection with the Distribution or such employment transfer, as applicable, shall constitute VS Assumed Employee Liabilities.

(b) Effective as of the Distribution Date (or, in the case, of any Delayed LB Transfer Employee, the applicable Delayed Transfer Date), the applicable L Brands Group member shall recognize, retain and assume all Liabilities with respect to Paid Time Off with respect to L Brands Participants accrued on or prior to the Distribution Date (or the Delayed Transfer Date, as applicable), and L Brands shall credit each such L Brands Participant with such accrual; *provided*, that if any such Paid Time Off is required under Applicable Law to be paid out to the applicable L Brands Participant in connection with the Distribution (or his or her date of employment transfer), such payment will be made by L Brands as of the Distribution Date (or the Delayed Transfer Date, as applicable), and L Brands will credit such L Brands Participant with unpaid Paid Time Off in respect thereof; *it being understood* that any amount of Paid Time Off required to be paid out to any L Brands Participant in connection with the Distribution or such employment transfer, as applicable, shall constitute L Brands Retained Employee Liabilities.

Section 6.06. *COBRA.*

(a) Subject to the terms of the L Brands to VS Transition Services Agreement and the VS to L Brands Transition Services Agreement, as applicable:

(i) the L Brands Group shall administer the L Brands Group’s compliance with the health care continuation coverage requirements of COBRA and the corresponding provisions of the L Brands H&W Plans with respect to VS Participants who incur a COBRA “qualifying event” occurring before the Distribution Date (or, in the case of any Delayed VS Transfer Employee, the applicable Delayed Transfer Date); *provided*, that, for the avoidance of doubt, any Liabilities related thereto shall constitute L Brands Retained Employee Liabilities. VS shall be solely responsible for all Liabilities incurred pursuant to COBRA and for administering, at VS’ expense, compliance with the health care continuation coverage requirements of COBRA and the corresponding provisions of the VS H&W Plans with respect to VS Participants who incur a COBRA “qualifying event” that occurs at any time on or after the Distribution Date (or, in the case of Delayed VS Transfer Employees, the applicable Delayed Transfer Date); and

(ii) the VS Group shall administer the VS Group’s compliance with the health care continuation coverage requirements of COBRA and the corresponding provisions of the VS H&W Plans with respect to Delayed LB Transfer Employees who incur a COBRA “qualifying event” occurring before the applicable Delayed Transfer Date; *provided*, that, for the avoidance of doubt, any Liabilities related thereto shall constitute VS Assumed Employee Liabilities. L Brands shall be solely responsible for all Liabilities incurred pursuant to COBRA and for administering, at L Brands’ expense, compliance with the health care continuation coverage requirements of COBRA and the corresponding provisions of the L Brands H&W Plans with respect to Delayed LB Transfer Employees who incur a COBRA “qualifying event” that occurs at any time on or after the applicable Delayed Transfer Date.

(b) The Parties intend and agree that neither the Distribution, nor any assignment or transfer of the employment or services of any employee or individual independent contractor prior to the Distribution Date as contemplated under this Agreement, shall constitute a COBRA “qualifying event” for any purpose of COBRA, and the Parties shall cooperate in good faith to give effect to such intent.

ARTICLE 7
CASH INCENTIVE AND RETENTION COMPENSATION

Section 7.01. *L Brands Cash Bonus Plans.*

(a) Each VS Participant participating in the L Brands 2015 Bonus Plan, with respect to the spring 2021 performance period will remain eligible to receive a cash bonus in respect of such performance period in accordance with the terms of L Brands 2015 Bonus Plan (the “**Spring 2021 L Brands Cash Bonuses**”). Any Spring 2021 L Brands Cash Bonuses payable to VS Participants under the L Brands 2015 Bonus Plan will be paid by VS on behalf of L Brands in accordance with the terms of the L Brands 2015 Bonus Plan (including terms relating to the timing of payment); *provided* that (i) the L Brands Compensation Committee may, in its discretion, adjust the applicable performance conditions in light of the Distribution and (ii) L Brands will reimburse VS for the Spring 2021 L Brands Cash Bonuses paid by VS to VS Participants under this Section 7.01(a), which such reimbursement amount will constitute an L Brands Retained Employee Liability.

(b) Each VS Participant participating in any L Brands Bonus Plan other than the L Brands 2015 Bonus Plan with respect to any monthly or quarterly performance period during which the Distribution Date occurs will remain eligible to receive a cash bonus in respect of such applicable monthly or quarterly performance period in accordance with the terms of such L Brands Bonus Plan (the “**Other L Brands Cash Bonuses**”). Any Other L Brands Cash Bonuses payable to VS Participants under such L Brands Bonus Plans for such applicable monthly or quarterly performance period will be paid by VS on behalf of L Brands in accordance with the terms of the applicable L Brands Bonus Plan (including terms relating to the timing of payment); *provided* that the L Brands Compensation Committee may, in its discretion, adjust the applicable performance conditions in light of the Distribution. For the avoidance of doubt, unless otherwise mutually agreed by the Parties, L Brands will not be required to reimburse VS for the cost of such Other L Brands Cash Bonuses paid by VS to VS Participants under this Section 7.01(b).

Section 7.02. *VS Cash Bonus Plans.*

(a) Each VS Participant participating in any VS Plan that is a cash bonus or cash incentive plan, including, for the avoidance of doubt, the VS 2021 Bonus Plan, each Victoria’s Secret Stores, LLC Store Management Fiscal Monthly Incentive Bonus Program and the 2019 RM Bonus and Incentive Program (each, a “**VS Bonus Plan**”), with respect to any performance period continuing as of the Distribution Date (or, if applicable, the Delayed Transfer Date) (the “**VS Cash Bonuses**”) shall accrue service credit for any time the VS Participant is employed by or provides services to any member of the L Brands Group during the applicable performance period. Any VS Cash Bonuses payable to VS Participants under such VS Bonus Plans will be paid by VS in accordance with the terms of the applicable VS Bonus Plan (including with respect to the bonuses payable under the VS 2021 Bonus Plan in respect of the fall 2021 performance period), which such amounts shall constitute VS Assumed Employee Liabilities.

(b) Each VS Participant participating in any L Brands Bonus Plan as of immediately prior to the Distribution Date (or, in the case of a Delayed VS Transfer Employee, the applicable Delayed Transfer Date), will be eligible to participate in a VS Bonus Plan upon commencement of employment with a member of the VS Group, subject to the terms of such VS Bonus Plan, with respect to the remainder of the applicable performance period during which the Distribution Date (or, if applicable, the Delayed Transfer Date) occurs.

(c) Without limiting the generality of Section 7.02(b), effective as of the Distribution Date, VS shall establish a VS Bonus Plan (or otherwise permit participation in an existing VS Bonus Plan) for the benefit of each VS Participant (other than a Delayed VS Transfer Employee) participating in any L Brands Bonus Plan as of immediately prior to the Distribution Date for the remainder of the applicable performance period. As soon as practicable following the Distribution Date, the VS Compensation Committee shall establish the performance targets for the post-Distribution performance period under any such applicable VS Bonus Plans, including the fall 2021 performance period under the VS 2021 Bonus Plan.

Section 7.03. *L Brands 2021 Retention Bonus Program.* Each VS Participant who, as of immediately prior to the Distribution Date, is eligible to receive a cash retention bonus that is scheduled to become payable during August 2021 under any L Brands Plan or any employment or retention agreement applicable to such VS Participant (each, an “**August 2021 Retention Bonus**”), will remain eligible to receive his or her August 2021 Retention Bonus following the Distribution Date in accordance with the terms of the applicable L Brands Plan or employment or retention agreement. Any August 2021 Retention Bonuses that become payable to VS Participants will be paid by VS on behalf of L Brands in accordance with the terms of the applicable L Brands Plan or employment or retention agreement (including terms relating to the timing of payment); *provided* that L Brands will reimburse VS for the aggregate amount of the August 2021 Retention Bonuses paid by VS to VS Participants, which such reimbursement amount will constitute an L Brands Retained Employee Liability.

ARTICLE 8
TREATMENT OF OUTSTANDING EQUITY AWARDS

Section 8.01. *RSUs.*

(a) Effective as of the Distribution Date, each L Brands RSU that is outstanding as of immediately prior to the Distribution Date and held by a VS Participant who is not a Former VS Employee shall be converted into a restricted share unit with respect to VS Common Stock (each, a “**VS RSU**”). The number of shares of VS Common Stock subject to such VS RSU shall be determined by the L Brands Compensation Committee in a manner intended to preserve (and without enlarging) the value of such L Brands RSU by taking into account the relative values of the L Brands Pre-Distribution Stock Value and the VS Stock Value. Each such VS RSU shall be subject to the same terms and conditions (including vesting and payment schedules) as applicable to the corresponding L Brands RSU as of immediately prior to the Distribution Date.

(b) Effective as of the Distribution Date, each L Brands RSU that is outstanding as of immediately prior to the Distribution Date and held by an L Brands Participant or a Former VS Employee shall be adjusted to reflect the Distribution and become an Adjusted L Brands RSU. The number of shares of L Brands Common Stock subject to such Adjusted L Brands RSU shall be determined by the L Brands Compensation Committee in a manner intended to preserve (and without enlarging) the value of such L Brands RSU by taking into account the relative values of the L Brands Pre-Distribution Stock Value and the L Brands Post-Distribution Stock Value. Each such Adjusted L Brands RSU shall be subject to the same terms and conditions (including vesting and payment schedules) as applicable to the corresponding L Brands RSU as of immediately prior to the Distribution Date.

Section 8.02. *PSUs.*

(a) Effective as of the Distribution Date, each L Brands PSU that is outstanding as of immediately prior to the Distribution Date and held by a VS Participant who is not a Former VS Employee shall be converted into a performance share unit with respect to VS Common Stock (each, a “**VS PSU**”). The number of shares of VS Common Stock subject to such VS PSU shall be determined by the L Brands Compensation Committee in a manner intended to preserve (and without enlarging) the value of such L Brands PSU by taking into account the relative values of the L Brands Pre-Distribution Stock Value and the VS Stock Value. Each such VS PSU shall be subject to the same terms and conditions (including vesting and payment schedules); *provided* that (i) any such VS PSUs that correspond to L Brands PSUs granted prior to January 30, 2021 shall be deemed to have achieved the applicable performance-based vesting conditions at the target performance level and (ii) any such VS PSUs that correspond to L Brands PSUs granted on or following January 30, 2021 shall remain subject to the applicable performance-based vesting conditions (and applicable threshold, target and maximum performance payout levels) as were applicable to the corresponding L Brands PSUs as of immediately prior to the Distribution Date (subject to adjustment by the VS Compensation Committee following the Distribution Date in its discretion to reflect the Distribution in accordance with the terms of the applicable VS Equity Plan and the applicable award agreement thereunder).

(b) Effective as of the Distribution Date, each L Brands PSU that is outstanding as of immediately prior to the Distribution Date and held by an L Brands Participant or a Former VS Employee shall be adjusted to reflect the Distribution and become an Adjusted L Brands PSU. The number of shares of L Brands Common Stock subject to such Adjusted L Brands PSU shall be determined by the L Brands Compensation Committee in a manner intended to preserve (and without enlarging) the value of such L Brands PSU by taking into account the relative values of the L Brands Pre-Distribution Stock Value and the L Brands Post-Distribution Stock Value. Each such Adjusted L Brands PSU shall be subject to the same terms and conditions (including vesting and payment schedules) as applicable to the corresponding L Brands PSU as of immediately prior to the Distribution Date; *provided* that, in the sole discretion of the L Brands Compensation Committee, the performance-based metrics underlying each such Adjusted L Brands PSU may be adjusted, as determined by the L Brands Compensation Committee, to reflect the Distribution.

Section 8.03. *Stock Options.*

(a) Effective as of the Distribution Date, each L Brands Option (whether vested or unvested) that is outstanding as of immediately prior to the Distribution Date and held by a VS Participant who is not a Former VS Employee shall be converted into an option to acquire VS Common Stock (each, a “**VS Option**”) and shall be subject to the same terms and conditions (including vesting) as applicable to the corresponding L Brands Option as of immediately prior to the Distribution Date; *provided*, that from and after the Distribution Date, the number of shares of VS Common Stock subject to, and the exercise price per share of, such VS Option shall be determined by the L Brands Compensation Committee in a manner consistent with Section 409A of the Code and intended to preserve (and without enlarging) the value of such L Brands Option by taking into account (i) the exercise price per share of such L Brands Option and (ii) the relative values of the L Brands Pre-Distribution Stock Value and the VS Stock Value.

(b) Effective as of the Distribution Date, each L Brands Option (whether vested or unvested) that is outstanding as of immediately prior to the Distribution Date and held by an L Brands Participant or a Former VS Employee shall be adjusted to reflect the Distribution and become an Adjusted L Brands Option. The number of shares of L Brands Common Stock subject to, and the exercise price per share of, such Adjusted L Brands Option shall be determined by the L Brands Compensation Committee in a manner consistent with Section 409A of the Code and intended to preserve (and without enlarging) the value of such L Brands Option by taking into account (i) the exercise price per share of such L Brands Option and (ii) the relative values of the L Brands Pre-Distribution Stock Value and the L Brands Post-Distribution Stock Value. Each such Adjusted L Brands Option shall be subject to the same terms and conditions (including vesting) as applicable to the corresponding L Brands Option as of immediately prior to the Distribution Date.

(c) Notwithstanding anything to the contrary in this Section 8.03, the exercise price, the number of shares of L Brands Common Stock or VS Common Stock, as applicable, and the terms and conditions of exercise applicable to any Adjusted L Brands Option or VS Option, as the case may be, shall be determined in a manner consistent with the requirements of Section 409A of the Code.

Section 8.04. *Miscellaneous Terms and Actions; Tax Reporting and Withholding.*

(a) Effective on or before the Distribution Date, VS shall adopt an equity incentive compensation plan for the benefit of eligible participants (as may be amended from time to time, and together with any successor plan, the “**VS Equity Plan**”). Prior to the Distribution Date, each of L Brands and VS shall take any actions necessary to give effect to the transactions contemplated by this Article 8, including, in the case of VS, the reservation, issuance and listing of shares of VS Common Stock as is necessary to effectuate the transactions contemplated by this Article 8. From and after the Distribution Date, (i) VS shall retain the VS Equity Plan, and all Liabilities thereunder shall constitute VS Assumed Employee Liabilities, and (ii) L Brands shall retain the L Brands Equity Plans, and all Liabilities thereunder shall constitute L Brands Retained Employee Liabilities. From and after the Distribution Date, all Adjusted L Brands Awards, regardless of by whom held, shall be granted under and subject to the terms of the L Brands Equity Plans and shall be settled by L Brands, and all VS Awards, regardless of by whom held, shall be granted under and subject to the terms of the VS Equity Plan and shall be settled by VS.

(b) From and after the Distribution Date, for purposes of the L Brands Awards converted into VS Awards or Adjusted L Brands Awards pursuant to this Article 8, (i) a VS Participant’s employment with or service to any member of the VS Group and/or L Brands Group, as applicable, shall be treated as employment with and service to the VS Group and/or the L Brands Group, as applicable, (ii) any reference to “cause,” “good reason,” “disability,” “willful” or other similar terms applicable to such Adjusted L Brands Awards shall be deemed to refer to the definitions of “cause,” “good reason,” “disability,” “willful” or other similar terms set forth in the L Brands Equity Plans and (iii) any reference to “cause,” “good reason,” “disability,” “willful” or other similar terms applicable to such VS Awards shall be deemed to refer to the definitions of “cause,” “good reason,” “disability,” “willful” or other similar terms set forth in the VS Equity Plan.

(c) From and after the Distribution Date, (i) any reference to a “change in control,” “change of control” or similar term applicable to any Adjusted L Brands Award contained in any applicable award agreement, employment or services agreement or the L Brands Equity Plans shall be deemed to refer to a “change in control,” “change of control” or similar term as defined in such award agreement, employment or services agreement or the L Brands Equity Plans (an “**L Brands Change in Control**”) and (ii) any reference to a “change in control,” “change of control” or similar term applicable to any VS Award contained in any applicable award agreement, employment or services agreement or the VS Equity Plan shall be deemed to refer to a “change in control,” “change of control” or similar term as defined in the VS Equity Plan (a “**VS Change in Control**”).

(d) For the avoidance of doubt, except as expressly provided in this Article 8 (including, without limitation, pursuant to Section 8.05), neither the Distribution nor any assignment, transfer or continuation of the employment of employees as contemplated by Article 3 shall be deemed a termination of employment or service of any VS Participant or L Brands Participant for purposes of any L Brands Award or VS Award. The Distribution shall not be treated as an L Brands Change in Control or VS Change in Control for purposes of the L Brands Equity Plans or the VS Equity Plan, respectively, any applicable award agreements for an L Brands Award, Adjusted L Brands Award or VS Award outstanding thereunder, or any other applicable employment- or service-related agreement. Without limiting the generality of the foregoing, to the extent L Brands determines it necessary or desirable, each award agreement for an L Brands RSU, L Brands PSU or L Brands Option, as the case may be, shall be amended to expressly clarify the same.

(e) Unless otherwise required by Applicable Law, (i) the applicable member of the VS Group shall be responsible for all applicable income, payroll, employment and other similar tax withholding, remittance and reporting obligations in respect of VS Participants relating to any VS Awards and (ii) the applicable member of the L Brands Group shall be responsible for all applicable income, payroll, employment and other similar tax withholding, remittance and reporting obligations in respect of L Brands Participants relating to any Adjusted L Brands Awards.

(f) VS shall be responsible for the settlement of cash dividend equivalents on any VS Awards, and L Brands shall be responsible for the settlement of cash dividend equivalents on any Adjusted L Brands Awards.

(g) VS shall prepare and file with the SEC a registration statement on an appropriate form with respect to the shares of VS Common Stock subject to the L Brands Awards converted into VS Awards pursuant to this Article 8 and shall use its reasonable best efforts to have such registration statement declared effective on or before the Distribution Date and to maintain the effectiveness of such registration statement covering such VS Awards (and to maintain the current status of the prospectus contained therein) for so long as any such VS Awards remain outstanding.

(h) Prior to the Distribution Date, each Party shall take all such steps as may be required to cause any dispositions of L Brands Common Stock (including Adjusted L Brands Awards or any other derivative securities with respect to L Brands Common Stock) or acquisitions of VS Common Stock (including VS Awards or any other derivative securities with respect to VS Common Stock) resulting from the Distribution or the transactions contemplated by this Agreement or the Separation Agreement by each individual who is subject to the reporting requirements of Section 16(a) of the Exchange Act with respect to L Brands or who are or will become subject to such reporting requirements with respect to VS to be exempt under Rule 16b-3 promulgated under the Exchange Act. With respect to those individuals, if any, who, subsequent to the Distribution Date, are or become subject to the reporting requirements under Section 16(a) of the Exchange Act, as applicable, VS shall administer any L Brands Award converted into a VS Award pursuant to this Article 8 in a manner that complies with Rule 16b-3 promulgated under the Exchange Act to the extent such converted L Brands Award complied with such rule prior to the Distribution Date.

(a) Notwithstanding anything to the contrary herein, any L Brands Awards held by any Delayed VS Transfer Employees shall be adjusted into Adjusted L Brands Awards as of the Distribution Date in the manner set forth in Section 8.01(b), Section 8.02(b) or Section 8.03(b), as applicable. Upon the applicable Delayed Transfer Date, the applicable Delayed VS Transfer Employee will be deemed to have terminated employment with the L Brands Group for purposes of the L Brands Equity Plans and the applicable award agreements evidencing his or her Adjusted L Brands Awards and, to the extent unvested, will cease vesting and will forfeit his or her L Brands Awards (including any Adjusted L Brands Awards that remain outstanding as of such date and any L Brands Awards granted to such Delayed VS Transfer Employee following the Distribution Date) (collectively, the “**Forfeited LB Awards**”). As of the applicable Delayed Transfer Date, VS shall, on an award-by-award basis, grant each such Delayed VS Transfer Employee VS Awards corresponding to the type of each of the Forfeited LB Awards forfeited by such Delayed VS Transfer Employee on the Delayed Transfer Date, each with a dollar value equal to the intrinsic dollar value of the corresponding Forfeited LB Award (each such replacement award, a “**Replacement VS Award**”). For purposes of this Section 8.05(a), (i) the intrinsic dollar value of any Forfeited LB Award shall be equal to the product of (A) the volume-weighted average price of L Brands Common Stock on the New York Stock Exchange (as reported by Bloomberg L.P.) during the 20 trading days ending with the last trading day prior to the applicable Delayed Transfer Date (*minus*, in the case of any Forfeited LB Award that is an Adjusted L Brands Option, the exercise price per share applicable to such Forfeited LB Award) *multiplied by* (B) the number of shares of L Brands Common Stock underlying such Forfeited LB Award and (ii) the dollar value of any Replacement VS Award that is a VS Option will be determined based on a Black-scholes valuation of such VS Option or pursuant to such other valuation methodology mutually determined by the Parties. The Replacement VS Awards shall be subject to vesting and payment or settlement terms and conditions that are no less favorable to the applicable Delayed VS Transfer Employee than the vesting and payment or settlement terms and conditions in effect with respect to his or her corresponding Forfeited LB Awards (determined on an award-by-award basis) as of immediately prior to the applicable Delayed Transfer Date. For the avoidance of doubt, any L Brands Options (including any Adjusted L Brands Options granted pursuant to this Article 8) held by a Delayed VS Transfer Employee that are outstanding and vested as of the applicable Delayed Transfer Date will remain outstanding and exercisable following the applicable Delayed Transfer Date in accordance with the terms of the applicable L Brands Equity Plan and the applicable award agreement thereunder.

(b) Notwithstanding anything to the contrary herein, any L Brands Awards held by any Delayed LB Transfer Employees shall be adjusted into VS Awards as of the Distribution Date in the manner set forth in Section 8.01(a), Section 8.02(a) or Section 8.03(a), as applicable. Upon the applicable Delayed Transfer Date, the applicable Delayed LB Transfer Employee will be deemed to have terminated employment with the VS Group for purposes of the VS Equity Plan and the applicable award agreements evidencing his or her VS Awards and, to the extent unvested, will cease vesting and will forfeit his or her VS Awards (the “**Forfeited VS Awards**”). As of the applicable Delayed Transfer Date, L Brands shall, on an award-by-award basis, grant each such Delayed LB Transfer Employee L Brands Awards corresponding to the type of each of the Forfeited VS Awards forfeited by such Delayed LB Transfer Employee on the Delayed Transfer Date, each with a dollar value equal to the intrinsic dollar value of the corresponding Forfeited VS Award (including any VS Awards granted pursuant to this Article 8 that remain outstanding as of such date and any VS Awards granted to such Delayed LB Transfer Employee following the Distribution Date) (each such replacement award, a “**Replacement LB Award**”). For purposes of this Section 8.05(b), (i) the intrinsic dollar value of any Forfeited VS Award shall be equal to the product of (A) the volume-weighted average price of VS Common Stock on the New York Stock Exchange (as reported by Bloomberg L.P.) during the 20 trading days ending with the last trading day prior to the applicable Delayed Transfer Date (*minus*, in the case of any Forfeited VS Award that is a VS Option, the exercise price per share applicable to such Forfeited VS Award) *multiplied by* (B) the number of shares of VS Common Stock underlying such Forfeited VS Award and (ii) the dollar value of any Replacement LB Award that is an L Brands Option will be determined based on a Black-scholes valuation of such L Brands Option or pursuant to such other valuation methodology mutually determined by the Parties. The Replacement LB Awards shall be subject to vesting and payment or settlement terms and conditions that are no less favorable to the applicable Delayed LB Transfer Employee than the vesting and payment or settlement terms and conditions in effect with respect to his or her corresponding Forfeited VS Awards (determined on an award-by-award basis) as of immediately prior to the applicable Delayed Transfer Date. For the avoidance of doubt, any VS Options (including any VS Options granted pursuant to this Article 8) held by a Delayed VS Transfer Employee that are outstanding and vested as of the applicable Delayed Transfer Date will remain outstanding and exercisable following the applicable Delayed Transfer Date in accordance with the terms of the applicable VS Equity Plan and the applicable award agreement thereunder.

Section 8.06. *Employee Stock Purchase Plan.* Effective as of the Distribution Date (or, if applicable, the Delayed Transfer Date), each VS Participant shall cease participation in the L Brands ESPP. Effective on or before the Distribution Date, VS shall adopt an employee stock purchase plan for the benefit of eligible VS Participants (the “**VS ESPP**”).

ARTICLE 9

PERSONNEL RECORDS; PAYROLL AND TAX WITHHOLDING

Section 9.01. *Personnel Records.* To the extent permitted by Applicable Law, each of the VS Group and the L Brands Group shall be permitted by the other to access and retain copies of such records, data and other personnel-related information in any form (“**Personnel Records**”) as may be necessary or appropriate to carry out their respective obligations under Applicable Law, the Separation Agreement or any of the Ancillary Agreements, and for the purposes of administering their respective employee benefit plans and policies. All Personnel Records shall be accessed, retained, held, used, copied and transmitted in accordance with all Applicable Laws, policies and agreements between the Parties.

(a) Subject to the obligations of the Parties as set forth in the L Brands to VS Transition Services Agreement or any other applicable Ancillary Agreement, effective as of no later than the Distribution Date (or, in the case of any Delayed VS Transfer Employees or Delayed LB Transfer Employees, as applicable, the applicable Delayed Transfer Date), (A) the members of the VS Group shall be solely responsible for providing payroll services (including for any payroll period already in progress) to the VS Employees and for any Liabilities with respect to garnishments of the salary and wages thereof and (B) the members of the L Brands Group shall be solely responsible for providing payroll services (including for any payroll period already in progress) to the L Brands Employees and for any Liabilities with respect to garnishments of the salary and wages thereof.

(b) To the extent permitted by Applicable Law, the Party that is responsible for making a payment hereunder shall be responsible for (i) making the appropriate withholdings, if any, attributable to such payments and (ii) preparing and filing all related required forms and returns with the appropriate Governmental Authority.

(c) With respect to VS Employees, the Parties shall (i) treat VS (or the applicable member of the VS Group) as a “successor employer” and L Brands (or the applicable member of the L Brands Group) as a “predecessor,” within the meaning of Sections 3121(a)(1) and 3306(b)(1) of the Code, for purposes of taxes imposed under the U.S. Federal Unemployment Tax Act or the U.S. Federal Insurance Contributions Act, and (ii) cooperate and use reasonable best efforts to implement the alternate procedure described in Section 5 of Revenue Procedure 2004-53.

(d) With respect to Delayed LB Transfer Employees, the Parties shall (i) treat L Brands (or the applicable member of the L Brands Group) as a “successor employer” and VS (or the applicable member of the VS Group) as a “predecessor,” within the meaning of Sections 3121(a)(1) and 3306(b)(1) of the Code, for purposes of taxes imposed under the U.S. Federal Unemployment Tax Act or the U.S. Federal Insurance Contributions Act, and (ii) cooperate and use reasonable best efforts to implement the alternate procedure described in Section 5 of Revenue Procedure 2004-53.

ARTICLE 10

NON-U.S. EMPLOYEES AND EMPLOYEE PLANS

Section 10.01. *Special Provisions for Employees and Employee Plans Outside of the United States.* From and after the date hereof, to the extent not addressed in this Agreement, the L Brands to VS Transition Services Agreement or the VS to L Brands Transition Services Agreement, the Parties shall reasonably cooperate in good faith to effect the provisions of this Agreement with respect to (a) Non-U.S. LB Participants and Non-U.S. VS Participants and (b) employee-, compensation- and benefits-related matters outside of the United States with respect to Non-U.S. LB Participants and Non-U.S. VS Participants, including under Non-U.S. LB Plans and Non-U.S. VS Plans, which in all cases shall be consistent with the general approach and philosophy regarding the allocation of assets and Liabilities (as expressly set forth in the recitals to this Agreement).

ARTICLE 11
GENERAL AND ADMINISTRATIVE

Section 11.01. *Sharing of Participant Information.* Without limiting the generality of any of the provisions of any other Ancillary Agreements, to the maximum extent permitted under Applicable Law, L Brands and VS shall, and shall cause each member of the L Brands Group and the VS Group, respectively, to reasonably cooperate with the other Party hereto to, (A) share with each other and their respective agents and vendors all participant information reasonably necessary for the efficient and accurate administration of each of the L Brands Plans and the VS Plans, (ii) provide prompt written notification regarding the termination of employment or service of any VS Participant or L Brands Participant to the extent relevant to the administration of an L Brands Plan or VS Plan, (iii) facilitate the transactions and activities contemplated by this Agreement and (iv) resolve any and all employment-related claims regarding VS Participants and L Brands Participants.

Section 11.02. *Cooperation.* Following the date of this Agreement, each of VS and L Brands shall, and shall cause the members of the VS Group and the L Brands Group, respectively, to, cooperate in good faith with respect to any employee compensation or benefits matters that either party reasonably determines require the cooperation of the other Party in order to accomplish the objectives of this Agreement (including, without limitation, relating to any audits by any Governmental Authorities); *provided* that nothing herein shall be deemed to require any member of the VS Group to administer any L Brands Plan or to require any member of the L Brands Group to administer any VS Plan, in each case at any time on or following the Distribution Date.

Section 11.03. *Vendor Contracts.* Prior to the Distribution Date, L Brands and VS will cooperate in good faith and use reasonable best efforts to (a) negotiate with the current third-party providers to separate and assign to the VS Group or VS Plan or the L Brands Group or L Brands Plan, as applicable, the applicable rights and obligations under each group insurance policy, health maintenance organization, administrative services contract, third-party administrator agreement, letter of understanding or arrangement that pertains to one or more L Brands Plans or VS Plans, respectively (each, a “**Vendor Contract**”), to the extent that such rights or obligations pertain to VS Participants or L Brands Participants, respectively, or, in the alternative, to negotiate with the current third-party providers to provide substantially similar services to a VS Plan or L Brands Plan, respectively, on substantially similar terms under separate contracts with a member of the VS Group or the VS Plans or L Brands Group or the L Brands Plans, respectively, as applicable and (b) to the extent permitted by the applicable third-party provider, obtain and maintain pricing discounts or other preferential terms under the applicable Vendor Contracts.

Section 11.04. *Data Privacy.* Notwithstanding anything to the contrary herein, the Parties agree that any applicable data privacy laws and any other obligations of the L Brands Group and the VS Group to maintain the confidentiality of any employee information held by any member of the L Brands Group or the VS Group, as applicable, or any information held in connection with any Employee Plans in accordance with Applicable Law will govern the disclosure of employee information between the Parties under this Agreement. Each of L Brands and VS will ensure that it has in place appropriate technical and organizational security measures to protect the personal data of the L Brands Participants and VS Participants, respectively.

Section 11.05. *Notices of Certain Events.* Each of VS and L Brands shall promptly notify and provide copies to the other of (a) written notice from any Person alleging that the approval or consent of such Person is or may be required in connection with the transactions contemplated by this Agreement, (b) any written notice or other communication from any Governmental Authority in connection with the transactions contemplated by this Agreement or the Separation Agreement and (c) any actions, suits, claims, investigations or proceedings commenced or, to its knowledge, threatened against, relating to or involving or otherwise affecting the VS Group or the L Brands Group, as the case may be, that relate to the consummation of the transactions contemplated by this Agreement; *provided*, that the delivery of any notice pursuant to this Section 11.05 shall not affect the remedies available hereunder to the Party receiving such notice.

Section 11.06. *No Third-Party Beneficiaries.* Notwithstanding anything to the contrary herein, nothing in this Agreement shall (a) create any obligation on the part of any member of the VS Group or any member of the L Brands Group to retain the employment or services of any current or former employee, director, independent contractor or other service provider, (b) be construed to create any right, or accelerate entitlement, to any compensation or benefit whatsoever on the part of any future, present, or former employee or service provider of any member of the L Brands Group or the VS Group (or any beneficiary or dependent thereof) under this Agreement, the Separation Agreement, any L Brands Plan or VS Plan or otherwise, (c) preclude VS or any VS Group member (or, in each case, any successor thereto), at any time after the Distribution Date, from amending, merging, modifying, terminating, eliminating, reducing or otherwise altering in any respect any VS Plan, any benefit under any VS Plan or any trust, insurance policy or funding vehicle related to any VS Plan (in each case in accordance with the terms of the applicable arrangement), (d) preclude L Brands or any L Brands Group member (or, in each case, any successor thereto), at any time after the Distribution Date, from amending, merging, modifying, terminating, eliminating, reducing, or otherwise altering in any respect any L Brands Plan, any benefit under any L Brands Plan or any trust, insurance policy or funding vehicle related to any L Brands Plan (in each case in accordance with the terms of the applicable arrangement) or (e) confer any rights or remedies (including any third-party beneficiary rights) on any current or former employee or service provider of any member of the L Brands Group or the VS Group or any beneficiary or dependent thereof or any other Person, including, without limitation any L Brands Participants or VS Participants.

Section 11.07. *Fiduciary Matters.* L Brands and VS each acknowledge that actions required to be taken pursuant to this Agreement may be subject to fiduciary duties or standards of conduct under ERISA or other Applicable Law, and no Party shall be deemed to be in violation of this Agreement if it fails to comply with any provisions hereof based upon its good faith determination (as supported by advice from counsel experienced in such matters) that to do so would violate such a fiduciary duty or standard. Each Party shall be responsible for taking such actions as are deemed necessary and appropriate to comply with its own fiduciary responsibilities and shall fully release and indemnify the other Party for any Liabilities caused by the failure to satisfy any such responsibility.

Section 11.08. *Consent of Third Parties.* If any provision of this Agreement is dependent on the consent of any third party (such as a vendor or Governmental Authority), the Parties shall cooperate in good faith and use reasonable best efforts to obtain such consent, and, if such consent is not obtained, to implement the applicable provisions of this Agreement to the full extent practicable. If any provision of this Agreement cannot be implemented due to the failure of such third party to consent, the Parties shall negotiate in good faith to implement the provision in a mutually satisfactory manner. A Party's obligation to use its "reasonable best efforts" shall not require such party to take any action to the extent it would reasonably be expected to (a) jeopardize, or result in the loss or waiver of, any attorney-client or other legal privilege, (b) contravene any Applicable Law or fiduciary duty, (c) result in the loss of protection of any Intellectual Property or other proprietary information or (d) incur any non-routine or unreasonable cost or expense.

Section 11.09. *Section 409A.* The Parties shall cooperate in good faith so that the transactions contemplated by this Agreement and the Separation Agreement will not result in adverse tax consequences under Section 409A of the Code to any LB Participant or VS Participant in respect of their benefits under any Employee Plan.

ARTICLE 12
NON-SOLICIT AND NO-HIRE

Section 12.01. *No-Hire/Non-Solicitation of Employees.*

(a) During the applicable Restricted Period, VS shall not, and shall cause each member of the VS Group not to, (i) solicit or induce, or attempt to solicit or induce, any Covered L Brands Service Provider to terminate his or her employment or service relationship with any member of the L Brands Group or (ii) hire any L Brands Employee, New L Brands Employee or LB to VS TSA Service Employee who is or was employed by any member of the L Brands Group at any time prior to the expiration of the applicable Restricted Period (other than, for the avoidance of doubt, a VS Employee); *provided* that (A) the restrictions set forth in clause (i) of this Section 12.01(a) shall not prohibit any member of the VS Group from placing public advertisements or conducting any other form of general solicitation that is not specifically targeted toward a Covered L Brands Service Provider (*provided* that nothing in this proviso shall permit the hiring of an L Brands Employee, New L Brands Employee or LB to VS TSA Service Employee who responds to any such public advertisement or general solicitation which would otherwise be restricted by clause (ii) of this Section 12.01(a) (for the avoidance of doubt, the VS Group shall be permitted to hire any such employee who (I) is a retail store employee below the store manager level and (II) responds to any such public advertisement or general solicitation)), (B) the restrictions in clause (ii) of this Section 12.01(a) shall not apply to hiring (1) any L Brands Employee, New L Brands Employee or LB to VS TSA Service Employee who has ceased employment with the L Brands Group for a period of at least (x) six months, in the case of such employees who are at the manager level or above, and (y) three months, in the case of such employees who are below the manager level, (2) any L Brands Employee, New L Brands Employee or LB to VS TSA Service Employee, in each case who is a retail store employee below the store manager level, (3) any L Brands Employee, New L Brands Employee or LB to VS TSA Service Employee whose employment was involuntarily terminated by a member of the L Brands Group without cause or (4) any VS TSA Employee who is hired by a member of the VS Group in accordance with the terms of the L Brands to VS Transition Services Agreement. Notwithstanding anything to the contrary in this Section 12.01(a), subject to approval in the discretion of L Brands' Chief Executive Officer or L Brands' Chief Human Resources Officer, the limitations provided for in this Section 12.01(a) may be waived at the request of VS or any member of the VS Group.

(b) During the applicable Restricted Period, L Brands shall not, and shall cause each member of the L Brands Group not to, (i) solicit or induce, or attempt to solicit or induce, any Covered VS Service Provider to terminate his or her employment or service relationship with any member of the VS Group or (ii) hire any VS Employee, New VS Employee or VS to LB TSA Service Employee who is or was employed by any member of the VS Group at any time prior to the expiration of the applicable Restricted Period (other than, for the avoidance of doubt, any L Brands Employee); *provided* that (A) the restrictions set forth in clause (i) of this Section 12.01(b) shall not prohibit any member of the L Brands Group from placing public advertisements or conducting any other form of general solicitation that is not specifically targeted toward a Covered VS Service Provider (*provided* that nothing in this proviso shall permit the hiring of a VS Employee, New VS Employee or VS to LB TSA Service Employee who responds to any such public advertisement or general solicitation which would otherwise be restricted by clause (ii) of this Section 12.01(b) (for the avoidance of doubt, the L Brands Group shall be permitted to hire any such employee who (I) is a retail store employee below the store manager level and (II) responds to any such public advertisement or general solicitation)), (B) the restrictions in clause (ii) of this Section 12.01(b) shall not apply to hiring (1) any VS Employee, New VS Employee or VS to LB TSA Service Employee who has ceased employment with the VS Group for a period of at least (x) six months, in the case of such employees who are at the manager level or above, and (y) three months, in the case of such employees who are below the manager level, (2) any VS Employee, New VS Employee or VS to LB TSA Service Employee, in each case who is a retail store employee below the store manager level, (3) any VS Employee, New VS Employee or VS to LB TSA Service Employee whose employment was involuntarily terminated by a member of the VS Group without cause or (4) any L Brands TSA Employee who is hired by a member of the L Brands Group in accordance with the terms of the VS to L Brands Transition Services Agreement. Notwithstanding anything to the contrary in this Section 12.01(b), subject to approval in the discretion of VS' Chief Executive Officer or VS' Chief Human Resources Officer, the limitations provided for in this Section 12.01(b) may be waived at the request of L Brands or any member of the L Brands Group.

(c) Prior to the Distribution Date, L Brands' Chief Human Resources Officer and VS' Chief Human Resources Officer shall cooperate in good faith to determine whether any categories of employees or other service providers will be excluded from the restrictions set forth in Sections 12.01(a) and Section 12.01(b), if any.

ARTICLE 13
MISCELLANEOUS

Section 13.01. *General.* The provisions of Section 1.02 of the Separation Agreement and Article 6 of the Separation Agreement (other than Section 6.06 as it relates to Third-Party Beneficiaries of the Separation Agreement), in each case are hereby incorporated by reference into and deemed part of this Agreement and shall apply, *mutatis mutandis*, as if fully set forth in this Agreement.

[Signature Page Follows]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives as of the date first above written.

L BRANDS, INC.

By: /s/ Andrew Meslow

Name: Andrew Meslow

Title: Chief Executive Officer

VICTORIA'S SECRET & CO.

By: /s/ Martin Waters

Name: Martin Waters

Title: Chief Executive Officer

[Signature Page – Employee Matters Agreement]

DOMESTIC TRANSPORTATION SERVICES AGREEMENT

dated as of

August 2, 2021

by and between

MAST LOGISTICS SERVICES, LLC

and

VICTORIA'S SECRET & CO.

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DOMESTIC TRANSPORTATION SERVICES AGREEMENT

THIS DOMESTIC TRANSPORTATION SERVICES AGREEMENT (this “**Agreement**”) is entered into this August 2, 2021 (the “**Effective Date**”) by and between Mast Logistics Services, LLC, a Delaware limited liability company (“**Service Provider**”), and Victoria’s Secret & Co., a Delaware corporation (“**VS**”) (each, a “**Party**” and together, the “**Parties**”).

RECITALS:

WHEREAS, Service Provider has pre-existing contractual arrangements with certain carriers engaged in the business of transporting property in interstate, intrastate or foreign commerce and is in the business of providing other domestic transportation services;

WHEREAS, Service Provider has historically provided certain domestic transportation services to the VS Business (as defined herein);

WHEREAS, VS and L Brands, Inc. (“**L Brands**”) have entered into that certain Separation and Distribution Agreement, dated as of August 2, 2021 (“**Separation Agreement**”) pursuant to which and on the terms and conditions set forth therein, among other things, L Brands has agreed to distribute the VS Business to the holders of the L Brands Common Stock (as defined in the Separation Agreement) as of the Record Date (as defined in the Separation Agreement);

WHEREAS, the Separation Agreement contemplates that Service Provider will, in connection with and prior to the Distribution (as defined in the Separation Agreement), enter into this Agreement to provide certain domestic transportation services to VS on the terms and conditions set forth herein in connection with the transactions contemplated by the Separation Agreement; and

WHEREAS, following the Effective Date, Service Provider desires to continue to provide certain domestic transportation services to the VS Business pursuant to the terms and conditions of this Agreement and the VS Business desires to continue to receive such domestic transportation services.

NOW THEREFORE, in consideration of the mutual agreements hereinafter set forth, the Parties, intending to be legally bound, hereby agree as follows:

ARTICLE 1 DEFINED TERMS

Section 1.01. *Defined Terms*. As used herein, the following terms shall have the following meanings:

“**Additional Products**” has the meaning set forth in Section 2.02.

“**Additional Services**” has the meaning set forth in Section 2.01(c).

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

“**Agreement**” has the meaning set forth in the Preamble.

“**Allocated Cost**” has the meaning set forth in Schedule 2.

“**Applicable Law**” means, with respect to any Person, any federal, state, local or foreign law (statutory, common or otherwise), constitution, treaty, convention, ordinance, code, rule, regulation, order, injunction, judgment, decree, ruling, directive, guidance, instruction, direction, permission, waiver, notice, condition, limitation, restriction or prohibition or other similar requirement enacted, adopted, promulgated, imposed, issued or applied by a Governmental Authority that is binding upon or applicable to such Person, its properties or assets or its business or operations.

“**Arbitration Association**” has the meaning set forth in Section 10.07(c).

“**Canada**” means Canada and its territories and possessions.

“**Confidential Information**” means, with respect to a Party, all technical and business information of such Party or any of its Affiliates that is disclosed to the other Party and (a) marked as “proprietary,” “confidential” or other substantially similar language or (b) the other Party should otherwise reasonably be expected to understand is confidential based on the content of the information and the context of the disclosure. “Confidential Information” does not include information that (i) is or becomes generally available to the public (other than as a result of a breach of this Agreement), (ii) was available to the receiving Party or any of its Affiliates on a non-confidential basis prior to its disclosure to such receiving Party or its Affiliates pursuant to this Agreement (except that this clause (ii) shall not apply to information of either Party in the possession of the other Party prior to the Effective Date by virtue of their previous Affiliate relationship), (iii) is or becomes available to the receiving Party or any of its Affiliates from a third party not known by the receiving Party or its Affiliates to be bound by a confidentiality agreement or any legal, fiduciary or other obligation restricting disclosure of such information, (iv) is or was independently developed by the receiving Party or any of its Affiliates without violating this Agreement or any other agreement between or among the Parties or any of their respective Affiliates, or (v) solely with respect to Service Provider, is known or used in the L Brands Business more broadly than in the VS Business. The terms and conditions of this Agreement shall be the Confidential Information of both Parties and the confidential information of any Service Provider Party shall be the Confidential Information of Service Provider.

“**Cost Component**” has the meaning set forth in Schedule 2.

“**Damages**” has the meaning set forth in Section 7.01.

“**Disclosing Party**” has the meaning set forth in Section 8.01.

“**Dispute**” has the meaning set forth in Section 10.07(a).

“**Disputed Amount**” has the meaning set forth in Section 3.02(b).

“**Effective Date**” has the meaning set forth in the Preamble.

“**e-mail**” has the meaning set forth in Section 10.05.

“**Fees**” has the meaning set forth in Section 3.01.

“**Force Majeure**” has the meaning set forth in Section 10.06.

“**Governmental Authority**” means any multinational, foreign, federal, state, local or other governmental, statutory or administrative authority, regulatory body or commission or any court, tribunal or judicial or arbitral authority which has any jurisdiction or control over either Party (or any of their Affiliates).

“**Indemnified Party**” has the meaning set forth in Section 7.03(a).

“**Indemnifying Party**” has the meaning set forth in Section 7.03(a).

“**IT Breach**” has the meaning set forth in Section 2.05(b).

“**L Brands**” has the meaning set forth in the Recitals.

“**L Brands Business**” means all of the businesses conducted by L Brands and its Affiliates from time to time, whether before, on or after the Effective Date, other than the VS Business.

“**Mediation Notice**” has the meaning set forth in Section 10.07(b).

“**Mediation Period**” has the meaning set forth in Section 10.07(c).

“**Overdue Amounts**” has the meaning set forth in Section 3.02(b).

“**Party**” has the meaning set forth in the Preamble.

“**Payment Due Date**” has the meaning set forth in Section 3.02(a).

“**Person**” means an individual, corporation, partnership, limited liability company, association, trust or other entity or organization, including a Governmental Authority.

“**Receiving Party**” has the meaning set forth in Section 8.01.

“**Review Meetings**” has the meaning set forth in Section 4.04(c).

“**Separation Agreement**” has the meaning set forth in the Recitals.

“**Service Provider**” has the meaning set forth in the Preamble.

“**Service Provider Party**” has the meaning set forth in Section 2.01(b).

“**Service Provider Indemnified Persons**” has the meaning set forth in Section 7.01.

“**Service Provider Period**” has the meaning set forth in Section 4.03(b).

“**Service Taxes**” has the meaning set forth in Section 3.05(a).

“**Services**” has the meaning set forth in Section 2.01(a).

“**Subsidiary**” means, with respect to any Person, any other entity of which (i) a majority of the voting securities or (ii) securities or other ownership interests having ordinary voting power to elect a majority of the board of directors or other persons performing similar functions, are at the time directly or indirectly owned by such Person.

“**Term**” has the meaning set forth in Section 9.01.

“**Territory**” means the United States and Canada.

“**Third-Party Claim**” has the meaning set forth in Section 7.03(a).

“**Third-Party Consent Costs**” has the meaning set forth in Section 2.03(b).

“**Third-Party Provider**” has the meaning set forth in Section 2.01(b).

“**United States**” or “**U.S.**” means the United States of America and its territories and possessions.

“**VS**” has the meaning set forth in the Preamble.

“**VS Business**” means the specialty retail business of VS and its Subsidiaries with respect to women’s intimate and other apparel, accessories, beauty care products and fragrances that is conducted under the Victoria’s Secret or PINK brands.

“**VS Indemnified Persons**” has the meaning set forth in Section 7.02.

“**VS Products**” has the meaning set forth in Section 2.02.

ARTICLE 2
SERVICES.

Section 2.01. *General.* (a) Subject to the terms and conditions herein, Service Provider shall provide to VS the domestic transportation and delivery services set forth in this Agreement and on Schedule 1 hereto (the “**Services**”) solely to support the needs of the VS Business and solely in the Territory.

(b) In providing the Services hereunder, Service Provider may use, at its discretion, its own personnel or the personnel of any of its Affiliates or employ the services of contractors, subcontractors, vendors or other third parties (each, a “**Third-Party Provider**”); *provided* that (i) Service Provider shall remain responsible for ensuring that its obligations with respect to the Services, including the general standard of service described below under Section 4.01, are satisfied and (ii) any act or omission of such personnel or any other Third-Party Provider that would constitute a breach of this Agreement by Service Provider, if such act or omission were taken or made by Service Provider directly, shall be deemed a breach of this Agreement by Service Provider. Each of Service Provider, its Affiliates and any Third-Party Provider that provides the Services shall be referred to as a “**Service Provider Party**”.

(c) If, during the Term, VS identifies additional domestic transportation and delivery services that it desires to receive from Service Provider (“**Additional Services**”), then, upon written request from VS that identifies and states its desire to receive such Additional Services, Service Provider shall consider in good faith VS’s request for such Additional Services and the Parties shall negotiate in good faith terms (including the cost and term of such Additional Services) with respect to the provision of such Additional Services; *provided* that nothing herein shall obligate either Party to agree to any such terms or to provide or receive any such Additional Services unless agreed in writing by both Parties. To the extent Service Provider agrees in writing to provide such Additional Services hereunder, the Parties shall cooperate and act in good faith to add such Additional Services to Schedule 1 to this Agreement. Upon the amendment of Schedule 1 upon mutual written agreement of the Parties to include such Additional Services, the term “Services” shall include such Additional Services.

Section 2.02. *Products.* Service Provider shall provide the Services for the personal care and apparel product lines of the VS Business for which Service Provider provides the Services to the VS Business as of the Effective Date (“**VS Products**”). To the extent VS desires Service Provider to provide the Services for additional product lines of the VS Business (“**Additional Products**”), the Parties shall negotiate in good faith the terms (including cost and term) with respect to the provision of Services for such Additional Products (it being understood that the Parties acknowledge and agree that such Additional Products may require different processing and different cost structure); *provided* that nothing herein shall obligate either Party to agree to any such terms or to provide or receive the Services with respect to such Additional Products unless agreed in writing by both Parties. To the extent the Parties mutually agree in writing on such terms for such Additional Products, the term “VS Products” shall include such Additional Products.

Section 2.03. *Cooperation; Facilities; Further Actions.* (a) Upon a Party's reasonable request, the other Party shall provide such requesting Party (or in the case of Service Provider as the requesting Party, the applicable Service Provider Party), access to all facilities (including all ancillary facilities-related services), assets and materials and copies of all relevant information (including destination addresses, weight of packages, dimensions of packages, content of packages, etc.), in each case, necessary or reasonably useful for the Service Provider Party to provide the Services to VS or for VS to receive the Services, as applicable. Without limiting the foregoing, as a condition for Service Provider's provision of the Services to VS, VS shall (i) prior to delivery to Service Provider, package all relevant VS Products, and label such packages, in accordance with Service Provider's reasonable requests and in any event, in a manner substantially similar to the manner in which the VS Products were packaged and such packages were labeled with respect to similar Services immediately prior to the Effective Date, (ii) provide the Service Provider Party with any and all necessary import and export documentation and information for the relevant VS Products, (iii) provide Service Provider with volume and destination forecasts in a form and manner substantially similar to the manner in which such forecasts were provided by the VS Business immediately prior to the Effective Date and (iv) provide the Service Provider Party with any and all necessary hazardous shipping documentation (including Material Safety Data Sheets (MSDS)) for the VS Products. Service Provider shall not be responsible for any inability to provide a Service or any delay in doing so to the extent that such inability or delay is the result of the failure of VS to timely comply with any of its obligations in this Section 2.03(a).

(b) Service Provider and VS shall use commercially reasonable efforts to obtain, and to keep and maintain in effect (or to cause their respective Affiliates to obtain, and to keep and maintain in effect), all governmental or third-party licenses and consents required for the provision of the Services by Service Provider in accordance with the terms of this Agreement; *provided* that if Service Provider or any of its Affiliates is unable to obtain any such license or consent, Service Provider shall promptly notify VS in writing and shall, and shall cause its Affiliates to, use commercially reasonable efforts to implement an appropriate alternative arrangement. The costs relating to obtaining any such licenses or consents shall be borne solely by VS (the "**Third-Party Consent Costs**") and none of Service Provider or any of its Affiliates shall be required to pay any money or other consideration or grant any other accommodation to any Person (including any amendment to any contract) or initiate any action, suit or proceeding against any Person to obtain any such license or consent; *provided* that Service Provider and its Affiliates shall not incur any such costs without the prior written consent of VS. If any such license, consent or alternative arrangement is not available despite the commercially reasonable efforts of Service Provider and its Affiliates or as a result of VS failing to consent to the incurrence of costs relating to obtaining any such license or consent, Service Provider shall not be required to cause to be provided the affected Services.

Section 2.04. *Limitations.* (a) VS agrees that the Services will be used by VS solely in connection with the operation of the VS Business. VS may not resell, license the use of or otherwise permit the use by any Person other than VS of any Services, except with the prior written consent of Service Provider.

(b) In providing the Services, unless expressly agreed in writing by the Parties, in no event shall Service Provider be obligated to (i) hire any additional employees, (ii) maintain the employment of any specific employee, (iii) purchase, lease or license any additional equipment, trucks, hardware or software or (iv) provide the Services for any fiscal year at a volume or level that is more than one hundred and thirty percent (130%) of the volume or level of the Services provided to the VS Business during the 2019 fiscal year.

Section 2.05. *Information Technology.*

(a) Subject to the terms and conditions herein, VS may access Service Provider's information technology systems solely to the extent necessary to (i) provide Service Provider information regarding the type, volume and requested timing and destination of VS Products to be transported and delivered in connection with the Services or any other information requested by Service Provider and (ii) to the extent available, receive access to real-time data related to the VS Products for purposes of tracking and tracing freight; *provided* that Service Provider may without prior notice and without liability to VS, exclude for good cause any VS employee from Service Provider's information technology systems if, in Service Provider's reasonable and good faith opinion, such exclusion is deemed advisable in the interest of completion of the Services, the safety or security of the information technology systems or employees of any Service Provider Party or the confidentiality of any Service Provider Party's Confidential Information.

(b) VS shall, and shall cause its employees and any subcontractors to (i) not attempt to obtain access to or use any information technology systems of any Service Provider Party, or any data owned by any Service Provider Party, or any data used or processed by Service Provider (other than any data of VS), except to the extent required to receive the Services, (ii) maintain reasonable security measures to protect the systems of each Service Provider Party to which it has access pursuant to this Agreement from access by unauthorized third parties, and any "back door", "time bomb", "Trojan Horse", "worm", "drop dead device", "virus" or other computer software routine intended or designed to disrupt, disable, harm or otherwise impede in any manner the operation of such systems, (iii) not permit access or use of information technology systems of any Service Provider Party by a third party other than as authorized by prior written consent of Service Provider, (iv) not disable, damage or erase or disrupt or impair the normal operation of the information technology systems of any Service Provider Party, and (v) comply with the security policies and procedures of each Service Provider Party (to the extent previously provided to VS in writing and applicable to such Service Provider Party's information technology systems). Each Party shall promptly notify the other Party in the event it or any of its respective Affiliates becomes aware of or suspects that there has been a breach of security or a loss, theft or unauthorized access, use or disclosure of any information technology systems (collectively, "**IT Breach**") of any Service Provider Party or VS to the extent such (A) IT Breach could adversely affect the provision or receipt of the Services hereunder or such other Party's data or Confidential Information or (B) notice is required by Applicable Law.

ARTICLE 3
SERVICE FEES

Section 3.01. *Fees for Services.* In consideration for the Services provided under this Agreement, subject to the provisions hereof, VS shall pay to Service Provider (or the Service Provider Party designated by Service Provider) the fees set forth in Schedule 2 for the Services (“**Fees**”) in accordance with the provisions of this Agreement, including the Schedules hereto, without any offset or deduction except as otherwise expressly set forth herein.

Section 3.02. *Payment.* (a) Service Provider shall invoice, or shall cause the applicable Service Provider Party to invoice, VS on a monthly basis (not later than the fifteenth (15th) day of the following month), for the Fees and Service Taxes (which Service Taxes will be separately stated in each such invoice) incurred in the prior month for the Services, and will provide to VS the same billing data and level of detail provided to the VS Business immediately prior to the Effective Date. VS agrees to pay all Fees and Service Taxes invoiced by Service Provider no later than thirty (30) days after the date of such invoice (each, a “**Payment Due Date**”). Such payments shall be made by VS by wire transfer of immediately available funds to an account designated in writing by Service Provider.

(b) In the event VS has a good faith dispute that any Fees that are the subject of any invoice provided by Service Provider hereunder are not properly payable by VS pursuant to the terms of this Agreement (such amount, a “**Disputed Amount**”), VS shall notify Service Provider in writing within thirty (30) days after the later of (i) its receipt of such invoice for such Fees or (ii) the date VS becomes aware of such Disputed Amount, but in no event later than one year after VS’s receipt of such invoice. Such notice shall contain the amount of the Disputed Amount, reasonable back-up related to the dispute and a written description of the reason(s) VS is disputing such Fees. The Parties shall then work diligently and in good faith to resolve the dispute as soon as reasonably practicable in accordance with the dispute resolution procedures set forth in Section 10.07. In the event the resolution of the dispute is such that any such Disputed Amounts are due from VS (“**Overdue Amounts**”), VS shall pay such Overdue Amounts which are due within thirty (30) days of such resolution, with interest accruing for any such Overdue Amounts not made within fifteen (15) days of the Payment Due Date applicable to such Overdue Amounts, at the rate of twelve percent (12%) per annum, from such fifteenth (15th) day following such Payment Due Date until the date payment is actually made; *provided* that such interest rate shall not exceed the maximum rate permitted by Applicable Law. In the event that any Disputed Amount is greater than one hundred thousand U.S. Dollars (\$100,000), VS shall pay such Disputed Amount into an escrow account pending resolution of the applicable dispute.

Section 3.03. *Late Payment.* If VS fails to pay any amount of any Fees due under this Agreement within fifteen (15) days of the applicable Payment Due Date for such Fees, Service Provider may charge, in addition to such amount of Fees due on such Payment Due Date, interest on such amount at the rate of twelve percent (12%) per annum, from such 15th day following such Payment Due Date until the date payment is actually made; *provided* that such interest rate shall not exceed the maximum rate permitted by Applicable Law. All payments made to Service Provider by VS hereunder shall be applied first to unpaid interest and then to Fees invoiced but unpaid. If VS fails to pay the amount of any Fees invoiced hereunder within sixty (60) days of the relevant Payment Due Date, such failure shall be considered a material breach of this Agreement; *provided* that any such failure to pay any Disputed Amounts during the pendency of the applicable dispute shall not constitute a material breach of this Agreement during the pendency of such dispute.

Section 3.04. *Suspension.* Notwithstanding anything to the contrary in this Agreement, to the extent the aggregate amount of any overdue unpaid invoices and/or Disputed Amounts exceeds one million U.S. Dollars (\$1,000,000), Service Provider may, after ten (10) days' prior written notice to VS, elect to suspend, without liability, its obligations hereunder to cause to be provided any or all Services to VS until such time as such invoices have been paid in full and the disputes applicable to the Disputed Amounts have been resolved.

Section 3.05. *Taxes.* (a) VS shall bear and pay all applicable sales, use, transaction, consumption, excise, services, value added, transfer and other similar taxes (and any related interest, penalty, addition to tax or additional amount imposed) incurred or imposed with respect to the provision of the Services hereunder, to this Agreement or to any payment hereunder ("**Service Taxes**"), whether or not such Service Taxes are shown on any invoices; *provided, however*, that VS shall not be responsible hereunder for any interest or penalties incurred as a result of any failure of such Service Taxes to be shown on the appropriate invoice as provided above. If Service Provider pays any portion of such Service Taxes, VS shall reimburse Service Provider within five (5) days of receipt of evidence that such Service Taxes have been paid. Any Service Taxes shall be incremental to other payments or charges identified in this Agreement. For the avoidance of doubt, VS shall not be required to bear or pay any taxes of any Service Provider Party except as expressly provided herein. Each Party shall, and shall cause its Affiliates to, use commercially reasonable efforts to minimize or reduce the amount of Service Taxes otherwise payable, including by availing itself of any available exemptions or reductions to any such Service Taxes and cooperating with the other Party in providing information or documentation that may be reasonably necessary to minimize such Service Taxes or to obtain such exemptions.

(b) All sums payable under this Agreement shall be paid free and clear of all deductions or withholdings unless such deduction or withholding is required by Applicable Law, in which event the Party or other Person making such payment shall be entitled to deduct and withhold from any such sum any such amount required to be so deducted or withheld under Applicable Law, such Party or other Person shall remit (or cause to be remitted) such deducted or withheld amounts over to the applicable Governmental Authority in accordance with the requirements of Applicable Law and provide the recipient of such sums with an official receipt confirming payment. To the extent that any amounts are deducted or withheld from sums otherwise payable under this Agreement and remitted to the applicable Governmental Authority as provided above, such amounts shall be treated for all purposes of this Agreement as having been paid to the Party or other Person in respect of which such deduction or withholding was made. Each Party shall, and shall cause its Affiliates to, use commercially reasonable efforts to minimize or reduce the amount of any such required withholding or deduction, including by availing itself of any available exemptions from or reductions to such withholding or deduction and cooperating with the other Party in providing information or documentation that may be reasonably necessary to minimize such withholding or deduction or to obtain such exemptions.

Section 3.06. *Audits.* Throughout the Term and for one (1) year thereafter, VS shall have the right once within each calendar year, at its own expense and on thirty (30) days' advance written notice to Service Provider, to have an independent auditor reasonably acceptable to Service Provider (and who has executed an appropriate confidentiality agreement reasonably acceptable to Service Provider) audit the books and records of Service Provider or any of its Affiliates for the sole purpose of certifying the accuracy of the Fees charged by Service Provider to VS in accordance with the terms of this Agreement for the preceding calendar year; *provided* that (a) any such audit shall take place during reasonable business hours on a mutually agreed upon date, (b) such auditor shall in no event be entitled to any contingency fee (or otherwise have any portion of its compensation be directly or indirectly determined based on the outcome of such audit) and (c) no such books and records may be audited more than one time. Service Provider may designate competitively sensitive information which such auditor may see and review but which it may not disclose to VS and all such books and records, and any applicable audit report and findings, shall be the Confidential Information of Service Provider. VS shall provide to Service Provider a copy of each such audit report promptly after its receipt thereof. In the event that any such audit indicates any overpayment or underpayment of Fees paid to Service Provider by VS, the applicable Party shall pay to the other Party (within thirty (30) days following the date of delivery of such audit report to Service Provider) the amount of such overpayment or underpayment, as the case may be. If either Party has a good faith dispute with respect to the findings of such audit, the Parties shall follow the dispute resolution procedures set forth in Section 10.07.

ARTICLE 4
STANDARDS OF SERVICE

Section 4.01. *General Standard of Service.* Except as otherwise agreed by the Parties in writing or expressly provided in this Agreement, Service Provider agrees that the nature, quality and standard of care applicable to the delivery of the Services hereunder shall be substantially the same as that of the Services which Service Provider generally provides from time to time, now or in the future, to its Subsidiaries and Affiliates. Without limiting the foregoing, the Services shall be performed in a good, workmanlike, professional and conscientious manner by experienced and qualified employees of Service Provider or any other Service Provider Party according to the generally accepted standards of the industry to which the Services pertain. Subject to the terms and conditions herein, Service Provider shall not be responsible for any inability to provide the Services or any delay in doing so to the extent that such inability or delay is the result of the failure of VS to timely provide the information, access or other cooperation necessary for Service Provider to provide the Services hereunder. Service Provider's obligation to cause the Services to be provided in accordance with the standards set forth in this Section 4.01 shall be subject to Service Provider's right to supplement, modify, substitute or otherwise alter any of the Services from time to time in a manner that is generally consistent with supplements, modifications, substitutions or alterations made for similar services provided or otherwise made available by Service Provider, or as required by Applicable Law. Service Provider shall use reasonable best efforts to inform VS in writing as soon as practicable, but in any event at least thirty (30) days in advance, of any significant change it proposes to undertake with respect to the Services provided to VS hereunder which would result in a material increase in the cost of the Services to VS or a change that would diminish the nature or quality of the Services provided to VS hereunder, and in the event VS reasonably objects thereto, the Parties shall work together to equitably resolve such objection. Except as otherwise provided in this Agreement, the Parties acknowledge and agree that the management of and control over the provision of the Services (including, without limitation, the determination or designation at any time of the assets, equipment, employees and other resources of Service Provider to be used in connection with providing the Services) shall reside exclusively with Service Provider. In addition, all labor matters relating to any employees of Service Provider (including, without limitation, any employees of any related entity involved in the provision of Services to VS) shall be within the exclusive control and responsibility of Service Provider, and VS shall not be entitled to take any action affecting such matters.

Section 4.02. *Ownership of Products.* Notwithstanding anything to the contrary in this Agreement, as between the Parties, (a) title to all VS Products that are transported, shipped, warehoused or otherwise held in the custody of Service Provider on behalf of VS pursuant to this Agreement shall at all times remain with VS and (b) VS shall at all times be the owner of record of such VS Product.

Section 4.03. *Risk of Loss.*

(a) Risk of loss for VS Products shall be held by VS until such VS Products are physically delivered to the care, custody or control of a Service Provider Party at a location mutually agreed upon by the Parties in writing, at which point, risk of loss shall transfer to Service Provider, and upon the delivery of such VS Product to the applicable destination agreed upon in writing by the Parties, risk of loss for such VS Products shall transfer to VS. Service Provider agrees to deliver all VS Products tendered to Service Provider in the same condition as they were in at the time of tender.

(b) In the event any VS Products are lost, damaged, destroyed or stolen during the period where Service Provider holds the risk of loss for such VS Products pursuant to Section 4.03(a) (such period, the "**Service Provider Period**"), (i) Service Provider shall pay VS for sixty percent (60%) of retail value for all such VS Products (except in the event that such VS Products are lost, damaged, destroyed or stolen during the Service Provider Period due to the gross negligence or willful misconduct of Service Provider, in which case Service Provider shall be liable to VS for the full retail value for all such VS Products) or (ii) at VS's sole discretion, Service Provider may instead pay all costs and expenses to replace such VS Products; *provided* in each case of clauses (i) and (ii) Service Provider's obligation to pay VS for such VS Products shall not exceed \$250,000 per occurrence (*provided* that, if Service Provider is able to recover an amount greater than \$250,000 for such VS Products under its applicable third-party carrier contract, such excess recovery shall be passed through to VS) or \$5,000,000 per calendar year. Notwithstanding anything to the contrary in this Agreement, Service Provider shall not be liable in any event for (x) inherent qualities of the VS Products, (y) a Force Majeure event or (z) the gross negligence or willful misconduct of VS and its Affiliates.

(c) All claims by VS or any of its Affiliates for loss, damage, destruction or theft of any VS Products during the Service Provider Period must be made in writing within eight (8) months after (i) in the case of damage or destroyed VS Products, the actual date of delivery or (ii) in the case of lost or stolen VS Products, discovery of the applicable loss or theft. All claims will be acknowledged in writing by Service Provider within thirty (30) days of receipt thereof, and will be paid, if not disputed, within sixty (60) days of such receipt. Any proceeding arising from any such claim must be instituted within one (1) year after receipt of Service Provider's written notification of its dispute of such claim. Notwithstanding anything to the contrary in this Agreement, the sole and exclusive remedies available to VS for any VS Products lost, damaged, destroyed or stolen during the Service Provider Period will be the remedies set forth in this Section 4.03 of this Agreement.

Section 4.04. *Reporting and Review Meetings.* (a) Upon VS's reasonable written request, Service Provider shall work in good faith with VS to provide VS with reports regarding the provision and receipt of the Services in a manner substantially similar to the manner in which such reporting was provided to the VS Business immediately prior to the Effective Date; *provided* that, except as expressly set forth herein, Service Provider is not required to provide access to any of its or any of its Affiliates' Confidential Information to VS.

(b) During the Term of this Agreement, VS shall have reasonable access to any shipping building owned or controlled by Service Provider and then-used by Service Provider to provide the Services; *provided* that (i) such access shall take place during normal business hours and following reasonable advance written notice, (ii) VS's access shall be subject to its and its employees and other representatives' compliances with all policies, procedures, rules and regulations applicable to such shipping building (including any and all applicable security and safety policies), (iii) VS shall not be permitted to access any Confidential Information of Service Provider or any of its Affiliates without the prior written consent of Service Provider, (iv) such access shall be limited to the extent necessary for VS to use and receive the Services and (v) Service Provider may without prior notice and without liability to VS, exclude or remove for good cause any VS employee from such shipping building if, in Service Provider's reasonable and good faith opinion, such exclusion or removal is deemed advisable in the interest of Services completion, the safety or security of such shipping building or employees of any Service Provider Party or the confidentiality of any Service Provider Party's Confidential Information.

(c) The Parties agree to hold review meetings (the “**Review Meetings**”) in a manner and frequency mutually agreed upon by the Parties in writing. During the Review Meetings, representatives of VS and of Service Provider shall work together in good faith to review and discuss any operational, strategic or other issues raised by any participant with respect to the provision of the Services hereunder. The Parties shall also review season end results and next season projections. The Parties intend that information exchanged at such Review Meetings shall be in addition to ongoing communication between representatives of VS and Service Provider with respect to the provision of the Services hereunder.

ARTICLE 5
HAZARDOUS MATERIALS AND COMPLIANCE WITH LAWS

Section 5.01. *Hazardous Materials.* Except to the extent VS provides Service Provider with prior written notice otherwise, VS hereby represents and warrants that all VS Products that are transported, shipped, warehoused or otherwise held in the custody of Service Provider on behalf of VS pursuant to this Agreement shall qualify for the U.S. Department of Transportation (DOT) Limited Quantity shipment exception such that no hazardous shipping papers are required.

Section 5.02. *Compliance with Law.* The Parties shall, and shall cause their respective Affiliates and employees to, comply with all Applicable Laws in connection with the provision or receipt of the Services hereunder.

ARTICLE 6
REPRESENTATIONS AND WARRANTIES

Section 6.01. *Representations and Warranties of Service Provider.* Service Provider represents and warrants to VS that:

(a) Service Provider is an entity duly organized, validly existing and in good standing (with respect to jurisdictions that recognize such concept) under the laws of its jurisdiction of organization and has all corporate powers required to carry on its business as now conducted.

(b) The execution, delivery and performance by Service Provider of this Agreement and the consummation of the transactions contemplated hereby by Service Provider are within Service Provider’s corporate powers and have been duly authorized by all necessary corporate action on the part of Service Provider. This Agreement constitutes a valid and binding agreement of Service Provider enforceable against Service Provider in accordance with its terms (subject to applicable bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium and other laws affecting creditors’ rights generally and general principles of equity).

(c) The execution, delivery and performance by Service Provider of this Agreement and the consummation of the transactions contemplated hereby by Service Provider require no action by or in respect of, or filing with, any Governmental Authority other than any such action or filing that has already been taken or made or as to which the failure to make or obtain would not reasonably be expected to materially impede or delay the performance by Service Provider of its obligations hereunder.

Section 6.02. *Representations and Warranties of VS.* VS represents and warrants to Service Provider that:

(a) VS is an entity duly organized, validly existing and in good standing (with respect to jurisdictions that recognize such concept) under the laws of its jurisdiction of organization and has all corporate powers required to carry on its business as now conducted.

(b) The execution, delivery and performance by VS of this Agreement and the consummation of the transactions contemplated hereby by VS are within VS's corporate powers and have been duly authorized by all necessary corporate action on the part of VS. This Agreement constitutes a valid and binding agreement of VS, enforceable against VS in accordance with its terms (subject to applicable bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium and other laws affecting creditors' rights generally and general principles of equity).

(c) The execution, delivery and performance by VS of this Agreement and the consummation of the transactions contemplated hereby by VS require no action by or in respect of, or filing with, any Governmental Authority other than any such action or filing that has already been taken or made or as to which the failure to make or obtain would not reasonably be expected to materially impede or delay the performance by VS of its obligations hereunder.

ARTICLE 7

INDEMNIFICATION; LIMITATION OF LIABILITY

Section 7.01. *Indemnification of Service Provider by VS.* Subject to the terms and conditions herein, VS agrees to and shall indemnify and hold harmless Service Provider and each other Service Provider Party and their respective directors, officers, partners, members, managers, agents and employees (collectively, the "**Service Provider Indemnified Persons**") from and against any and all damage, loss, liability and expense (including, without limitation, reasonable expenses of investigation and reasonable attorneys' fees and expenses in connection with any action, suit or proceeding) (whether involving a Third-Party Claim or a claim solely between the Parties hereto) ("**Damages**") asserted against, incurred or suffered by any Service Provider Indemnified Person or as a result of Damages arising from a claim by a third party, in each case, arising out of or in connection with (A) VS's or any of its Affiliates' breach of this Agreement, (B) any VS Products, (C) the receipt or use of the Services by VS or any of its Affiliates, (D) VS's or any of its Affiliates' violation of Applicable Law, or (E) VS's or any of its Affiliates' gross negligence, fraud or willful misconduct; *provided* that the foregoing indemnification obligation shall not apply to the extent such Damages are caused by (1) a breach of this Agreement by Service Provider, any of its Affiliates or any other Service Provider Party or (2) Service Provider's or any of its Affiliates' or any other Service Provider Party's gross negligence, fraud or willful misconduct.

Section 7.02. *Indemnification of VS by Service Provider.* Subject to the terms and conditions herein, Service Provider agrees to and shall indemnify and hold harmless VS and its directors, officers, partners, members, managers, agents and employees (collectively, the “**VS Indemnified Persons**”) from and against any and all Damages asserted against, incurred or suffered by any VS Indemnified Person or as a result of Damages arising from a claim by a third party, in each case, arising out of or in connection with (a) any Service Provider Party’s breach of this Agreement, (b) any Service Provider Party’s violation of Applicable Law, or (c) Service Provider’s or any of its Affiliates’ or any Service Provider Party’s gross negligence, fraud or willful misconduct; *provided* that the foregoing indemnification obligation shall not apply to the extent such Damages are caused by (i) a breach of this Agreement by VS or any of its Affiliates, (ii) any VS Products, (iii) use of the Services by VS or any of its Affiliates, or (iv) VS’s or any of its Affiliates’ gross negligence, fraud or willful misconduct.

Section 7.03. *Third-Party Claim Procedures.* (a) The Party seeking indemnification under Section 7.01 or Section 7.02, as applicable (the “**Indemnified Party**”), agrees to give prompt notice in writing to the Party against whom indemnity is to be sought (the “**Indemnifying Party**”) of the assertion of any claim or the commencement of any suit, action or proceeding by any third party (“**Third-Party Claim**”) in respect of which indemnity may be sought under such Section. Such notice shall set forth in reasonable detail such Third-Party Claim and the basis for indemnification (taking into account the information then available to the Indemnified Party). The failure to so notify the Indemnifying Party shall not relieve the Indemnifying Party of its obligations hereunder, except to the extent such failure shall have adversely prejudiced the Indemnifying Party.

(b) The Indemnifying Party shall be entitled to participate in the defense of any Third-Party Claim and, subject to the limitations set forth in this Section 7.03, shall be entitled to control and appoint lead counsel for such defense, in each case at its own expense.

(c) If the Indemnifying Party shall assume the control of the defense of any Third-Party Claim in accordance with the provisions of this Section 7.03, the Indemnifying Party shall obtain the prior written consent of the Indemnified Party (which shall not be unreasonably withheld, conditioned or delayed) before entering into any settlement of such Third-Party Claim, if the settlement does not release the Indemnified Party and its Affiliates from all liabilities and obligations with respect to such Third-Party Claim or the settlement imposes injunctive or other equitable relief against the Indemnified Party or any of its Affiliates, and the Indemnified Party shall be entitled to participate in the defense of any Third-Party Claim and to employ separate counsel of its choice for such purpose. The fees and expenses of such separate counsel shall be paid by the Indemnified Party.

(d) Each Party shall cooperate, and cause their respective Affiliates to cooperate, in the defense or prosecution of any Third-Party Claim and shall furnish or cause to be furnished such records, information and testimony, and attend such conferences, discovery proceedings, hearings, trials or appeals, as may be reasonably requested in connection therewith.

Section 7.04. *Direct Claim Procedures.* In the event an Indemnified Party has a claim for indemnity under Section 7.01 or Section 7.02, as applicable, against an Indemnifying Party that does not involve a Third-Party Claim, the Indemnified Party agrees to give prompt notice in writing of such claim to the Indemnifying Party. Such notice shall set forth in reasonable detail such claim and the basis for indemnification (taking into account the information then available to the Indemnified Party). The failure to so notify the Indemnifying Party shall not relieve the Indemnifying Party of its obligations hereunder, except to the extent such failure shall have materially and adversely prejudiced the Indemnifying Party. If the Indemnifying Party does not notify the Indemnified Party within thirty (30) days following the receipt of a notice with respect to any such claim that the Indemnifying Party disputes its indemnity obligation to the Indemnified Party for any Damages with respect to such claim, such Damages shall be conclusively deemed a liability of the Indemnifying Party and the Indemnifying Party shall promptly pay to the Indemnified Party any and all Damages arising out of such claim. If the Indemnifying Party has timely disputed its indemnity obligation for any Damages with respect to such claim, the Parties shall follow the dispute resolution procedures set forth in Section 10.07.

Section 7.05. *Calculation of Damages.* The amount of any Damages payable under Section 7.01 or Section 7.02, as applicable, by the Indemnifying Party shall be net of any amounts recovered by the Indemnified Party under applicable insurance policies or from any other Person alleged to be responsible therefor. If the Indemnified Party receives any amounts under applicable insurance policies, or from any other Person alleged to be responsible for any Damages, subsequent to an indemnification payment by the Indemnifying Party, then such Indemnified Party shall promptly reimburse the Indemnifying Party for any payment made or expense incurred by such Indemnifying Party in connection with providing such indemnification payment up to the amount received by the Indemnified Party, net of any expenses incurred by such Indemnified Party in collecting such amount.

Section 7.06. *Limitation of Liability; Exclusion of Damages.* (a) TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, EXCEPT FOR A PARTY'S BREACH OF ITS CONFIDENTIALITY OBLIGATIONS HEREUNDER OR A PARTY'S GROSS NEGLIGENCE, FRAUD OR WILLFUL MISCONDUCT, NO PARTY HERETO WILL BE LIABLE FOR ANY (i) PUNITIVE, SPECIAL, CONSEQUENTIAL, EXEMPLARY OR TREBLED DAMAGES (IN EACH CASE, EXCEPT TO THE EXTENT PAYABLE TO A THIRD PARTY IN RESPECT OF A THIRD-PARTY PROCEEDING BASED ON A FINAL JUDGMENT OF A COURT OF COMPETENT JURISDICTION) OR (ii) LOST PROFITS, DIMINUTION IN VALUE, MULTIPLE-BASED OR OTHER DAMAGES CALCULATED BASED ON A MULTIPLE OF ANOTHER FINANCIAL MEASURE, IN EACH CASE, ARISING OUT OF OR RELATING TO THIS AGREEMENT EVEN IF THE OTHER PARTY HAD BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

(b) NOTWITHSTANDING ANYTHING ELSE HEREIN TO THE CONTRARY, EXCEPT FOR ANY FEES PAYABLE BY VS TO SERVICE PROVIDER IN ACCORDANCE WITH THIS AGREEMENT FOR THE SERVICES HEREUNDER OR A PARTY'S GROSS NEGLIGENCE, FRAUD OR WILLFUL MISCONDUCT, AND SUBJECT TO SECTION 4.03, THE MAXIMUM AGGREGATE LIABILITY OF EACH PARTY UNDER OR IN CONNECTION WITH THIS AGREEMENT IN ANY CALENDAR YEAR SHALL NOT EXCEED AND SHALL BE LIMITED TO \$7,500,000.

ARTICLE 8
CONFIDENTIALITY

Section 8.01. *Confidential Information.* Except as expressly permitted hereunder, from and after the Effective Date, each Party ("**Receiving Party**") shall hold, and cause its respective directors, officers, employees, agents, consultants and advisors to hold, in confidence all Confidential Information of the other Party ("**Disclosing Party**") and shall not, without the prior written consent of the Disclosing Party, disclose or use any Confidential Information of the Disclosing Party. Nothing in this Section 8.01 shall limit any other confidentiality obligations among the Parties to this Agreement pursuant to any other agreement between or among such Parties or any of their Affiliates.

Section 8.02. *No Rights to Confidential Information.* Each Party acknowledges that it will not acquire any right, title or interest in or to any Confidential Information of the other Party by reason of this Agreement or the provision or receipt of the Services hereunder.

Section 8.03. *Safeguards.* Each Receiving Party agrees to establish and maintain administrative, physical and technical safeguards, information technology and data security procedures and other protections against the destruction, loss, unauthorized access or alteration of the Disclosing Party's Confidential Information which are no less rigorous than those otherwise maintained for its own Confidential Information.

Section 8.04. *Permitted Disclosures.* Notwithstanding Section 8.01, (a) the Receiving Party may disclose the Confidential Information (i) to any of its employees, contractors, suppliers, agents and other representatives who need it in connection with this Agreement and are bound in writing by reasonable restrictions regarding disclosure and use of the Confidential Information or (ii) to the extent such disclosure is in response to a valid order of a court or other Governmental Authority or to otherwise comply with Applicable Law; *provided* that, in the case of clause (ii), the Receiving Party shall first give notice to the Disclosing Party and reasonably cooperate with the Disclosing Party to obtain a protective order or other measures preserving the confidential treatment of such Confidential Information and requiring that the information or documents so disclosed be used only for the purposes for which the order was issued or as otherwise required by Applicable Law and (b) each Party may disclose the terms and conditions of this Agreement (i) in confidence, to its accountants, banks and present and prospective financing sources and their advisors, (ii) in connection with the enforcement of this Agreement or rights under this Agreement, (iii) in confidence, in connection with an actual or proposed merger, acquisition or similar transaction involving such Party, (iv) in confidence, to its Affiliates, (v) in confidence, to its third-party contractors who have a need to know, solely in connection with their provision of Services to VS hereunder, (vi) as required by applicable securities laws or the rules of any stock exchange on which securities of such Party are traded or any other Applicable Law; *provided* that prior to making any such disclosure, such Party shall provide written notice to the other Party regarding the nature and extent of the disclosure to enable the other Party to seek to obtain confidential treatment, to the extent available, for such Confidential Information, or (vii) as mutually agreed upon by the Parties in writing.

ARTICLE 9 TERM AND TERMINATION

Section 9.01. *Term.* The term of this Agreement (the “**Term**”) shall commence on the Effective Date and remain in effect for an initial term of three (3) years, and shall thereafter automatically renew for successive one (1) year terms unless earlier terminated pursuant to Sections 9.02 or 9.03 below.

Section 9.02. *Termination for Convenience.* (a) VS may, at any time during the Term and for any reason, terminate this Agreement by giving at least eighteen (18) months’ prior written notice of such termination to Service Provider.

(b) Service Provider may, at any time during the Term and for any reason, terminate this Agreement by giving at least thirty-six (36) months’ prior written notice of such termination to VS; *provided* that (i) Service Provider may not establish a termination date pursuant to this Section 9.02(b) between October 1st of any calendar year and the last day of February of the following calendar year and (ii) Service Provider may not provide such notice to VS prior to January 1, 2022.

Section 9.03. *Termination for Material Breach.* Either Party may terminate this Agreement immediately upon written notice to the other Party if the other Party materially breaches this Agreement (including, for VS, upon a failure to make any required and undisputed payment hereunder pursuant to Section 3.02) and such breach is incapable of being cured or has not been cured within thirty (30) calendar days after the breaching Party receives notice of such breach; *provided, however*, that, in the event that a material breach of this Agreement is not cured by the breaching Party after thirty (30) calendar days despite the breaching Party’s good faith efforts to cure such breach, the period for cure hereunder shall be extended for an additional thirty (30) calendar days or such other longer period as reasonably agreed by the Parties in writing. Any termination of this Agreement shall be without prejudice to any other rights and remedies any Party may have pursuant to Applicable Law, in equity or otherwise.

Section 9.04. *Effect of Termination.* Other than as required by Applicable Law, upon termination of this Agreement, Service Provider shall have no further obligation to provide any Services to VS and VS shall have no obligation to make any payments relating to the Services; *provided that*, notwithstanding such termination, VS shall remain liable to Service Provider for any Fees incurred prior to the effective date of the termination of this Agreement. Notwithstanding any termination pursuant to Sections 9.02 or 9.03, Section 3.05, Section 4.03(b), Section 4.03(c), Article 7, Article 8, this Section 9.04 and Article 10 shall survive any such termination.

ARTICLE 10
MISCELLANEOUS

Section 10.01. *Waiver.* Any provision of this Agreement may be waived, but only if such waiver is in writing and signed by the waiving Party. No such waiver shall in any event be deemed a waiver of any subsequent default under the same or any other term or provision contained herein. No failure or delay by any Party in exercising any right, power or privilege hereunder shall operate as a waiver thereof.

Section 10.02. *Entire Agreement; Amendments.* This Agreement and the Schedules attached hereto, together with the Separation Agreement, set forth the entire understanding between the Parties concerning the subject matter of this Agreement and incorporate all prior negotiations and understandings. There are no covenants, promises, agreements, conditions or understandings, either oral or written, between the Parties relating to the subject matter of this Agreement other than those set forth herein. No representation or warranty has been made by or on behalf of either Party to this Agreement (or any officer, director, employee or agent thereof) to induce the other Party to enter into this Agreement or to abide by or consummate any transactions contemplated by any terms of this Agreement except representations and warranties, if any, expressly set forth herein. No alteration, amendment, change or addition to this Agreement shall be binding upon either Party unless in writing and signed by both Parties.

Section 10.03. *No Partnership.* (a) Nothing contained in this Agreement shall be deemed or construed by the Parties or by any third person to create the relationship of employee and employer, principal and agent or of partnership or of joint venture. Subject to the provisions of this Agreement, including each Party's indemnification obligations under Sections 7.01 and 7.02, VS assumes full responsibility for, and Service Provider will have no liability with respect to, VS's employees or agents and Service Provider assumes full responsibility for, and VS will have no liability with respect to, Service Provider's employees or agents.

(b) Nothing in this Agreement shall establish or be deemed to establish any fiduciary relationship between the Parties, and each Party acknowledges and agrees that neither Party shall have authority or power to bind the other Party or any of its Affiliates or to contract in the name of, or create a liability against, the other Party or any of its Affiliates in any way or for any purpose, to accept any service of process upon the other Party or any of its Affiliates or to receive any notices of any kind on behalf of the other Party or any of its Affiliates. The Parties' respective rights and obligations hereunder shall be limited to the contractual rights and obligations expressly set forth herein on the terms and conditions set forth herein.

Section 10.04. *Successors.* Each and all of the provisions of this Agreement shall be binding upon and inure to the benefit of the Parties and, except as otherwise specifically provided in this Agreement, their respective successors and permitted assigns.

Section 10.05. *Notices.* All notices, requests and other communications to any Party hereunder shall be in writing (including electronic mail (“**e-mail**”) transmission, so long as a receipt of such e-mail is requested and received) and shall be given,

If to Service Provider:
Mast Logistics Services, LLC
Address: Two Limited Parkway
Columbus, OH 43230
Attn: Bruce Mosier
Email: BMosier@bbw.com

With a copy to:

L Brands, Inc.
Three Limited Parkway
Columbus, OH 43230
Attn: Chief Legal Officer

If to VS:

Victoria’s Secret & Co.
4 Limited Parkway East
Reynoldsburg, Ohio 43068
Attention: Paul Marshall
Email: PMarshall@Victorias.com

With a copy to:

Victoria’s Secret & Co.
4 Limited Parkway East
Reynoldsburg, Ohio 43068
Attn: Chief Legal Officer

or such other address or facsimile number as such Party may hereafter specify for the purpose by notice to the other Parties hereto. All such notices, requests and other communications shall be deemed received on the date of receipt by the recipient thereof if received prior to 5:00 p.m. in the place of receipt and such day is a business day in the place of receipt. Otherwise, any such notice, request or communication shall be deemed not to have been received until the next succeeding business day in the place of receipt.

Section 10.06. *Force Majeure*. Neither Party shall be held liable or responsible to the other Party, nor be deemed to have defaulted under or breached this Agreement for failure or delay in fulfilling or performing any term of this Agreement, when such failure or delay is caused by or results from matters or events beyond the reasonable control of the affected Party, including, but not limited to, strikes, lockouts or other labor difficulties; fires, floods, acts of God, extremes of weather, earthquakes, tornadoes, or similar occurrences; riot, insurrection or other hostilities; embargo; fuel or energy shortage; delays by unaffiliated suppliers or carriers; inability to obtain necessary labor, materials or utilities; or any epidemic, pandemic or disease outbreak (including COVID-19) or worsening thereof (collectively, “**Force Majeure**”); *provided, however*, it is understood that (a) this Section 10.06 only operates to suspend, and not to discharge, a Party’s obligations under this Agreement, and that when the causes of the failure or delay are removed or alleviated, the affected Party shall resume performance of its obligations hereunder and (b) this Section 10.06 shall not excuse a Party’s obligation to pay money; *provided* that VS shall not be obligated to pay for any particular Service during the pendency of Service Provider’s failure to provide such particular Service on account of such Force Majeure event. A Party that is unable to fulfill its obligations due to any Force Majeure event shall (i) use its good faith efforts to, promptly after the occurrence thereof, give notice to the other Party with details of such event and (ii) work diligently and use its commercially reasonable efforts to remedy such event as promptly as practicable, including, in the case of Service Provider, using other distribution centers to the extent reasonably practicable during the duration of such occurrence. If Service Provider is unable to provide any of the Services due to Force Majeure, both Parties shall work together in good faith and exert commercially reasonable efforts to cooperatively seek a solution that is mutually satisfactory. VS and Service Provider shall work together in good faith to establish a mutually agreeable business continuity plan which specifies the manner in which Services will be provided in the event of a Force Majeure.

Section 10.07. *Dispute Resolution*. (a) With respect to matters under this Agreement requiring dispute resolution (each, a “**Dispute**”), the disputing Party shall notify the other Party of such Dispute in writing and, upon the non-disputing Party’s receipt of such written notice, the Parties shall attempt to resolve such Dispute in good faith within thirty (30) days of such receipt, and if the Parties are unable to resolve such Dispute in such thirty (30) day period, then the Parties shall escalate such Dispute to each party’s Chief Financial Officer for resolution.

(b) If the Parties’ Chief Financial Officers are unable to resolve such Dispute within thirty (30) days following such receipt of such notice, then either Party shall initiate a non-binding mediation by providing written notice (“**Mediation Notice**”) to the other party hereto within five (5) business days following the expiration of such thirty (30) day period.

(c) Upon receipt of a Mediation Notice, the applicable Dispute shall be submitted within five (5) business days following such receipt of such Mediation Notice for non-binding mediation conducted in accordance with the Commercial Mediation Rules of the American Arbitration Association (“**Arbitration Association**”), and the Parties agree to bear equally the costs of such mediation (including any fees or expenses of the applicable mediator); *provided, however*, that each Party shall bear its own costs in connection with participating in such mediation. The Parties agree to participate in good faith in such mediation for a period of forty-five (45) days or such longer period as the Parties may mutually agree following receipt of such Mediation Notice (the “**Mediation Period**”).

(d) In connection with such mediation, the Parties shall cooperate with the Arbitration Association and with one another in selecting a neutral mediator with relevant industry experience and in scheduling the mediation proceedings during the applicable Mediation Period. If the Parties are unable to agree on a neutral mediator within five (5) business days of submitting a Dispute for mediation pursuant to Section 10.07(c), application shall be made by the Parties to the Arbitration Association for the Arbitration Association to select and appoint a neutral mediator on the Parties' behalf in accordance with the Commercial Mediation Rules of the Arbitration Association.

(e) The Parties further agree that all information, whether oral or written, provided in the course of any such mediation by either Party, their agents, employees, experts and attorneys, and by the applicable mediator and any employees of the mediation service, is confidential, privileged, and inadmissible for any purpose, including impeachment, in any action, suit or proceeding involving the Parties; *provided* that any such information that is otherwise admissible or discoverable shall not be rendered inadmissible or non-discoverable as a result of its use in such mediation.

(f) If the Parties cannot resolve the Dispute for any reason, on and following the expiration of the Mediation Period, either Party may commence litigation in a court of competent jurisdiction pursuant to the provisions of Section 10.08(b). Nothing contained in this Agreement shall deny either Party the right to seek injunctive or other equitable relief from a court of competent jurisdiction in the context of a bona fide emergency or prospective irreparable harm, and such an action, suit or proceeding may be filed and maintained notwithstanding any ongoing efforts under this Section 10.07.

Section 10.08. *Governing Law and Jurisdiction.* (a) This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware, without regard to the conflicts of law rules of such state.

(b) The Parties agree that any suit, action or proceeding seeking to enforce any provision of, or based on any matter arising out of or in connection with, this Agreement or the transactions contemplated hereby shall be brought in the Chancery Court of the State of Delaware and any state appellate court therefrom within the State of Delaware (or if the Chancery Court of the State of Delaware declines to accept jurisdiction over a particular matter, any federal or state court sitting in the State of Delaware and any federal or state appellate court therefrom), and each of the Parties hereby irrevocably consents to the exclusive jurisdiction of such courts in any such suit, action or proceeding and irrevocably waives, to the fullest extent permitted by law, any objection that it may now or hereafter have to the laying of the venue of any such suit, action or proceeding in any such court or that any such suit, action or proceeding brought in any such court has been brought in an inconvenient forum. Process in any such suit, action or proceeding may be served on either Party anywhere in the world, whether within or without the jurisdiction of any such court. Without limiting the foregoing, each Party hereto agrees that service of process on such Party as provided in Section 10.05 shall be deemed effective service of process on such Party.

Section 10.09. *Waiver of Jury Trial.* EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

Section 10.10. *Specific Performance.* The Parties acknowledge and agree that damages for a breach or threatened breach of any of the provisions of this Agreement would be inadequate and irreparable harm would occur. In recognition of this fact, each Party agrees that, if there is a breach or threatened breach, in addition to any damages, the other non-breaching Party to this Agreement, without posting any bond, shall be entitled to seek and obtain equitable relief in the form of specific performance, temporary restraining order, temporary or permanent injunction, attachment, or any other equitable remedy which may then be available to obligate the breaching Party (i) to perform its obligations under this Agreement or (ii) if the breaching Party is unable, for whatever reason, to perform those obligations, to take any other actions as are necessary, advisable or appropriate to give the other Party to this Agreement the economic effect which comes as close as possible to the performance of those obligations.

Section 10.11. *Severability.* If any term, provision, covenant or restriction of this Agreement is held by a court of competent jurisdiction or other Governmental Authority to be invalid, void or unenforceable, the remainder of the terms, provisions, covenants and restrictions of this Agreement shall remain in full force and effect and shall in no way be affected, impaired or invalidated so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to any Party hereto. Upon such a determination, the Parties shall negotiate in good faith to modify this Agreement so as to effect the original intent of the Parties as closely as possible in an acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the fullest extent possible.

Section 10.12. *Counterparts; Effectiveness; Third-Party Beneficiaries.* This Agreement may be executed in any number of counterparts, each of which when executed by the Parties shall be deemed an original, with the same effect as if the signatures thereto and hereto were upon the same instrument, and all of which together shall be deemed the same Agreement. This Agreement shall become effective when each Party shall have received a counterpart hereof signed by the other Party. Until and unless each Party has received a counterpart hereof signed by the other Party, this Agreement shall have no effect and no Party shall have any right or obligation hereunder (whether by virtue of any other oral or written agreement or other communication). Except for the indemnification and release provisions of Article 7, neither this Agreement nor any provision hereof is intended to confer any rights, benefits, remedies, obligations or liabilities hereunder upon any person other than the Parties and their respective successors and assigns.

Section 10.13. *Assignment.* Neither this Agreement nor any right, remedy, obligations or liability arising hereunder or by reason hereof nor any of the documents executed in connection herewith may be assigned by any Party without the prior written consent of the other Party, which consent may be granted or withheld in the sole discretion of such other Party. Notwithstanding the foregoing, either Party may assign or transfer this Agreement and all of its rights and obligations hereunder to an Affiliate or to any third party that acquires all or substantially all of such Party's assets or business to which this Agreement relates (whether by sale of assets, stock, merger, consolidation, reorganization or otherwise); *provided* that this Agreement and the Services shall not apply to any other business of such third-party acquirer.

Section 10.14. *Authorization.* It is agreed and warranted by the Parties that the persons signing this Agreement respectively for VS and Service Provider are the authorized representatives to sign this Agreement on behalf of each such Party.

Section 10.15. *Headings; Interpretation and Construction.* The captions and headings to Sections of this Agreement are inserted for convenience of reference only and in no way define, limit or describe the scope of this Agreement or the meaning of any provisions of this Agreement. The words "include," "includes," "including" and "such as" are deemed to be followed by the phrase ", without limitation," whether or not they are in fact followed by those words or words of like import. The words "hereof," "herein" and "hereunder" and words of like import used in this Agreement shall refer to this Agreement as a whole and not to any particular provision of this Agreement. All references to "\$" or "dollars" shall be to United States dollars, and whenever conversion of values to or from any currency other than U.S. dollars for a particular date shall be required, such conversion shall be made using the closing rate provided by Bloomberg as of the date that is one (1) business day prior to such date. All references to "days" shall be to calendar days unless otherwise specified. Any reference to the masculine, feminine or neuter gender shall include such other genders, and references to the singular or plural shall include the other, in each case unless the context otherwise requires. "Writing," "written" and comparable terms refer to printing, typing and other means of reproducing words (including electronic media) in a visible form. References to any statute shall be deemed to refer to such statute as amended from time to time and to any rules or regulations promulgated thereunder. References to any agreement or contract are to that agreement or contract as amended, modified or supplemented from time to time in accordance with the terms hereof and thereof. References to any Person include the successors and permitted assigns of that Person. References from or through any date mean, unless otherwise specified, from and including or through and including, respectively. References to "law," "laws" or to a particular statute or law shall be deemed also to include any and all Applicable Law. The word "or" means "and/or" unless the context provides otherwise. References to Sections and Schedules are to Sections and Schedules of this Agreement unless otherwise specified. The Schedules hereto shall be deemed to be incorporated in, and an integral part of, this Agreement. Any capitalized terms used in any Schedule but not otherwise defined therein, shall have the meaning as defined in this Agreement. In the event of any conflict or inconsistency between the terms and conditions of this Agreement and the terms and conditions of any of the Schedules, the terms and conditions of the Schedules shall prevail to resolve any inconsistency.

[Signature Page Follows]

The Parties have duly executed this Agreement by their authorized representatives as of the Effective Date.

MAST LOGISTICS SERVICES, LLC, a Delaware limited liability company

By: /s/ Bruce Mosier

Name: Bruce Mosier

Title: Executive Vice President, Logistics

VICTORIA'S SECRET & CO., a Delaware corporation

By: /s/ Tim Johnson

Name: Tim Johnson

Title: Chief Financial Officer

FIRST LIEN CREDIT AGREEMENT

Dated as of August 2, 2021

among
VICTORIA'S SECRET & CO.,
as the Company,

THE FINANCIAL INSTITUTIONS PARTY HERETO,
as Lenders,

and

JPMORGAN CHASE BANK, N.A.,
as Administrative Agent

JPMORGAN CHASE BANK, N.A., GOLDMAN SACHS BANK USA, BANK OF AMERICA, N.A., CITIBANK, N.A., HSBC SECURITIES (USA)
INC., WELLS FARGO SECURITIES, LLC and BARCLAYS BANK PLC,
as Joint Lead Arrangers and Joint Bookrunners

and

GOLDMAN SACHS BANK USA, BANK OF AMERICA, N.A., CITIBANK, N.A., HSBC BANK USA, N.A., WELLS FARGO SECURITIES, LLC and
BARCLAYS BANK PLC,
as Co-Syndication Agents

and

KEYBANK NATIONAL ASSOCIATION, MIZUHO BANK, LTD., THE HUNTINGTON NATIONAL BANK, U.S. BANK NATIONAL ASSOCIATION
and MUFG UNION BANK, N.A.,
as Co-Documentation Agents

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FIRST LIEN CREDIT AGREEMENT

FIRST LIEN CREDIT AGREEMENT, dated as of August 2, 2021 (this “**Agreement**”), by and among Victoria’s Secret & Co., a Delaware corporation (the “**Company**”), as the borrower hereunder, the Lenders from time to time party hereto, and JPMorgan Chase Bank, N.A, in its capacities as administrative agent and collateral agent for the Lenders (in such capacities, the “**Administrative Agent**”).

RECITALS

A. The Company has requested that the Term Lenders extend credit in the form of Initial Term Loans in an original aggregate principal amount equal to \$400,000,000.

B. On July 15, 2021, the Company issued and sold senior unsecured notes due 2029 in an aggregate principal amount of \$600,000,000 (the “**Senior Notes**”).

C. The Company will use the proceeds from the Initial Term Loans, together with the proceeds of the Senior Notes and the ABL Facility, directly or indirectly, to pay the Closing Date Payment and to pay Transaction Costs.

D. The Lenders are willing to extend such credit on the terms and subject to the conditions set forth herein. Accordingly, the parties hereto agree as follows:

ARTICLE 1 DEFINITIONS

SECTION 1.01. Defined Terms. As used in this Agreement, the following terms have the meanings specified below:

“**ABL Collateral Agent**” has the meaning set forth in the ABL Intercreditor Agreement.

“**ABL Credit Agreement**” means the Revolving Credit Agreement, dated as of the Closing Date, among, inter alios, the Company, certain subsidiaries party thereto, JPMorgan Chase Bank, N.A., as administrative agent and collateral agent and the lenders from time to time party thereto, as amended, restated, supplemented, waived or otherwise modified from time to time or refunded, refinanced, restructured, replaced, renewed, repaid, increased or extended from time to time (whether in whole or in part, whether with the original administrative agent and lenders or other agents and lenders or otherwise, and whether provided under the original ABL Credit Agreement or other credit agreements or otherwise), except to the extent such agreement, instrument or document expressly provides that it is not intended to be and is not an ABL Credit Agreement. Any references to the ABL Credit Agreement hereunder shall be deemed a reference to each ABL Credit Agreement then in existence.

“**ABL Facility**” means the collective reference to the ABL Credit Agreement, any Loan Documents (as defined therein), any notes and letters of credit issued pursuant thereto and any guarantee and collateral agreement, letter of credit applications and other guarantees, pledge agreements, security agreements (including Intellectual Property Security Agreements) and collateral documents, and other instruments and documents, executed and delivered pursuant to or in connection with any of the foregoing, in each case as the same may be amended, supplemented, waived or otherwise modified from time to time, or refunded, refinanced, restructured, replaced, renewed, repaid, increased or extended from time to time (whether in whole or in part, whether with the original agent and lenders or other agents and lenders or otherwise, and whether provided under the original ABL Credit Agreement or one or more other credit agreements, indentures or financing agreements or otherwise) except to the extent such agreement, instrument or document expressly provides that it is not intended to be and is not an ABL Facility. Without limiting the generality of the foregoing, the term “ABL Facility” shall include any agreement (i) changing the maturity of any Indebtedness Incurred thereunder or contemplated thereby, (ii) adding Subsidiaries of the Company as additional borrowers or guarantors thereunder, (iii) increasing the amount of Indebtedness Incurred thereunder or available to be borrowed thereunder or (iv) otherwise altering the terms and conditions thereof.

“**ABL Incremental Debt**” has the meaning given to the term “Incremental Revolving Loans” in the ABL Credit Agreement (or any equivalent term under any ABL Facility).

“**ABL Intercreditor Agreement**” means the ABL Intercreditor Agreement dated as of August 2, 2021, among the Administrative Agent and the ABL Collateral Agent, and acknowledged by the grantors from time to time party thereto, as amended, restated, supplemented or otherwise modified from time to time.

“**ABL Priority Collateral**” has the meaning assigned to such term in the ABL Intercreditor Agreement.

“**ABR**”, when used in reference to any Loan or Borrowing, refers to whether such Loan, or the Loans comprising such Borrowing, bears interest at a rate determined by reference to the Alternate Base Rate.

“**Acceptable Intercreditor Agreement**” means the ABL Intercreditor Agreement, a Market Intercreditor Agreement, or another intercreditor agreement that is reasonably satisfactory to the Administrative Agent (which may, if applicable, consist of a payment “waterfall”).

“**ACH**” means automated clearing house transfers.

“**Acquired Indebtedness**” means Indebtedness of a Person (i) existing at the time such Person becomes a Subsidiary or (ii) assumed in connection with the acquisition of assets from such Person, in each case other than Indebtedness Incurred in connection with, or in contemplation of, such Person becoming a Subsidiary or such acquisition. Acquired Indebtedness shall be deemed to be Incurred on the date of the related acquisition of assets from any Person or the date the acquired Person becomes a Subsidiary.

“**Additional Assets**” means (i) any property or assets that replace the property or assets that are the subject of an Asset Disposition; (ii) any property or assets (other than Indebtedness and Capital Stock) used or to be used by the Company or a Restricted Subsidiary or otherwise useful in a Related Business, and any capital expenditures in respect of any property or assets already so used; (iii) the Capital Stock of a Person that is engaged in a Related Business and becomes a Restricted Subsidiary as a result of the acquisition of such Capital Stock by the Company or another Restricted Subsidiary; or (iv) Capital Stock of any Person that at such time is a Restricted Subsidiary acquired from a third party.

“**Additional Commitment**” means any commitment hereunder added pursuant to Sections 2.22, 2.23 or 9.02(b).

“**Additional Credit Facilities**” means any credit facilities added pursuant to Sections 2.22, 2.23 or 9.02(b).

“**Additional Lender**” has the meaning assigned to such term in Section 2.22(b).

“**Additional Loans**” means any Additional Term Loans.

“Additional Non-ABL Secured Debt Obligations” means any Obligations secured by a Lien on the Non-ABL Priority Collateral and by a Lien on the ABL Priority Collateral, in each case that ranks pari passu as to priority (but without regard to control of remedies) with the Lien on such Collateral securing the Obligations hereunder (including the Subsidiary Guarantees), and that are permitted to be incurred and permitted to be so secured by this Agreement.

“Additional Term Loan Commitments” means any term loan commitment added hereunder pursuant to Sections 2.22, 2.23 or 9.02(b)(i).

“Additional Term Loans” means any term loan added hereunder pursuant to Section 2.22, 2.23 or 9.02(b)(i).

“Adjusted LIBO Rate” means, with respect to any LIBO Rate Borrowing for any Interest Period, an interest rate per annum (rounded upwards, if necessary, to the next 1/100 of 1%) equal to (a) the LIBO Rate for such Interest Period multiplied by (b) the Statutory Reserve Rate; provided that, notwithstanding the foregoing, the Adjusted LIBO Rate shall at no time be less than 0.50% per annum.

“Administrative Agent” means JPMorgan Chase Bank, N.A., in its capacity as administrative agent for the Lenders hereunder, and its Affiliates in such capacity.

“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 U.K. Financial Institution.

“Affiliate” of any specified Person means any other Person, directly or indirectly, controlling or controlled by or under direct or indirect common control with such specified Person. For the 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.

“Affiliated Lender” means the Company and/or any of its Restricted Subsidiaries.

“Affiliated Lender Assignment and Assumption” means an assignment and assumption entered into by a Lender and an Affiliated Lender (with the consent of any party whose consent is required by Section 9.05) and accepted by the Administrative Agent in the form of Exhibit A-2 or any other form approved by the Administrative Agent and the Company.

“Agents” means the Administrative Agent and the Collateral Agent.

“Agreement” has the meaning assigned to such term in the preamble to this Credit Agreement.

“Alternate Base Rate” means, for any day, a rate per annum equal to the greatest of (a) the Prime Rate in effect on such day, (b) the NYFRB Rate in effect on such day plus ½ of 1% per annum and (c) the Adjusted LIBO Rate on such day (or if such day is not a Business Day, the immediately preceding Business Day) for a deposit in dollars with a maturity of one month plus 1% per annum; provided, that for purposes of this definition, the Adjusted LIBO Rate for any day shall be based on the LIBO Screen Rate on such day for deposits in dollars with a maturity of one month (or, if the LIBO Screen Rate is not available for such one month maturity, the Interpolated Rate) at approximately 11:00 a.m., London time. Any change in the Alternate Base Rate due to a change in the Prime Rate, the NYFRB Rate or the Adjusted LIBO Rate shall be effective from and including the effective date of such change in the Prime Rate, the NYFRB Rate or the Adjusted LIBO Rate, respectively. If the Alternate Base Rate is being used as an alternate rate of interest pursuant to Section 2.14 (for the avoidance of doubt, only until the applicable Benchmark Replacement has been determined pursuant to Section 2.14(b)), then for purposes of clause (c) above the Adjusted LIBO Rate shall be deemed to be 0.50%.

“**Amendment**” has the meaning assigned to such term in Section 6.03(iii).

“**Anti-Corruption Laws**” means FCPA, the U.K. Bribery Act 2010 and all other laws, rules and regulations of any jurisdiction concerning or relating to bribery, corruption or money laundering, in each case to the extent applicable to the Company and its Subsidiaries.

“**Applicable Administrative Agent**” means (i) with respect to ABL Priority Collateral, the ABL Collateral Agent (or other analogous term in another Acceptable Intercreditor Agreement, as applicable), (ii) with respect to Term Loan Priority Collateral, the Term Collateral Representative (as defined in the ABL Intercreditor Agreement) (or other analogous term in another Acceptable Intercreditor Agreement, as applicable) or (iii) if at any time there is no Intercreditor Agreement or other intercreditor agreement as described in the definition of Acceptable Intercreditor Agreement then in effect, the Administrative Agent.

“**Applicable Charges**” has the meaning assigned to such term in Section 9.19.

“**Applicable Percentage**” means, with respect to any Term Lender of any Class, a percentage equal to a fraction the numerator of which is the aggregate outstanding principal amount of the Term Loans and unused Additional Term Loan Commitments of such Term Lender under such Class and the denominator of which is the aggregate outstanding principal amount of the Term Loans and unused Additional Term Loan Commitments of all Term Lenders under such Class.

“**Applicable Price**” has the meaning assigned to such term in the definition of “Dutch Auction”.

“**Applicable Rate**” means, for any day, with respect to the Initial Term Loans, (x) with respect to ABR Loans, 2.25% per annum and (y) with respect to LIBO Rate Loans 3.25% per annum. The Applicable Rate for any Class of Additional Term Loans shall be as set forth in the applicable Refinancing Amendment, Incremental Facility Amendment or Extension Amendment.

“**Approved Commercial Bank**” means a commercial bank with a consolidated combined capital and surplus of at least \$5,000,000,000.

“**Approved Fund**” means any Person (other than a natural person) that is engaged in making, purchasing, holding or investing in bank loans and similar extensions of credit in the ordinary course of its business and that is administered or managed by a Lender, an Affiliate of a Lender or an entity or an Affiliate of an entity that administers or manages a Lender.

“**Arrangers**” means the financial institutions listed as such on the cover page to this Agreement, in their capacities as such.

“Asset Disposition” means any sale, lease, transfer or other disposition of shares of Capital Stock of a Restricted Subsidiary (other than directors’ qualifying shares, or (in the case of a Foreign Subsidiary) to the extent required by applicable law), property or other assets (each referred to for the purposes of this definition as a “disposition”) by the Company or any of its Restricted Subsidiaries (including any disposition by means of a merger, consolidation or similar transaction) other than (i) a disposition to the Company or a Restricted Subsidiary, (ii) a disposition in the ordinary course of business, (iii) a disposition of Cash Equivalents, Investment Grade Securities or Temporary Cash Investments, (iv) the sale or discount (with or without recourse, and on customary or commercially reasonable terms, as determined by the Company in good faith) of accounts receivable or notes receivable arising in the ordinary course of business, or the conversion or exchange of accounts receivable for notes receivable, (v) any Restricted Payment Transaction, (vi) a disposition that is governed by Section 6.08, (vii) any Financing Disposition, (viii) any “fee in lieu” or other disposition of assets to any Governmental Authority that continue in use by the Company or any Restricted Subsidiary, so long as the Company or any Restricted Subsidiary may obtain title to such assets upon reasonable notice by paying a nominal fee, (ix) any exchange of property pursuant to or intended to qualify under Section 1031 (or any successor section) of the Code, or any exchange of equipment to be leased, rented or otherwise used in a Related Business, (x) any financing transaction with respect to property built or acquired by the Company or any Restricted Subsidiary after the Closing Date, including without limitation any sale/leaseback transaction or asset securitization, (xi) any disposition arising from foreclosure, condemnation, eminent domain or similar action with respect to any property or other assets, or exercise of termination rights under any lease, license, sublicense, concession or other agreement, or necessary or advisable (as determined by the Company in good faith) in order to consummate any acquisition of any Person, business or assets, or pursuant to buy/sell arrangements under any joint venture or similar agreement or arrangement, or of non-core assets acquired in connection with any acquisition of any Person, business or assets or any Investment, (xii) any disposition of Capital Stock, Indebtedness or other securities of an Unrestricted Subsidiary, (xiii) a disposition of Capital Stock of a Restricted Subsidiary pursuant to an agreement or other obligation with or to a Person (other than the Company or a Restricted Subsidiary) from whom such Restricted Subsidiary was acquired, or from whom such Restricted Subsidiary acquired its business and assets (having been newly formed in connection with such acquisition), entered into in connection with such acquisition, (xiv) a disposition of not more than 5.0% of the outstanding Capital Stock of a Foreign Subsidiary that has been approved by the Board of Directors, (xv) any disposition or series of related dispositions for aggregate consideration not to exceed \$25.0 million, (xvi) any Exempt Sale and Leaseback Transaction, (xvii) the assignment, sale, transfer, lapse, abandonment (including failure to maintain) or other disposition of any Patents, Trademarks, Copyrights or other intellectual property that are, in the good faith judgment of the Company, no longer economically practicable to maintain or useful in the conduct of the business of the Company and its Subsidiaries taken as a whole, (xviii) any license, sublicense, covenant not to sue or other grant of rights in or to any Patents, Trademarks, Copyrights or other intellectual property, or (xix) the creation or granting of any Lien permitted under this Agreement.

“Assignment Agreement” means, collectively, each Assignment and Assumption and each Affiliated Lender Assignment and Assumption.

“Assignment and Assumption” means an assignment and assumption entered into by a Lender and an Eligible Assignee (with the consent of any party whose consent is required by Section 9.05), and accepted by the Administrative Agent, in the form of Exhibit A or any other form approved by the Administrative Agent and the Company.

“ASU” has the meaning assigned to such term in Section 1.04(c).

“Available Tenor” means, as of any date of determination and with respect to the then-current Benchmark, as applicable, any tenor for such Benchmark or payment period for interest calculated with reference to such Benchmark, as applicable, that is or may be used for determining the length of an Interest Period pursuant to this Agreement 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 clause (f) of Section 2.14.

“**Auction**” has the meaning assigned to such term in the definition of “Dutch Auction”.

“**Auction Agent**” means (a) the Administrative Agent or any of its Affiliates or (b) any other financial institution or advisor engaged by the Company (whether or not an Affiliate of the Administrative Agent) to act as an arranger in connection with any Auction pursuant to the definition of “Dutch Auction”.

“**Auction Amount**” has the meaning assigned to such term in the definition of “Dutch Auction”.

“**Auction Notice**” has the meaning assigned to such term in the definition of “Dutch Auction”.

“**Auction Party**” has the meaning assigned to such term in the definition of “Dutch Auction”.

“**Auction Response Date**” has the meaning assigned to such term in the definition of “Dutch Auction”.

“**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, regulation, rule 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).

“**Bank Products Agreement**” means any agreement pursuant to which a bank or other financial institution agrees to provide cash management services or facilities, including: (a) ACH transactions, (b) controlled disbursement services, treasury, depository, overdraft, and electronic funds transfer services, (c) credit card processing services, (d) purchase cards and (e) credit or debit cards.

“**Bank Products Obligations**” of any Person means the obligations of such Person pursuant to any Bank Products Agreement.

“**Bankruptcy Code**” means title 11 of the United States Code, as amended.

“**Benchmark**” means, initially, the Adjusted LIBO Rate; provided that if a Benchmark Transition Event, a Term SOFR Transition Event or an Early Opt-in Election, as applicable, and its related Benchmark Replacement Date have occurred with respect to the Adjusted LIBO 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 clause (b) or clause (c) of Section 2.14.

“**Benchmark Replacement**” means, for any Available Tenor, the first alternative set forth in the order below that can be determined by the Administrative Agent for the applicable Benchmark Replacement Date:

- (1) the sum of: (a) Term SOFR and (b) the related Benchmark Replacement Adjustment;
- (2) the sum of: (a) Daily Simple SOFR and (b) the related Benchmark Replacement Adjustment;

(3) the sum of: (a) the alternate benchmark rate that has been selected by the Administrative Agent and the Company as the replacement for the then-current Benchmark for the applicable Corresponding Tenor 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 for the then-current Benchmark for Dollar-denominated syndicated credit facilities at such time and (b) the related Benchmark Replacement Adjustment;

provided that, in the case of clause (1), such Unadjusted Benchmark Replacement is 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; provided, further, that, notwithstanding anything to the contrary in this Agreement or in any other Loan Document, upon the occurrence of a Term SOFR Transition Event, and the delivery of a Term SOFR Notice, on the applicable Benchmark Replacement Date the “Benchmark Replacement” shall revert to and shall be deemed to be the sum of (a) Term SOFR and (b) the related Benchmark Replacement Adjustment, as set forth in clause (1) of this definition (subject to the first proviso above).

If the Benchmark Replacement as determined pursuant to clause (1), (2) or (3) above would be less than the Floor, the Benchmark Replacement will be deemed to be the Floor for the purposes of this Agreement and the other Loan Documents.

“**Benchmark Replacement Adjustment**” means, with respect to any replacement of the then-current Benchmark with an Unadjusted Benchmark Replacement for any applicable Interest Period and Available Tenor for any setting of such Unadjusted Benchmark Replacement:

(1) for purposes of clauses (1) and (2) of the definition of “Benchmark Replacement,” the first alternative set forth in the order below that can be determined by the Administrative Agent:

(a) the spread adjustment, or method for calculating or determining such spread adjustment (which may be a positive or negative value or zero) as of the Reference Time such Benchmark Replacement is first set for such Interest Period that has been selected or recommended by the Relevant Governmental Body for the replacement of such Benchmark with the applicable Unadjusted Benchmark Replacement for the applicable Corresponding Tenor;

(b) the spread adjustment (which may be a positive or negative value or zero) as of the Reference Time such Benchmark Replacement is first set for such Interest Period that would apply to the fallback rate for a derivative transaction referencing the ISDA Definitions to be effective upon an index cessation event with respect to such Benchmark for the applicable Corresponding Tenor; and

(2) for purposes of clause (3) of the definition of “Benchmark Replacement,” 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 Company for the applicable Corresponding Tenor giving due consideration to (i) 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 on the applicable Benchmark Replacement Date or (ii) 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;

provided that, in the case of clause (1) above, such adjustment is displayed on a screen or other information service that publishes such Benchmark Replacement Adjustment from time to time as selected by the Administrative Agent in its reasonable discretion.

“Benchmark Replacement Conforming Changes” means, with respect to any Benchmark Replacement, any technical, administrative or operational changes (including changes to the definition of “Alternate Base Rate,” the definition of “Business Day,” the definition of “Interest Period,” timing and frequency of determining rates and making payments of interest, timing of borrowing requests or prepayment, conversion or continuation notices, length of lookback periods, the applicability of breakage provisions, and other technical, administrative or operational matters) that the Administrative Agent decides, following consultation with the Company, may be appropriate to reflect the adoption and implementation of such Benchmark Replacement and to permit the 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 such Benchmark Replacement exists, in such other manner of administration as the Administrative Agent decides is reasonably necessary in connection with the administration of this Agreement and the other Loan Documents).

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

(1) in the case of clause (1) or (2) of the definition of “Benchmark Transition Event,” the later of (a) the date of the public statement or publication of information referenced therein and (b) 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);

(2) in the case of clause (3) of the definition of “Benchmark Transition Event,” the date of the public statement or publication of information referenced therein;

(3) in the case of a Term SOFR Transition Event, the date that is thirty (30) days after the date a Term SOFR Notice is provided to the Lenders and the Company pursuant to Section 2.14(c); or

(4) in the case of an Early Opt-in Election, the sixth (6th) Business Day after the date notice of such Early Opt-in Election is provided to the Lenders, so long as the Administrative Agent has not received, by 5:00 p.m. (New York City time) on the fifth (5th) Business Day after the date notice of such Early Opt-in Election is provided to the Lenders, written notice of objection to such Early Opt-in Election from Lenders comprising the Required Lenders.

For the avoidance of doubt, (i) if the event giving rise to the Benchmark Replacement Date occurs on the same day as, but earlier than, the Reference Time in respect of any determination, the Benchmark Replacement Date will be deemed to have occurred prior to the Reference Time for such determination and (ii) the “Benchmark Replacement Date” will be deemed to have occurred in the case of clause (1) or (2) 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:

(1) 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);

(2) 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 Board, the NYFRB, 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), in each case 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

(3) 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 no longer, or as of a specified future date will no longer 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 Unavailability Period**” means the period (if any) (x) beginning at the time that a Benchmark Replacement Date pursuant to clauses (1) or (2) of that definition has occurred if, at such time, no Benchmark Replacement has replaced the then-current Benchmark for all purposes hereunder and under any Loan Document in accordance with Section 2.14 and (y) ending at the time that a Benchmark Replacement has replaced the then-current Benchmark for all purposes hereunder and under any Loan Document in accordance with Section 2.14.

“**Beneficial Ownership Certification**” means a certification regarding individual beneficial ownership solely to the extent required by the Beneficial Ownership Regulation.

“**Beneficial Ownership Regulation**” means 31 C.F.R. § 1010.230.

“**Benefit Plan**” means (a) an “employee benefit plan” (as defined in ERISA) that is subject to Title I of ERISA, (b) a “plan” as defined in 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”.

“**BHC Act Affiliate**” means, with respect to any Person, an “affiliate” (as such term is defined under, and interpreted in accordance with, 12 U.S.C. § 1841(k)) of such Person.

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

“Board of Directors” means, for any Person, the board of directors or other governing body of such Person or, if such Person does not have such a board of directors or other governing body and is owned or managed by a single entity, the board of directors or other governing body of such entity or, in either case, any committee thereof duly authorized to act on behalf of such board of directors or other governing body. Unless otherwise provided, **“Board of Directors”** means the Board of Directors of the Company.

“Bona Fide Debt Fund” means any debt fund, investment vehicle, regulated bank entity or unregulated lending entity that is primarily engaged in making, purchasing, holding or otherwise investing in commercial loans and similar extensions of credit in the ordinary course of business for financial investment purposes (other than primarily in distressed situations) and which is managed, sponsored or advised by any Person controlling, controlled by or under common control with (a) any competitor of the Company and/or any of its Subsidiaries or (b) any Affiliate of such competitor, but, in each case, with respect to which no personnel involved with any investment in such Person or the management, control or operation of such Person (i) directly or indirectly makes, has the right to make or participates with others in making any investment decisions, or otherwise causing the direction of the investment policies, with respect to such debt fund, investment vehicle, regulated bank entity or unregulated lending entity or (ii) has access to any information (other than information that is publicly available) relating to the Company or its Subsidiaries or any entity that forms a part of any of their respective businesses; it being understood and agreed that the term **“Bona Fide Debt Fund”** shall not include any Person that is separately identified to the Arrangers or the Administrative Agent in accordance with clause (a)(i) of the definition of **“Disqualified Institution”** or any reasonably identifiable Affiliate of any such Person on the basis of such Affiliate’s name.

“Borrowers” means, collectively, the Company and each other Discretionary Borrower that becomes a party hereto pursuant to Section 9.02(d).

“Borrowing” means Loans of the same Class, Type and currency made, converted or continued on the same date and, in the case of LIBO Rate Loans, as to which a single Interest Period is in effect.

“Borrowing Base” means the sum of (1) 90% of the book value of Inventory of the Company and the Restricted Subsidiaries, (2) 85% of the book value of Receivables of the Company and the Restricted Subsidiaries (other than Credit Card Receivables), (3) 95% of the book value of Credit Card Receivables of the Company and the Restricted Subsidiaries and (4) 50% of the fair market value of real property of the Company and the Restricted Subsidiaries (in each case, determined as of the end of the most recently ended fiscal month of the Company for which internal consolidated financial statements of the Company are available), and, in the case of any determination relating to any Incurrence of Indebtedness, on a pro forma basis including (x) any property or assets of a type described above acquired since the end of such fiscal month and (y) any property or assets of a type described above being acquired in connection therewith.

“Borrowing Request” means a request by the Company for a Borrowing in accordance with Section 2.03 and substantially in the form attached hereto as Exhibit B or such other form that is reasonably acceptable to the Administrative Agent and the Company.

“Business Day” means any day that is not a Saturday, Sunday or other day on which commercial banks in New York City are authorized or required by law to remain closed; provided that when used in connection with a LIBO Rate Loan, the term **“Business Day”** shall also exclude any day on which banks are not open for dealings in Dollar deposits in the London interbank market.

“Capital Expenditures” means, as applied to any Person for any period, the aggregate amount, without duplication, of all expenditures (whether paid in cash or accrued as liabilities and including in all events all amounts expended or capitalized in respect of Finance Lease Obligations) for such Person for such period in accordance with GAAP.

“**Capital Stock**” of any Person means any and all shares or units of, rights to purchase, warrants or options for, or other equivalents of or interests in (however designated) equity of such Person, including any Preferred Stock, but excluding any debt securities convertible into or exchangeable for such equity.

“**Captive Insurance Subsidiary**” means any Subsidiary of the Company that is subject to regulation as an insurance company (or any Subsidiary thereof).

“**Cash**” or “**cash**” means money, currency or a credit balance in any Deposit Account, in each case determined in accordance with GAAP.

“**Cash Equivalents**” means any of the following: (a) money, (b) securities issued or fully guaranteed or insured by the United States, Canada or a member state of the European Union or any agency or instrumentality of any thereof, (c) time deposits, certificates of deposit or bankers’ acceptances of (i) any bank or other institutional lender hereunder or under the ABL Facility or any affiliate thereof or (ii) any commercial bank having capital and surplus in excess of \$500.0 million (or the foreign currency equivalent thereof as of the date of such investment) and the commercial paper of the holding company of which is rated at least A-2 or the equivalent thereof by S&P or at least P-2 or the equivalent thereof by Moody’s (or, if at such time neither is issuing ratings, a comparable rating of another nationally recognized rating agency), (d) repurchase obligations with a term of not more than seven days for underlying securities of the types described in clauses (b) and (c) above entered into with any financial institution meeting the qualifications specified in clause (c)(i) or (c)(ii) above, (e) money market instruments, commercial paper or other short-term obligations rated at least A-2 or the equivalent thereof by S&P or at least P-2 or the equivalent thereof by Moody’s (or, if at such time neither is issuing ratings, a comparable rating of another nationally recognized rating agency), (f) investments in money market funds subject to the risk limiting conditions of Rule 2a-7 or any successor rule of the SEC under the Investment Company Act of 1940, as amended, (g) investments similar to any of the foregoing denominated in foreign currencies approved by the Board of Directors, and (h) solely with respect to any Captive Insurance Subsidiary, any investment that Person is permitted to make in accordance with applicable law.

“**Change in Law**” means (a) the adoption of any law, rule or regulation after the Closing Date, (b) any change in any law, rule or regulation or in the interpretation or application thereof by any Governmental Authority after the Closing Date or (c) compliance by any Lender (or, for purposes of [Section 2.15\(b\)](#), by any lending office of such Lender or by such Lender’s holding company, if any) with any request, guideline or directive (whether or not having the force of law) of any Governmental Authority made or issued after the Closing Date. For purposes of this definition and [Section 2.15](#), (x) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines, requirements and directives thereunder or issued in connection therewith or in implementation thereof and (y) all requests, rules, guidelines, requirements or directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or U.S. regulatory authorities, in each case pursuant to Basel III, shall in each case described in [clauses \(a\), \(b\) and \(c\)](#) above, be deemed to be a Change in Law, regardless of the date enacted, adopted, issued or implemented.

“**Change of Control**” means the occurrence of any of the following: (1) the direct or indirect sale, transfer, conveyance or other disposition (other than by way of merger or consolidation), in one or a series of related transactions, of all or substantially all of the properties or assets of the Company and its Subsidiaries taken as a whole to any “Person” (as that term is used in Section 13(d)(3) of the Exchange Act) other than the Company or one of its Subsidiaries or (2) the consummation of any transaction (including, without limitation, any merger or consolidation) the result of which is that any “Person” (as that term is used in Section 13(d)(3) of the Exchange Act) becomes the beneficial owner, directly or indirectly, of more than 50% of the then outstanding number of shares of the Company’s voting stock. Notwithstanding the foregoing, a transaction will not be deemed to involve a Change of Control if (1) the Company becomes a wholly owned Subsidiary of a holding company and (2) either the holders of the voting stock of such holding company immediately following that transaction are substantially the same as the holders of the Company’s voting stock immediately prior to that transaction or no Person (other than such holding company) beneficially owns, directly or indirectly, more than 50% of the outstanding number of shares of the Company’s voting stock.

“**Charge**” means any fee, loss, charge, expense, cost, accrual or reserve of any kind.

“**Class**”, when used in reference to any Loan or Borrowing, refers to whether such Loan, or the Loans comprising such Borrowing, are Initial Term Loans, Additional Term Loans of any series established as a separate “Class” pursuant to Sections 2.22, 2.23 or 9.02(b).

“**Closing Date**” means the date on which the conditions specified in Section 4.01 are satisfied (or waived in accordance with Section 9.02).

“**Closing Date Distribution**” means the distribution by the Company to L Brands, of 100% of the Company’s common stock for distribution to L Brands’ existing shareholders.

“**Closing Date Payment**” means the payment of the Special Cash Payment (as defined in the Separation Agreement).

“**Code**” means the Internal Revenue Code of 1986, as amended from time to time.

“**Collateral**” means any and all assets, tangible or intangible, on which Liens are purported to be granted pursuant to the Collateral Documents as security for the Obligations hereunder. For the avoidance of doubt, in no event shall “Collateral” include any Excluded Asset, unless specifically consented to by the Company.

“**Collateral Agreement**” means the Guarantee and Collateral Agreement, substantially in the form of Exhibit J, among the Loan Parties and the Administrative Agent for the benefit of the Secured Parties.

“**Collateral and Guarantee Requirement**” means, at any time, subject to (x) the applicable limitations set forth in this Agreement and/or any other Loan Document (including the ABL Intercreditor Agreement and any other Acceptable Intercreditor Agreement) and (y) the time periods (and extensions thereof) set forth in the applicable provisions of this Agreement, the requirement that the Administrative Agent shall have received (A) a joinder to the Collateral Agreement in substantially the form attached as an exhibit thereto, (B) a supplement to the Collateral Agreement in substantially the form attached as an exhibit thereto, (C) if the respective Restricted Subsidiary required to comply with the requirements set forth in this definition pursuant to Section 5.10 owns registrations of or applications for U.S. Patents, U.S. Trademarks and/or U.S. Copyrights that constitute Collateral, an Intellectual Property Security Agreement in substantially the form attached as an exhibit hereto, (D) a completed Perfection Certificate, (E) Uniform Commercial Code financing statements in appropriate form for filing in such jurisdictions as the Administrative Agent may reasonably request and (F) to the extent required by the terms thereof, an executed joinder to any Acceptable Intercreditor Agreement in substantially the form attached as an exhibit thereto.

“**Collateral Documents**” means, collectively, (i) the Collateral Agreement, (ii) each Intellectual Property Security Agreement, (iii) any supplement to any of the foregoing delivered to the Administrative Agent pursuant to the definition of “Collateral and Guarantee Requirement”, (iv) the Perfection Certificate and (v) each of the other instruments and documents pursuant to which any Loan Party grants a Lien on any Collateral as security for payment of the Secured Obligations.

“**Commitment**” means, with respect to each Lender, such Lender’s Initial Term Loan Commitment and Additional Commitment, as applicable, in effect as of such time.

“**Commitment Schedule**” means the Schedule attached hereto as Schedule 1.01(a).

“**Commodities Agreement**” means, in respect of a Person, any commodity futures contract, forward contract, option or similar agreement or arrangement (including derivative agreements or arrangements), as to which such Person is a party or beneficiary.

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

“**Company**” means (a) Victoria’s Secret & Co. and/or (b) following the consummation of a transaction permitted hereunder that results in a Successor Company, such Successor Company, in each case, as the context may require.

“**Company Competitor**” means any competitor of the Company and/or any of its Restricted Subsidiaries.

“**Confidential Information**” has the meaning assigned to such term in Section 9.13.

“**Consolidated Coverage Ratio**” as of any date of determination means the ratio of (i) the aggregate amount of Consolidated EBITDA for the period of the most recent four consecutive fiscal quarters of the Company ending prior to the date of such determination for which consolidated financial statements of the Company are available to (ii) Consolidated Interest Expense for such four fiscal quarters; provided that

(1) if, since the beginning of such period, the Company or any Restricted Subsidiary has Incurred any Indebtedness or the Company has issued any Designated Preferred Stock that remains outstanding on such date of determination or if the transaction giving rise to the need to calculate the Consolidated Coverage Ratio is an Incurrence of Indebtedness or an issuance of Designated Preferred Stock of the Company, Consolidated EBITDA and Consolidated Interest Expense for such period shall be calculated after giving effect on a pro forma basis to such Indebtedness or Designated Preferred Stock as if such Indebtedness or Designated Preferred Stock had been Incurred or issued, as applicable, on the first day of such period (except that in making such computation, the amount of Indebtedness under any revolving credit facility outstanding on the date of such calculation shall be computed based on (A) the average daily balance of such Indebtedness during such four fiscal quarters or such shorter period for which such facility was outstanding or (B) if such facility was created after the end of such four fiscal quarters, the average daily balance of such Indebtedness during the period from the date of creation of such facility to the date of such calculation),

(2) if, since the beginning of such period, the Company or any Restricted Subsidiary has repaid, repurchased, redeemed, defeased or otherwise acquired, retired or discharged any Indebtedness or any Designated Preferred Stock of the Company that is no longer outstanding on such date of determination (each, a “**Discharge**”) or if the transaction giving rise to the need to calculate the Consolidated Coverage Ratio involves a Discharge of Indebtedness (in each case other than Indebtedness Incurred under any revolving credit facility, unless such Indebtedness has been repaid with an equivalent permanent reduction in commitments thereunder) or a Discharge of Designated Preferred Stock of the Company, Consolidated EBITDA and Consolidated Interest Expense for such period shall be calculated after giving effect on a pro forma basis to such Discharge of such Indebtedness or Designated Preferred Stock, including with the proceeds of such new Indebtedness or new Designated Preferred Stock of the Company, as if such Discharge had occurred on the first day of such period,

(3) if, since the beginning of such period, the Company or any Restricted Subsidiary shall have disposed of any company, any business or any group of assets constituting an operating unit of a business, including any such disposition occurring in connection with a transaction causing a calculation to be made hereunder, or designated any Restricted Subsidiary as an Unrestricted Subsidiary (any such disposition or designation, a “**Sale**”), the Consolidated EBITDA for such period shall be reduced by an amount equal to the Consolidated EBITDA (if positive) attributable to the assets that are the subject of such Sale for such period or increased by an amount equal to the Consolidated EBITDA (if negative) attributable thereto for such period, and Consolidated Interest Expense for such period shall be reduced by an amount equal to (~~A~~) the Consolidated Interest Expense attributable to any Indebtedness of the Company or any Restricted Subsidiary repaid, repurchased, redeemed, defeased or otherwise acquired, retired or discharged with respect to the Company and its continuing Restricted Subsidiaries in connection with such Sale for such period (including, but not limited to, through the assumption of such Indebtedness by another Person) plus (~~B~~) if the Capital Stock of any Restricted Subsidiary is disposed of in such Sale or any Restricted Subsidiary is designated as an Unrestricted Subsidiary, the Consolidated Interest Expense for such period attributable to the Indebtedness of such Restricted Subsidiary to the extent the Company and its continuing Restricted Subsidiaries are no longer liable for such Indebtedness after such Sale,

(4) if, since the beginning of such period, the Company or any Restricted Subsidiary (by merger, consolidation or otherwise) shall have made an Investment in any Person that thereby becomes a Restricted Subsidiary, or otherwise acquired any company, any business or any group of assets constituting an operating unit of a business, including any such Investment or acquisition occurring in connection with a transaction causing a calculation to be made hereunder, or designated any Unrestricted Subsidiary as a Restricted Subsidiary (any such Investment, acquisition or designation, a “**Purchase**”), Consolidated EBITDA and Consolidated Interest Expense for such period shall be calculated after giving pro forma effect thereto (including the Incurrence of any related Indebtedness) as if such Purchase occurred on the first day of such period, and

(5) if, since the beginning of such period, any Person became a Restricted Subsidiary or was merged or consolidated with or into the Company or any Restricted Subsidiary, and since the beginning of such period such Person shall have discharged any Indebtedness or made any Sale or Purchase that would have required an adjustment pursuant to clause (2), (3) or (4) above if made by the Company or a Restricted Subsidiary since the beginning of such period, Consolidated EBITDA and Consolidated Interest Expense for such period shall be calculated after giving pro forma effect thereto as if such Discharge, Sale or Purchase occurred on the first day of such period;

provided that, in the event that the Company shall classify Indebtedness Incurred on the date of determination as Incurred in part under Section 6.01(a) and in part under Section 6.01(b), as provided in Section 6.01(c)(ii)), any pro forma calculation of Consolidated Interest Expense shall not give effect on such date of determination (x) to any Incurrence of Indebtedness pursuant to Section 6.01(b) (other than if the Company at its option has elected to disregard Indebtedness being Incurred on the date of determination in part pursuant to Section 6.01(a) for purposes of calculating the Consolidated Coverage Ratio for Incurring Indebtedness on the date of determination in part pursuant to Section 6.01(b)(xi)) or (y) to any Discharge of Indebtedness from the proceeds of any such Incurrence pursuant to Section 6.01(b) (other than Section 6.01(b)(xi)), if the Incurrence of Indebtedness pursuant to Section 6.01(b)(xi) is being given effect to in the calculation of the Consolidated Coverage Ratio).

For purposes of this definition, whenever pro forma effect is to be given to any Sale, Purchase or other transaction, or the amount of income or earnings relating thereto and the amount of Consolidated Interest Expense associated with any Indebtedness Incurred, Designated Preferred Stock issued, or Indebtedness or Designated Preferred Stock repaid, repurchased, redeemed, defeased or otherwise acquired, retired or discharged in connection therewith, the pro forma calculations in respect thereof (including without limitation in respect of anticipated cost savings or synergies relating to any such Sale, Purchase or other transaction) shall be as determined in good faith by the Chief Financial Officer or an authorized Officer of the Company. If any Indebtedness bears a floating rate of interest and is being given pro forma effect, the interest expense on such Indebtedness shall be calculated as if the rate in effect on the date of determination had been the applicable rate for the entire period (taking into account any Interest Rate Agreement applicable to such Indebtedness). If any Indebtedness bears, at the option of the Company or a Restricted Subsidiary, a rate of interest based on a prime or similar rate, a eurocurrency interbank offered rate, a secured overnight financing rate, or other fixed or floating rate, and such Indebtedness is being given pro forma effect, the interest expense on such Indebtedness shall be calculated by applying such optional rate as the Company or such Restricted Subsidiary may designate. If any Indebtedness that is being given pro forma effect was Incurred under a revolving credit facility, the interest expense on such Indebtedness shall be computed based upon the average daily balance of such Indebtedness during the applicable period. Interest on a Finance Lease Obligation shall be deemed to accrue at an interest rate determined in good faith by a responsible financial or accounting officer of the Company to be the rate of interest implicit in such Finance Lease Obligation in accordance with GAAP.

“Consolidated Depreciation and Amortization Expense” means, with respect to any Person for any period, the total amount of depreciation and amortization expense, including the amortization of intangible assets and deferred financing fees and amortization of unrecognized prior service costs and actuarial gains and losses related to pensions and other post-employment benefits, of such Person and its Restricted Subsidiaries for such period on a consolidated basis and otherwise determined in accordance with GAAP.

“Consolidated EBITDA” means, with respect to any Person for any period, the Consolidated Net Income of such Person and its Restricted Subsidiaries for such period plus, without duplication and, except in the case of clause (9) below, to the extent the same was deducted in calculating Consolidated Net Income:

- (1) Consolidated Taxes; plus
- (2) Fixed Charges and costs of surety bonds in connection with financing activities, plus amounts excluded from the definition of “Consolidated Interest Expense” and any non-cash interest expense, to the extent deducted (and not added back) in computing Consolidated Net Income; plus
- (3) Consolidated Depreciation and Amortization Expense; plus

- (4) Consolidated Non-Cash Charges; plus
- (5) any expenses or charges (other than Consolidated Depreciation and Amortization Expense) related to any issuance of Capital Stock, Investment, acquisition, disposition, recapitalization or the incurrence, modification or repayment of Indebtedness permitted to be incurred by this Agreement (including a refinancing thereof) (whether or not successful), including (i) such fees, expenses or charges related to the Transactions, the Loans, the Senior Notes or the ABL Facility, (ii) any amendment or other modification of this Agreement or other Indebtedness and (iii) commissions, discounts, yield and other fees and charges (including any interest expense) related to any Specified Receivables Facility; plus
- (6) business optimization expenses and other restructuring charges, reserves or expenses (which, for the avoidance of doubt, shall include, without limitation, the effect of facility closures, facility consolidations, retention, severance, systems establishment costs, contract termination costs, future lease commitments and excess pension charges); plus
- (7) the amount of loss or discount on sale of assets to a Receivables Subsidiary and any commissions, yield and other fees and charges, in each case in connection with a Specified Receivables Facility; plus
- (8) any costs or expense incurred pursuant to any management equity plan or stock option plan or any other management or employee benefit plan or agreement or any stock subscription or shareholder agreement, to the extent that such cost or expenses are funded with cash proceeds contributed to the capital of the Company or any Subsidiary Guarantor or net cash proceeds of an issuance of Capital Stock of the Company (other than Disqualified Stock) solely to the extent that such net cash proceeds are excluded from the determination of the amount available for Restricted Payments under Section 6.02(a)(3)(A); plus
- (9) the amount of net cost savings, operating improvements or synergies projected by the Company in good faith to be realized within twelve months following the date of any operational changes, business realignment projects or initiatives, restructurings or reorganizations which have been or are intended to be initiated (calculated on a pro forma basis as though such cost savings had been realized on the first day of such period), net of the amount of actual benefits realized during such period from such actions; provided that such net cost savings and operating improvements or synergies are reasonably identifiable and quantifiable; provided, further, that the aggregate amount added to Consolidated EBITDA pursuant to this clause (9) shall not exceed 20.0% of Consolidated EBITDA for such period (determined after giving effect to such adjustments);

less, without duplication, to the extent the same increased Consolidated Net Income,

- (1) non-cash items increasing Consolidated Net Income for such period (excluding the recognition of deferred revenue or any items which represent the reversal of any accrual of, or cash reserve for, anticipated cash charges that reduced Consolidated EBITDA in any prior period and any items for which cash was received in a prior period).

“Consolidated First Lien Indebtedness” means, as of any date of determination, (i) an amount equal to the sum of, without duplication, Consolidated Total Indebtedness (without regard to clause (ii) of the definition thereof) and any Ratio Tested Committed Amount as of such date that, in each case, is then secured by a first-priority Lien on property or assets of the Company and its Restricted Subsidiaries that constitutes Collateral (other than property or assets held in a defeasance or similar trust or arrangement for the benefit of the Indebtedness secured thereby), minus (ii) the sum of (A) the amount of such Indebtedness Incurred pursuant to Section 6.01(b)(ix), (B) the amount of such Indebtedness consisting of Indebtedness under the ABL Facility (unless such Indebtedness is secured by a Lien on the Collateral either (x) ranking pari passu with the Liens securing the Initial Term Loans or (y) with the rankings set forth in the ABL Intercreditor Agreement) and (C) cash, Cash Equivalents and Temporary Cash Investments held by the Company and its Restricted Subsidiaries as of the end of the most recent four consecutive fiscal quarters of the Company ending prior to the date of such determination for which consolidated financial statements of the Company are available.

“Consolidated First Lien Leverage Ratio” means, as of any date of determination, the ratio of (i) Consolidated First Lien Indebtedness as at such date (after giving effect to any Incurrence or Discharge of Indebtedness on such date) to (ii) the aggregate amount of Consolidated EBITDA for the period of the most recent four consecutive fiscal quarters of the Company ending prior to the date of such determination for which consolidated financial statements of the Company are available, provided that:

(1) if, since the beginning of such period, the Company or any Restricted Subsidiary shall have made a Sale (including any Sale occurring in connection with a transaction causing a calculation to be made hereunder), the Consolidated EBITDA for such period shall be reduced by an amount equal to the Consolidated EBITDA (if positive) attributable to the assets that are the subject of such Sale for such period or increased by an amount equal to the Consolidated EBITDA (if negative) attributable thereto for such period;

(2) if, since the beginning of such period, the Company or any Restricted Subsidiary (by merger, consolidation or otherwise) shall have made a Purchase (including any Purchase occurring in connection with a transaction causing a calculation to be made hereunder), Consolidated EBITDA for such period shall be calculated after giving pro forma effect thereto as if such Purchase occurred on the first day of such period; and

(3) if, since the beginning of such period, any Person became a Restricted Subsidiary or was merged or consolidated with or into the Company or any Restricted Subsidiary, and since the beginning of such period such Person shall have made any Sale or Purchase that would have required an adjustment pursuant to clause (1) or (2) above if made by the Company or a Restricted Subsidiary since the beginning of such period, Consolidated EBITDA for such period shall be calculated after giving pro forma effect thereto as if such Sale or Purchase occurred on the first day of such period;

provided that, in the event that the Company shall classify Indebtedness Incurred on the date of determination as Incurred in part pursuant to Section 6.01(b)(i)(A)(II) and in part pursuant to one or more other clauses or subclauses of Section 6.01(b) and/or pursuant to Section 6.01(a) (as provided in Section 6.01(c)(ii)), Consolidated First Lien Indebtedness shall not include any such Indebtedness (and shall not give effect to any Discharge of Consolidated First Lien Indebtedness from the proceeds thereof) to the extent Incurred pursuant to any such other clause or subclause of such Section 6.01(b) and/or pursuant to such Section 6.01(a).

For purposes of this definition, whenever pro forma effect is to be given to any Sale, Purchase or other transaction, or the amount of income or earnings relating thereto, the pro forma calculations in respect thereof (including, without limitation, in respect of anticipated cost savings or synergies relating to any such Sale, Purchase or other transaction) shall be as determined in good faith by the Chief Financial Officer or another authorized Officer of the Company.

“Consolidated Interest Expense” means, with respect to any Person for any period, the sum, without duplication, of (1) consolidated interest expense of such Person and its Restricted Subsidiaries for such period, to the extent such expense was deducted in computing Consolidated Net Income (including the interest component of Finance Lease Obligations and net payments and receipts (if any) pursuant to interest rate Hedging Obligations, and non-cash interest expense attributable to movement in mark to market valuation of Hedging Obligations or other derivatives (in each case permitted hereunder) under GAAP) but excluding commissions, discounts, yield and other fees and charges related to any Specified Receivables Facility; plus (2) consolidated capitalized interest of such Person and its Restricted Subsidiaries for such period, whether paid or accrued; plus (3) commissions, discounts, yield and other fees and charges Incurred in connection with any Specified Receivables Facility which are payable to Persons other than the Company and the Restricted Subsidiaries; minus (4) interest income for such period and excluding debt issuance costs, commissions, fees and expenses (including bridge, commitment or other financing fees).

For purposes of this definition, interest on a Finance Lease Obligation shall be deemed to accrue at an interest rate reasonably determined by the Company to be the rate of interest implicit in such Finance Lease Obligation in accordance with GAAP.

“Consolidated Net Income” means, with respect to any Person for any period, the aggregate of the Net Income of such Person and its Restricted Subsidiaries for such period, on a consolidated basis; provided, however, that:

(1) any net after-tax extraordinary, infrequently occurring, nonrecurring or unusual gains or losses (less all fees and expenses relating thereto) or expenses or charges shall be excluded;

(2) any severance expenses, relocation expenses, restructuring expenses, curtailments or modifications to pension and post-retirement employee benefit plans, excess pension charges, any expenses related to any reconstruction, decommissioning, recommissioning or reconfiguration of fixed assets for alternate uses and fees, expenses or charges relating to facilities closing costs, acquisition integration costs, facilities opening costs, project start-up costs, business optimization costs, signing, retention or completion bonuses, expenses or charges related to any issuance, redemption, repurchase, retirement or acquisition of Capital Stock, Investment, acquisition, disposition, recapitalization or issuance, repayment, refinancing, amendment or modification of Indebtedness (in each case, whether or not successful), and any fees, expenses or charges related to the Transactions, in each case, shall be excluded;

(3) effects of purchase accounting adjustments (including the effects of such adjustments pushed down to such Person and such Subsidiaries and including, without limitation, the effects of adjustments to (A) Finance Lease Obligations or (B) any other deferrals of income) in amounts required or permitted by GAAP, resulting from the application of purchase accounting or the amortization or write-off of any amounts thereof, net of taxes, shall be excluded;

(4) the Net Income for such period shall not include the cumulative effect of a change in accounting principles during such period;

(5) any net after-tax income or loss from disposed, abandoned, transferred, closed or discontinued operations or fixed assets and any net after-tax gains or losses on disposal of disposed, abandoned, transferred, closed or discontinued operations or fixed assets shall be excluded;

(6) any net after-tax gains or losses (less all fees and expenses or charges relating thereto) attributable to business dispositions or asset dispositions other than in the ordinary course of business (as determined in good faith by management of the Company) shall be excluded, provided, that notwithstanding any classification of any Person, business, assets or operations as discontinued operations because a definitive agreement for the sale, transfer or other disposition in respect thereof has been entered into, the Company shall not exclude any such net after-tax income or loss or any such net after-tax gains or losses attributable thereto until such sale, transfer or other disposition has been consummated;

(7) any net after-tax gains or losses (less all fees and expenses or charges relating thereto) attributable to the early extinguishment of indebtedness, Hedging Obligations or other derivative instruments shall be excluded;

(8) (a) the Net Income for such period of any Person (other than the Company) that is not a Subsidiary of such Person, or is an Unrestricted Subsidiary, or that is accounted for by the equity method of accounting, shall be included only to the extent of the amount of dividends or distributions or other payments paid in cash (or to the extent converted into cash) to the referent Person or a Restricted Subsidiary thereof in respect of such period and (b) the Net Income for such period shall include any dividend, distribution or other payment in cash (or to the extent converted into cash) received by the referent Person or a Subsidiary thereof (other than an Unrestricted Subsidiary of such referent Person) from any Person in excess of, but without duplication of, the amounts included in subclause (a);

(9) solely for the purpose of determining the amount available for Restricted Payments under Section 6.02(a)(3)(A) or for the purpose of calculating Excess Cash Flow, the Net Income for such period of any Restricted Subsidiary (other than any Subsidiary Guarantor or Foreign Subsidiary) shall be excluded to the extent that the declaration or payment of dividends or similar distributions by such Restricted Subsidiary of its Net Income is not at the date of determination permitted without any prior governmental approval (which has not been obtained) or, directly or indirectly, by the operation of the terms of its charter or any agreement, instrument, judgment, decree, order, statute, rule or governmental regulation applicable to that Restricted Subsidiary or its stockholders, unless such restrictions with respect to the payment of dividends or similar distributions have been legally waived; provided that the Consolidated Net Income of such Person shall be increased by the amount of dividends or other distributions or other payments actually paid in cash (or converted into cash) by any such Restricted Subsidiary to such Person; to the extent not already included therein;

(10) an amount equal to the amount of tax distributions actually made to any Parent Entity in respect of such period in accordance with Section 6.02(b)(viii)(C) shall be included as though such amounts had been paid directly by such Person for such period;

(11) any impairment charges or asset write-offs, in each case pursuant to GAAP, and the amortization of intangibles and other fair value adjustments arising pursuant to GAAP shall be excluded;

(12) any non-cash expense realized or resulting from management equity plans, stock option plans, employee benefit plans or post-employment benefit plans, or grants or sales of stock, stock appreciation or similar rights, stock options, restricted stock, preferred stock or other rights shall be excluded;

(13) any (a) non-cash compensation charges, (b) costs and expenses after the Closing Date related to employment of terminated employees, or (c) costs or expenses realized in connection with or resulting from stock appreciation or similar rights, stock options or other rights existing on the Closing Date of officers, directors and employees, in each case of such Person or any Restricted Subsidiary, shall be excluded;

(14) accruals and reserves that are established or adjusted within 12 months after the Closing Date and that are so required to be established or adjusted in accordance with GAAP or as a result of adoption or modification of accounting policies shall be excluded;

(15) non-cash gains, losses, income and expenses resulting from fair value accounting required by the applicable standard under GAAP and related interpretations shall be excluded;

(16) any currency translation gains and losses related to currency remeasurements of Indebtedness, and any net loss or gain resulting from hedging transactions for currency exchange risk, shall be excluded;

(17) (a) to the extent covered by insurance and actually reimbursed, or, so long as such Person has made a determination that there exists reasonable evidence that such amount will in fact be reimbursed by the insurer and only to the extent that such amount is (i) not denied by the applicable carrier in writing within 180 days and (ii) in fact reimbursed within 365 days of the date of such evidence (with a deduction for any amount so added back to the extent not so reimbursed within 365 days), expenses with respect to liability or casualty events or business interruption shall be excluded and (b) amounts in respect of which such Person has determined that there exists reasonable evidence that such amounts will in fact be reimbursed by insurance in respect of lost revenues or earnings in respect of liability or casualty events or business interruption shall be included (with a deduction for amounts actually received up to such estimated amount, to the extent included in Net Income in a future period);

(18) non-cash charges for deferred tax asset valuation allowances shall be excluded; and

(19) the amount of loss or discount on sale of Receivables Facility Assets and related assets in connection with a Receivables Facility shall be excluded.

“Consolidated Non-Cash Charges” means, with respect to any Person for any period, the non-cash expenses (other than Consolidated Depreciation and Amortization Expense) of such Person and its Restricted Subsidiaries reducing Consolidated Net Income of such Person for such period on a consolidated basis and otherwise determined in accordance with GAAP, provided that if any such non-cash expenses represent an accrual or reserve for potential cash items in any future period, the cash payment in respect thereof in such future period shall be subtracted from Consolidated EBITDA in such future period to the extent paid, but excluding from this proviso, for the avoidance of doubt, amortization of a prepaid cash item that was paid in a prior period.

“Consolidated Tangible Assets” means, as of any date of determination, the total assets less the sum of the goodwill, net, and other intangible assets, net, in each case reflected on the consolidated balance sheet of the Company and its Restricted Subsidiaries as at the end of the most recently ended fiscal quarter of the Company for which such a balance sheet is available, determined on a Consolidated basis in accordance with GAAP (and, in the case of any determination relating to any Incurrence of Indebtedness or Liens or any Investment, on a pro forma basis including any property or assets being acquired in connection therewith).

“Consolidated Taxes” means, with respect to any Person for any period, the provision for taxes based on income, profits or capital, including, without limitation, state, franchise, property and similar taxes, foreign withholding taxes (including penalties and interest related to such taxes or arising from tax examinations) and any tax distributions taken into account in calculating Consolidated Net Income.

“Consolidated Total Indebtedness” means, as of any date of determination, an amount equal to (i) the aggregate principal amount of outstanding Indebtedness of the Company and its Restricted Subsidiaries as of such date consisting of (without duplication) Indebtedness for borrowed money (including Purchase Money Obligations and unreimbursed outstanding drawn amounts under funded letters of credit); Finance Lease Obligations; debt obligations evidenced by bonds, debentures, notes or similar instruments; Disqualified Stock; and (in the case of any Restricted Subsidiary that is not a Subsidiary Guarantor) Preferred Stock, determined on a Consolidated basis in accordance with GAAP (excluding (x) items eliminated in Consolidation and (y) Hedging Obligations), minus (ii) the sum of (A) the amount of such Indebtedness consisting of Indebtedness of a type referred to in, or incurred pursuant to, Section 6.01(b)(ix), (B) the amount of such Indebtedness consisting of Indebtedness under the ABL Facility and (C) cash, Cash Equivalents and Temporary Cash Investments held by the Company and its Restricted Subsidiaries as of the end of the most recent four consecutive fiscal quarters of the Company ending prior to the date of such determination for which consolidated financial statements of the Company are available.

“Consolidated Total Leverage Ratio” means, as of any date of determination, the ratio of (i) Consolidated Total Indebtedness as at such date (after giving effect to any Incurrence or Discharge of Indebtedness on such date) to (ii) the aggregate amount of Consolidated EBITDA for the period of the most recent four consecutive fiscal quarters of the Company ending prior to the date of such determination for which consolidated financial statements of the Company are available, provided that:

(1) if, since the beginning of such period, the Company or any Restricted Subsidiary shall have made a Sale (including any Sale occurring in connection with a transaction causing a calculation to be made hereunder), the Consolidated EBITDA for such period shall be reduced by an amount equal to the Consolidated EBITDA (if positive) attributable to the assets that are the subject of such Sale for such period or increased by an amount equal to the Consolidated EBITDA (if negative) attributable thereto for such period;

(2) if, since the beginning of such period, the Company or any Restricted Subsidiary (by merger, consolidation or otherwise) shall have made a Purchase (including any Purchase occurring in connection with a transaction causing a calculation to be made hereunder), Consolidated EBITDA for such period shall be calculated after giving pro forma effect thereto as if such Purchase occurred on the first day of such period; and

(3) if, since the beginning of such period, any Person became a Restricted Subsidiary or was merged or consolidated with or into the Company or any Restricted Subsidiary, and since the beginning of such period such Person shall have made any Sale or Purchase that would have required an adjustment pursuant to clause (1) or (2) above if made by the Company or a Restricted Subsidiary since the beginning of such period, Consolidated EBITDA for such period shall be calculated after giving pro forma effect thereto as if such Sale or Purchase occurred on the first day of such period;

provided that, for purposes of the foregoing calculation, in the event that the Company shall classify Indebtedness Incurred on the date of determination as Incurred in part pursuant to Section 6.01(b)(xi) (other than by reason of subclause (2) of the proviso to such clause (xi)) and in part pursuant to one or more other clauses of Section 6.01(b) and/or (unless the Company at its option has elected to disregard Indebtedness being Incurred on the date of determination in part pursuant to subclause (2) of the proviso to Section 6.01(b)(xi) for purposes of calculating the Consolidated Coverage Ratio for Incurring Indebtedness on the date of determination in part under Section 6.01(a)) and in part pursuant to Section 6.01(a) (as provided in Sections 6.01(c)(ii) and (iii)), Consolidated Total Indebtedness shall not (x) include any such Indebtedness Incurred pursuant to one or more of such other clauses of Section 6.01(b) and/or pursuant to Section 6.01(a), and (y) give effect to any Discharge of any Indebtedness from the proceeds of any such Indebtedness being disregarded for purposes of the calculation of the Consolidated Total Leverage Ratio that otherwise would be included in Consolidated Total Indebtedness.

For purposes of this definition, whenever pro forma effect is to be given to any Sale, Purchase or other transaction, or the amount of income or earnings relating thereto, the pro forma calculations in respect thereof (including, without limitation, in respect of anticipated cost savings or synergies relating to any such Sale, Purchase or other transaction) shall be as determined in good faith by the Chief Financial Officer or another authorized Officer of the Company.

“Consolidated Working Capital” means, as at any date of determination, the excess of Current Assets over Current Liabilities.

“Consolidated Working Capital Adjustment” means, for any period on a consolidated basis, the amount (which may be a negative number) by which Consolidated Working Capital as of the beginning of such period exceeds (or is less than) Consolidated Working Capital as of the end of such period; provided that there shall be excluded (a) the effect of reclassification during such period between current assets and long term assets and current liabilities and long term liabilities (with a corresponding restatement of the prior period to give effect to such reclassification), (b) the effect of any Disposition of any Person, facility or line of business or acquisition of any Person, facility or line of business during such period, (c) the effect of any fluctuations in the amount of accrued and contingent obligations under any Hedging Agreement and (d) the application of purchase or recapitalization accounting.

“Consolidation” means the consolidation of the accounts of each of the Restricted Subsidiaries with those of the Company in accordance with GAAP; provided that “Consolidation” will not include consolidation of the accounts of any Unrestricted Subsidiary, but the interest of the Company or any Restricted Subsidiary in any Unrestricted Subsidiary will be accounted for as an investment. The term “Consolidated” has a correlative meaning.

“Contingent Obligation” means, with respect to any Person, any obligation of such Person guaranteeing any obligation that does not constitute Indebtedness (a “primary obligation”) of any other Person (the “primary obligor”) in any manner, whether directly or indirectly, including any obligation of such Person, whether or not contingent, (1) to purchase any such primary obligation or any property constituting direct or indirect security therefor, (2) to advance or supply funds (a) for the purchase or payment of any such primary obligation, or (b) to maintain working capital or equity capital of the primary obligor or otherwise to maintain the net worth or solvency of the primary obligor, or (3) to purchase property, securities or services primarily for the purpose of assuring the owner of any such primary obligation of the ability of the primary obligor to make payment of such primary obligation against loss in respect thereof.

“Contribution Amounts” means the aggregate amount of capital contributions applied by the Company to permit the Incurrence of Contribution Indebtedness pursuant to Section 6.01(b)(x).

“Contribution Indebtedness” means Indebtedness of the Company or any Restricted Subsidiary in an aggregate principal amount not greater than the aggregate amount of cash contributions (other than Excluded Contributions, the proceeds from the issuance of Disqualified Stock or contributions by the Company or any Restricted Subsidiary) made to the capital of the Company or such Restricted Subsidiary after the Closing Date (whether through the issuance or sale of Capital Stock or otherwise); provided that such Contribution Indebtedness (a) is Incurred within 180 days after the receipt of the related cash contribution and (b) is so designated as Contribution Indebtedness pursuant to an Officer’s Certificate on the date of Incurrence thereof.

“Control” means, with respect to a specified Person, the possession, directly or indirectly, of the power to direct, or cause the direction of, the management or policies of such Person, whether through the ability to exercise voting power, by contract or otherwise. “Controlling” and “Controlled” have correlative meanings.

“Copyrights” means the following: (a) all copyrights, rights and interests in copyrights, works protectable by copyright whether published or unpublished, copyright registrations and copyright applications; (b) all renewals of the foregoing; (c) all income, royalties, damages, and payments now or hereafter due or payable under any of the foregoing, including, without limitation, damages or payments for past or future infringements thereof; (d) the right to sue for past, present, and future infringements thereof; and (e) all domestic rights corresponding to any of the foregoing.

“Corresponding Tenor” with respect to any Available Tenor means, as applicable, either a tenor (including overnight) or an interest payment period having approximately the same length (disregarding business day adjustment) as such Available Tenor.

“Cost Saving Initiative” has the meaning assigned to such term in the definition of “Consolidated EBITDA”.

“Covered Entity” means (a) a “covered entity” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 252.82(b); (b) a “covered bank” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 47.3(b); or (c) a “covered FSI” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 382.2(b).

“Credit Card Receivables” has the meaning assigned to such term in the ABL Credit Agreement.

“Credit Facilities” means one or more of (i) the ABL Facility and (ii) any other facilities or arrangements designated by the Company, in each case with one or more banks or other lenders or institutions providing for revolving credit loans, term loans, receivables, inventory or real estate financings (including without limitation through the sale of receivables, inventory, real estate and/or other assets to such institutions or to special purpose entities formed to borrow from such institutions against such receivables, inventory, real estate and/or other assets or the creation of any Liens in respect of such receivables, inventory, real estate and/or other assets in favor of such institutions), letters of credit or other Indebtedness, in each case, including all agreements, instruments and documents executed and delivered pursuant to or in connection with any of the foregoing, including but not limited to any notes and letters of credit issued pursuant thereto and any guarantee and collateral agreement, mortgages or letter of credit applications and other guarantees, pledge agreements, security agreements (including Intellectual Property Security Agreements) and collateral documents, in each case as the same may be amended, supplemented, waived or otherwise modified from time to time, or refunded, refinanced, restructured, replaced, renewed, repaid, increased or extended from time to time (whether in whole or in part, whether with the original banks, lenders or institutions or other banks, lenders or institutions or otherwise, and whether provided under any original Credit Facility or one or more other credit agreements, indentures, financing agreements or other Credit Facilities or otherwise). Without limiting the generality of the foregoing, the term “Credit Facility” shall include any agreement (i) changing the maturity of any Indebtedness Incurred thereunder or contemplated thereby, (ii) adding Subsidiaries as additional borrowers or guarantors thereunder, (iii) increasing the amount of Indebtedness Incurred thereunder or available to be borrowed thereunder or (iv) otherwise altering the terms and conditions thereof.

“Credit Rating” means, in the case of S&P, the “Issuer Credit Rating” assigned by S&P to the Company and, in the case of Moody’s, the “Corporate Family Rating” assigned by Moody’s to the Company.

“Cured Default” has the meaning assigned to such term in [Section 1.03\(c\)](#).

“**Currency Agreement**” means, in respect of a Person, any foreign exchange contract, currency swap agreement or other similar agreement or arrangements (including derivative agreements or arrangements), as to which such Person is a party or a beneficiary.

“**Current Assets**” means, at any date, all assets of the Company and its Restricted Subsidiaries which under GAAP would be classified as current assets (excluding any (i) cash, Cash Equivalents, Investment Grade Securities or Temporary Cash Investments (including such items held on deposit for third parties by the Company and/or any Restricted Subsidiary), (ii) permitted loans to third parties, (iii) deferred bank fees and derivative financial instruments, (iv) the current portion of current and deferred Taxes and (v) assets held for sale or pension assets).

“**Current Liabilities**” means, at any date, all liabilities of the Company and its Restricted Subsidiaries which under GAAP would be classified as current liabilities, other than (i) current maturities of long term debt, (ii) outstanding revolving loans and letter of credit exposures, (iii) accruals of Consolidated Interest Expense (excluding Consolidated Interest Expense that is due and unpaid), (iv) obligations in respect of derivative financial instruments, (v) the current portion of current and deferred Taxes, (vi) liabilities in respect of unpaid earnouts, (vii) accruals relating to restructuring reserves, (viii) liabilities in respect of funds of third parties on deposit with the Company and/or any Restricted Subsidiary, (ix) the current portion of any Finance Lease Obligation and the current portion of any Non-Financing Lease Obligation that is otherwise required to be capitalized, (x) any liabilities recorded in connection with stock based awards, partnership interest based awards, awards of profits interests, deferred compensation awards and similar initiative based compensation awards or arrangements, (xi) the current portion of any current or deferred pension plan liabilities, (xii) the current portion of any other long term liability for borrowed money and (xiii) any current liabilities associated with assets held for sale or pension assets.

“**Daily Simple SOFR**” means, for any day, SOFR, with the conventions for this rate (which may include a lookback) being established by the Administrative Agent in accordance with the conventions for this rate selected or recommended by the Relevant Governmental Body for determining “Daily Simple SOFR” for business loans; provided, that if the Administrative Agent decides that any such convention is not administratively feasible for the Administrative Agent, then the Administrative Agent may establish another convention in its reasonable discretion.

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

“**Declined Proceeds**” has the meaning assigned to such term in Section 2.11(b)(v).

“**Default**” means any event or condition which constitutes an Event of Default or which upon notice, lapse of time or both would, unless cured or waived, become an Event of Default.

“**Default Right**” has the meaning assigned to such term in, and shall be interpreted in accordance with, 12 C.F.R. §§ 252.81, 47.2 or 382.1, as applicable.

“Defaulting Lender” means any Lender that has (a) defaulted in its obligations under this Agreement, including without limitation, to make a Loan within one Business Day of the date required to be made by it hereunder, unless such Lender notifies the Administrative Agent and the Company 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) notified the Administrative Agent or any Loan Party in writing that it does not intend to satisfy any such obligation or has made a public statement to the effect that it does not intend to comply with its funding obligations under this Agreement or under agreements in which it commits to extend credit generally (unless such writing or public statement relates to such Lender’s obligation to fund a Loan hereunder and states that such position is based on such Lender’s determination that a condition precedent to funding (which condition precedent, together with any applicable default, shall be specifically identified in such writing or public statement) cannot be satisfied), (c) failed, within two Business Days after the request of Administrative Agent or the Company, to confirm in writing that it will comply with the terms of this Agreement relating to its obligations to fund prospective Loans hereunder; provided that such Lender shall cease to be a Defaulting Lender pursuant to this clause (c) upon receipt of such written confirmation by the Administrative Agent, (d) become (or any parent company thereof has become) insolvent or been determined by any Governmental Authority having regulatory authority over such Person or its assets, to be insolvent, or the assets or management of which has been taken over by any Governmental Authority, (e) become (or any parent company thereof has become) the subject of a bankruptcy or insolvency proceeding, or has had a receiver, conservator, trustee, administrator, assignee for the benefit of creditors or similar Person charged with reorganization or liquidation of its business or custodian, appointed for it, or has taken any action in furtherance of, or indicating its consent to, approval of or acquiescence in, any such proceeding or appointment, unless in the case of any Lender subject to this clause (e), the Company and the Administrative Agent shall each have determined that such Lender intends, and has all approvals required to enable it (in form and substance satisfactory to each of the Company and the Administrative Agent), to continue to perform its obligations as a Lender hereunder or (f) become (or any parent company thereof has become) the subject of a Bail-In Action; provided that no Lender shall be deemed to be a Defaulting Lender solely by virtue of the ownership or acquisition of any Capital Stock in such Lender or its parent by any Governmental Authority; provided that such action does not result in or provide such Lender with immunity from the jurisdiction of courts within the U.S. or from the enforcement of judgments or writs of attachment on its assets or permit such Lender (or such Governmental Authority) to reject, repudiate, disavow or disaffirm any contract or agreement to which such Lender is a party.

“Deposit Account” means a demand, time, savings, passbook or like account with a bank, savings and loan association, credit union or like organization, excluding, for the avoidance of doubt, any investment property (within the meaning of the UCC) or any account evidenced by an instrument or negotiable certificate of deposit (within the meaning of the UCC).

“Derivative Transaction” means (a) any interest-rate transaction, including any interest-rate swap, basis swap, forward rate agreement, interest rate option (including a cap, collar or floor), and any other instrument linked to interest rates that gives rise to similar credit risks (including when-issued securities and forward deposits accepted), (b) any exchange-rate transaction, including any cross-currency interest-rate swap, any forward foreign-exchange contract, any currency option, and any other instrument linked to exchange rates that gives rise to similar credit risks, (c) any equity derivative transaction, including any equity-linked swap, any equity-linked option, any forward equity-linked contract, and any other instrument linked to equities that gives rise to similar credit risk and (d) any commodity (including precious metal) derivative transaction, including any commodity-linked swap, any commodity-linked option, any forward commodity-linked contract, and any other instrument linked to commodities that gives rise to similar credit risks; provided, that, no phantom stock or similar plan providing for payments only on account of services provided by current or former directors, officers, employees, members of management, managers or consultants of the Company or its subsidiaries shall constitute a Derivative Transaction.

“Designated Noncash Consideration” means noncash consideration received by the Company or one of its Restricted Subsidiaries in connection with an Asset Disposition that is so designated as Designated Noncash Consideration pursuant to an Officer’s Certificate, setting forth the basis of such valuation.

“**Designated Preferred Stock**” means Preferred Stock of the Company (other than Disqualified Stock) that is issued after the Closing Date for cash (other than to a Restricted Subsidiary) and is so designated as Designated Preferred Stock, pursuant to an Officer’s Certificate of the Company; provided that the cash proceeds of such issuance shall be excluded from the calculation set forth in Section 6.02(a)(3)(B).

“**Disinterested Directors**” means, with respect to any Affiliate Transaction, one or more members of the Board of Directors of the Company, or one or more members of the Board of Directors having no material direct or indirect financial interest in or with respect to such Affiliate Transaction. A member of any such Board of Directors shall not be deemed to have such a financial interest by reason of such member’s holding Capital Stock of the Company or any options, warrants or other rights in respect of such Capital Stock or by reason of such member receiving any compensation in respect of such member’s role as director.

“**Discount Range**” has the meaning assigned to such term in the definition of “Dutch Auction”.

“**Disclosed Matters**” means the actions, suits and proceedings and the environmental matters disclosed in Schedule 3.05.

“**Disposition**” or “**Dispose**” means the sale, lease, sublease or other disposition of any property of any Person. The fair market value of any assets or other property Disposed of shall be determined by the Company in good faith and shall be measured at the time provided for in Section 1.04(e).

“**Disqualified Stock**” means, with respect to any Person, any Capital Stock (other than Management Stock) that by its terms (or by the terms of any security into which it is convertible or for which it is exchangeable or exercisable) or upon the happening of any event (other than following the occurrence of a Change of Control or other similar event described under such terms as a “change of control,” or an Asset Disposition or other disposition) (i) matures or is mandatorily redeemable pursuant to a sinking fund obligation or otherwise, (ii) is convertible or exchangeable for Indebtedness or Disqualified Stock or (iii) is redeemable at the option of the holder thereof (other than following the occurrence of a Change of Control or other similar event described under such terms as a “change of control,” or an Asset Disposition or other disposition), in whole or in part, in each case on or prior to the final Stated Maturity of the Initial Term Loans; provided that Capital Stock issued to any employee benefit plan, or by any such plan to any employees of the Company or any Subsidiary, shall not constitute Disqualified Stock solely because it may be required to be repurchased or otherwise acquired or retired in order to satisfy applicable statutory or regulatory obligations.

“**Disqualified Institution**” means:

(a) (i) any Person identified as such by the Company in writing (and reasonably satisfactory) to the Administrative Agent, (ii) any Affiliate of any Person described in clause (i) above that is reasonably identifiable as an Affiliate of such Person on the basis of such Affiliate’s name and (iii) any other Affiliate of any Person described in clause (i) above that is identified by the Company in a written notice to the Arrangers (if prior to the Closing Date) or the Administrative Agent (if after the Closing Date) (other than Bona Fide Debt Funds other than such Bona Fide Debt Funds excluded pursuant to clause (a)(i) of this paragraph) (each such person described in clauses (i) through (iii) above, a “**Disqualified Lending Institution**”);

(b) (i) any Person that is a Company Competitor and/or any Affiliate of any Company Competitor (other than any Affiliate that is a Bona Fide Debt Fund) and is identified by the Company as such in writing to the Arrangers (if prior to the Closing Date) or the Administrative Agent (if after the Closing Date), (ii) any Affiliate of any Person described in clause (i) above (other than any Affiliate that is a Bona Fide Debt Fund) that is reasonably identifiable as an Affiliate of such person on the basis of such Affiliate's name and (iii) any other Affiliate of any Person described in clause (i) above that is identified by the Company in a written notice to the Arrangers (if prior to the Closing Date) or to the Administrative Agent (if after the Closing Date) (it being understood and agreed that no Bona Fide Debt Fund may be designated as a Disqualified Institution pursuant to this clause (iii), but such Bona Fide Debt Fund may be designated as a Disqualified Lending Institution pursuant to clause (a) above); and

(c) any Affiliate or Representative of any Arranger and/or any Initial Lender that is engaged as a principal primarily in private equity, mezzanine financing or venture capital;

it being understood and agreed that no written notice delivered pursuant to clauses (a)(i), (a)(iii), (b)(i) and/or (b)(iii) above shall apply retroactively to disqualify any Person that has previously acquired an assignment or participation interest in any Loans or Commitments if such Person was not a Disqualified Institution at the time of acquisition of such assignment or participation interest.

“**Disqualified Lending Institution**” has the meaning assigned to such term in the definition of “Disqualified Institution”.

“**Disregarded Domestic Subsidiary**” means any Domestic Subsidiary that has no material assets other than the Capital Stock and/or Indebtedness of one or more Foreign Subsidiaries or one or more Disregarded Domestic Subsidiaries, IP Rights related to such Foreign Subsidiaries or Disregarded Domestic Subsidiaries, Cash or Cash Equivalents and other incidental assets related thereto.

“**Dollars**” or “**\$**” refers to lawful money of the U.S.

“**Domestic Subsidiary**” means any Restricted Subsidiary incorporated or organized under the laws of the U.S., any state thereof or the District of Columbia.

“**Dutch Auction**” means an auction (an “**Auction**”) conducted by any Affiliated Lender (any such Person, the “**Auction Party**”) in order to purchase Initial Term Loans (or any Additional Term Loans), substantially in accordance with the following procedures (as may be modified by such Affiliated Lender and the applicable “auction agent” in connection with a particular Auction transaction); provided that no Auction Party shall initiate any Auction unless (I) at least five Business Days have passed since the consummation of the most recent purchase of Term Loans pursuant to an Auction conducted hereunder; or (II) at least three Business Days have passed since the date of the last Failed Auction (or equivalent) which was withdrawn:

(a) Notice Procedures. In connection with any Auction, the Auction Party will provide notification to the Auction Agent (for distribution to the relevant Lenders) of the Term Loans that will be the subject of the Auction (an “**Auction Notice**”). Each Auction Notice shall be in a form reasonably acceptable to the Auction Agent and shall (i) specify the maximum aggregate principal amount of the Term Loans subject to the Auction, in a minimum amount of \$10,000,000 and whole increments of \$1,000,000 in excess thereof (or, in any case, such lesser amount of such Term Loans then outstanding or which is otherwise reasonably acceptable to the Auction Agent and the Administrative Agent (if different from the Auction Agent)) (the “**Auction Amount**”), (ii) specify the discount to par (which may be a range (the “**Discount Range**”) of percentages of the par principal amount of the Term Loans subject to such Auction), that represents the range of purchase prices that the Auction Party would be willing to accept in the Auction, (iii) be extended, at the sole discretion of the Auction Party, to (x) each Lender and/or (y) each Lender with respect to any Term Loan on an individual Class basis and (iv) remain outstanding through the Auction Response Date. The Auction Agent will promptly provide each appropriate Lender with a copy of the Auction Notice and a form of the Return Bid to be submitted by a responding Lender to the Auction Agent (or its delegate) by no later than 5:00 p.m. on the date specified in the Auction Notice (or such later date as the Auction Party may agree with the reasonable consent of the Auction Agent) (the “**Auction Response Date**”).

(b) Reply Procedures. In connection with any Auction, each Lender holding the relevant Term Loans subject to such Auction may, in its sole discretion, participate in such Auction and may provide the Auction Agent with a notice of participation (the “**Return Bid**”) which shall be in a form reasonably acceptable to the Auction Agent, and shall specify (i) a discount to par (that must be expressed as a price at which it is willing to sell all or any portion of such Term Loans) (the “**Reply Price**”), which (when expressed as a percentage of the par principal amount of such Term Loans) must be within the Discount Range and (ii) a principal amount of such Term Loans, which must be in whole increments of \$1,000,000 (or, in any case, such lesser amount of such Term Loans of such Lender then outstanding or which is otherwise reasonably acceptable to the Auction Agent) (the “**Reply Amount**”). Lenders may only submit one Return Bid per Auction, but each Return Bid may contain up to three bids only one of which may result in a Qualifying Bid. In addition to the Return Bid, the participating Lender must execute and deliver, to be held in escrow by the Auction Agent, an Assignment and Assumption with the dollar amount of the Term Loans to be assigned to be left in blank, which amount shall be completed by the Auction Agent in accordance with the final determination of such Lender’s Qualifying Bid pursuant to clause (c) below. Any Lender whose Return Bid is not received by the Auction Agent by the Auction Response Date shall be deemed to have declined to participate in the relevant Auction with respect to all of its Term Loans.

(c) Acceptance Procedures. Based on the Reply Prices and Reply Amounts received by the Auction Agent prior to the applicable Auction Response Date, the Auction Agent, in consultation with the Auction Party, will determine the applicable price (the “**Applicable Price**”) for the Auction, which will be the lowest Reply Price for which the Auction Party can complete the Auction at the Auction Amount; provided that, in the event that the Reply Amounts are insufficient to allow the Auction Party to complete a purchase of the entire Auction Amount (any such Auction, a “**Failed Auction**”), the Auction Party shall either, at its election, (i) withdraw the Auction or (ii) complete the Auction at an Applicable Price equal to the highest Reply Price. The Auction Party shall purchase the relevant Term Loans (or the respective portions thereof) from each Lender with a Reply Price that is equal to or lower than the Applicable Price (“**Qualifying Bids**”) at the Applicable Price; provided that if the aggregate proceeds required to purchase all Term Loans subject to Qualifying Bids would exceed the Auction Amount for such Auction, the Auction Party shall purchase such Term Loans at the Applicable Price ratably based on the principal amounts of such Qualifying Bids (subject to rounding requirements specified by the Auction Agent in its discretion). If a Lender has submitted a Return Bid containing multiple bids at different Reply Prices, only the bid with the lowest Reply Price that is equal to or less than the Applicable Price will be deemed to be the Qualifying Bid of such Lender (e.g., a Reply Price of \$100 with a discount to par of 1%, when compared to an Applicable Price of \$100 with a 2% discount to par, will not be deemed to be a Qualifying Bid, while, however, a Reply Price of \$100 with a discount to par of 2.50% would be deemed to be a Qualifying Bid). The Auction Agent shall promptly, and in any case within five Business Days following the Auction Response Date with respect to an Auction, notify (I) the Company of the respective Lenders’ responses to such solicitation, the effective date of the purchase of Term Loans pursuant to such Auction, the Applicable Price, and the aggregate principal amount of the Term Loans and the tranches thereof to be purchased pursuant to such Auction, (II) each participating Lender of the effective date of the purchase of Term Loans pursuant to such Auction, the Applicable Price, and the aggregate principal amount and the tranches of Term Loans to be purchased at the Applicable Price on such date, (III) each participating Lender of the aggregate principal amount and the tranches of the Term Loans of such Lender to be purchased at the Applicable Price on such date and (IV) if applicable, each participating Lender of any rounding and/or proration pursuant to the second preceding sentence. Each determination by the Auction Agent of the amounts stated in the foregoing notices to the Company and Lenders shall be conclusive and binding for all purposes absent manifest error.

(d) Additional Procedures.

(i) Once initiated by an Auction Notice, the Auction Party may not withdraw an Auction other than a Failed Auction. Furthermore, in connection with any Auction, upon submission by a Lender of a Qualifying Bid, such Lender will be obligated to sell the entirety or its allocable portion of the Reply Amount, as the case may be, at the Applicable Price.

(ii) To the extent not expressly provided for herein, each purchase of Term Loans pursuant to an Auction shall be consummated pursuant to procedures consistent with the provisions in this definition, established by the Auction Agent acting in its reasonable discretion and as reasonably agreed by the Company.

(iii) In connection with any Auction, the Company and the Lenders acknowledge and agree that the Auction Agent may require as a condition to any Auction, the payment of customary fees and expenses by the Auction Party in connection therewith as agreed between the Auction Party and the Auction Agent.

(iv) Notwithstanding anything in any Loan Document to the contrary, for purposes of this definition, each notice or other communication required to be delivered or otherwise provided to the Auction Agent (or its delegate) shall be deemed to have been given upon the Auction Agent's (or its delegate's) actual receipt during normal business hours of such notice or communication; provided that any notice or communication actually received outside of normal business hours shall be deemed to have been given as of the opening of business on the next Business Day.

(v) The Company and the Lenders acknowledge and agree that the Auction Agent may perform any and all of its duties under this definition by itself or through any Affiliate of the Auction Agent and expressly consent to any such delegation of duties by the Auction Agent to such Affiliate and the performance of such delegated duties by such Affiliate. The exculpatory provisions pursuant to this Agreement shall apply to each Affiliate of the Auction Agent and its respective activities in connection with any purchase of Term Loans provided for in this definition as well as activities of the Auction Agent.

“Early Opt-in Election” means, if the then current Benchmark is the Adjusted LIBO Rate, the occurrence of:

(1) a notification by the Administrative Agent to (or the request by the Company to the Administrative Agent to notify) each of the other parties hereto that at least five currently outstanding Dollar-denominated syndicated credit facilities at such time contain (as a result of amendment or as originally executed) a SOFR-based rate (including SOFR, a term SOFR or any other rate based upon SOFR) as a benchmark rate (and such syndicated credit facilities are identified in such notice and are publicly available for review), and

(2) the joint election by the Administrative Agent and the Company to trigger a fallback from LIBO Rate and the provision by the Administrative Agent of written notice of such election to the Lenders.

“**ECF Prepayment Amount**” has the meaning assigned to such term in Section 2.11(b)(i).

“**EEA Financial Institution**” means (a) any institution established in any EEA Member Country that is subject to the supervision of an EEA Resolution Authority, (b) any entity established in an EEA Member Country that is a parent of an institution described in clause (a) of this definition, or (c) any institution established in an EEA Member Country that is a subsidiary of an institution described in clause (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 delegate) having responsibility for the resolution of any EEA Financial Institution.

“**Effective Yield**” means, as to any Indebtedness, the effective yield applicable thereto calculated by the Administrative Agent in consultation with the Company in a manner consistent with generally accepted financial practices, taking into account (a) interest rate margins, (b) interest rate floors (subject to the proviso set forth below), (c) any amendment to the relevant interest rate margins and interest rate floors prior to the applicable date of determination and (d) original issue discount and upfront or similar fees (based on an assumed four-year average life to maturity or lesser remaining average life to maturity), but excluding (i) any advisory, arrangement, commitment, consent, structuring, success, underwriting, ticking, unused line fees, amendment fees and/or any similar fees payable in connection therewith (regardless of whether any such fees are paid to or shared in whole or in part with any lender) and (ii) any other fee that is not directly paid generally to all relevant lenders ratably (or, if only one lender (or affiliated group of lenders) is providing such Indebtedness, are fees of the type not customarily shared with lenders generally); provided, that with respect to any Indebtedness that includes a “LIBOR floor” or “Base Rate floor”, that (A) to the extent that the LIBO Rate (for an Interest Period of three months) or Alternate Base Rate (in each case without giving effect to any floor specified in the definitions thereof on the date on which the Effective Yield is being calculated) is less than such floor, the amount of such difference will be deemed added to the interest rate margin applicable to such Indebtedness for purposes of calculating the Effective Yield and (B) to the extent that the LIBO Rate (for an Interest Period of three months) or Alternate Base Rate (in each case, without giving effect to any floor specified in the definitions thereof) is greater than such floor, the floor will be disregarded in calculating the Effective Yield.

“**Electronic Signature**” means an electronic sound, symbol, or process attached to, or associated with, a contract or other record and adopted by a Person with the intent to sign, authenticate or accept such contract or record.

“**Eligible Assignee**” means (a) any Lender, (b) any commercial bank, insurance company, finance company, financial institution, any fund that invests in loans or any other “accredited investor” (as defined in Regulation D of the Securities Act), (c) any Affiliate of any Lender or (d) any Approved Fund of any Lender; provided that in any event, “Eligible Assignee” shall not include (i) any natural person, (ii) any Disqualified Institution or Defaulting Lender or (iii) except as permitted under Section 9.05(g), the Company or any of its Affiliates.

“**Environmental Laws**” means all applicable laws, rules, regulations, codes, orders-in-council, ordinances, orders, decrees, judgments, injunctions or binding agreements issued, promulgated or entered into by any Governmental Authority, relating to the environment, preservation or reclamation of natural resources or the management, release or threatened release of any Hazardous Material.

“**Environmental Liability**” means any liability, contingent or otherwise (including any liability for damages, costs of environmental remediation, fines, penalties or indemnities), of the Company or any Consolidated Subsidiary directly or indirectly resulting from or based upon (a) violation of any Environmental Law, (b) the generation, use, handling, transportation, storage, treatment or disposal of any Hazardous Materials, (c) exposure to any Hazardous Materials, (d) the release or threatened release of any Hazardous Materials into the environment or (e) any contract, agreement or other consensual arrangement pursuant to which liability is assumed or imposed with respect to any of the foregoing.

“**ERISA**” means the Employee Retirement Income Security Act of 1974, as amended from time to time, and the rules and regulations promulgated thereunder.

“**ERISA Affiliate**” means any trade or business (whether or not incorporated) that, together with the Company, is treated as a single employer under Section 414(b) or (c) of the Code or, solely for purposes of Section 302 of ERISA and Section 412 of the Code, is treated as a single employer under Section 414 of the Code.

“**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.

“**Event of Default**” has the meaning set forth in Article 7.

“**Excess Cash Flow**” means, for any Excess Cash Flow Period, an amount (if positive) equal to:

(a) the sum, without duplication, of the amounts for such period of the following:

(i) Consolidated EBITDA for such period without giving effect to clause (9) of the definition thereof, *plus*

(ii) the Consolidated Working Capital Adjustment for such period, *plus*

(iii) cash gains of the type described in clauses (1), (5), and (6) of the definition of “Consolidated Net Income”, to the extent not otherwise included in calculating Consolidated EBITDA (except to the extent such gains consist of proceeds utilized in calculating amounts subject to Section 2.11(b)(ii)), *plus*

(iv) to the extent not otherwise included in the calculation of Consolidated EBITDA for such period, cash payments received by the Company or any of its Restricted Subsidiaries with respect to amounts deducted from Excess Cash Flow in a prior period pursuant to clause (b)(vii) below, *minus*

(b) the sum, without duplication, of the amounts for such period (or, in the case of clauses (b)(i), (b)(iii), (b)(iv), (b)(x), (b)(xi) and (b)(xiii), at the option of the Company, amounts after such period to the extent paid prior to the date of the applicable Excess Cash Flow payment) of the following:

(i) the aggregate principal amount of (i) all optional prepayments of Indebtedness (other than any (A) optional prepayment of Indebtedness that is deducted in calculating the amount of any Excess Cash Flow payment in accordance with Section 2.11(b)(i) or (B) revolving Indebtedness except to the extent any related commitment is permanently reduced in connection with such repayment), (ii) all mandatory prepayments and scheduled repayments of Indebtedness and (iii) the aggregate amount of any premiums, make-whole or penalty payments actually paid in Cash by the Company and/or any Restricted Subsidiary that are or were required to be made in connection with any prepayment of Indebtedness, in each case, except to the extent financed with long-term funded Indebtedness (other than revolving Indebtedness), *plus*

(ii) [reserved], *plus*

(iii) Fixed Charges and other items added back under clauses (2) of the definition of Consolidated EBITDA to the extent paid or payable in Cash (including (A) fees and expenses paid to the Administrative Agent in connection with its services hereunder, (B) other bank, administrative agency (or trustee) and financing fees (including rating agency fees and other fees in respect of any ABL Facility), (C) costs of surety bonds in connection with financing activities (whether amortized or immediately expensed) and (D) commissions, discounts and other fees and charges owed with respect to revolving commitments, letters of credit, bank guarantees, bankers' acceptances or any similar facilities or financing and Hedging Agreements), *plus*

(iv) Consolidated Taxes (including Taxes paid or payable pursuant to any Tax sharing arrangement or arrangements and/or any Tax distribution) paid or estimated in good faith to be payable by the Company and/or any Restricted Subsidiary, and provisions for Taxes, to the extent payable by the Company and/or any Restricted Subsidiary in Cash with respect to such Excess Cash Flow Period, *plus*

(v) [reserved], *plus*

(vi) any foreign translation losses paid or payable in Cash (including any currency re-measurement of Indebtedness, any net gain or loss resulting from Hedging Agreements for currency exchange risk resulting from any intercompany Indebtedness, any foreign currency translation or transaction or any other currency-related risk) to the extent included in calculating Consolidated EBITDA, *plus*

(vii) amounts added back under clause 17 of the definition of Consolidated Net Income with respect to insurance, in each case to the extent such amounts have not yet been received by the Company or its Restricted Subsidiaries, *plus*

(viii) an amount equal to (A) all Charges either (1) excluded in calculating Consolidated Net Income or (2) added back in calculating Consolidated EBITDA, in each case, to the extent paid or payable in cash and (B) all non-Cash credits included in calculating Consolidated Net Income or Consolidated EBITDA, *plus*

(ix) [reserved], *plus*

(x) to the extent not expensed (or exceeding the amount expensed) during such period or not deducted (or exceeding the amount deducted) in calculating Consolidated Net Income, the aggregate amount of Charges paid or payable in Cash by the Company and its Restricted Subsidiaries during such period, other than to the extent financed with long-term funded Indebtedness (other than revolving Indebtedness), *plus*

(xi) Cash payments (other than in respect of Consolidated Taxes, which are governed by clause (iv) above) made during such period for any liability the accrual of which in a prior period did not reduce Consolidated EBITDA and therefore increased Excess Cash Flow in such prior period (provided there was no other deduction to Consolidated EBITDA or Excess Cash Flow related to such payment), except to the extent financed with long term funded Indebtedness (other than revolving Indebtedness), *plus*

(xii) [reserved], *plus*

(xiii) amounts paid in Cash (except to the extent financed with long term funded Indebtedness (other than revolving Indebtedness)) during such period on account of (A) items that were accounted for as non-Cash reductions of Consolidated Net Income or Consolidated EBITDA in a prior period and (B) reserves or amounts established in purchase accounting to the extent such reserves or amounts are added back to, or not deducted from, Consolidated Net Income, *plus*

(xiv) the amount of any payment of Cash to be amortized or expensed over a future period and recorded as a long-term asset, *plus*

(xv) [reserved], *plus*

(xvi) [reserved], *plus*

(xvii) the aggregate amount of any extraordinary, unusual, special or non-recurring cash Charges or Charges referred to in clauses (1) of the definition of Consolidated Net Income paid or payable during such period (whether or not incurred in such Excess Cash Flow Period) that were excluded in calculating Consolidated EBITDA (including any component definition used therein) for such period.

Notwithstanding anything else provided in this Agreement, (x) the amounts deducted under clause (b) above shall in no event be duplicative of amounts deducted under sub-clauses (1) through (9) of Section 2.11(b)(i) and (y) to the extent an amount is eligible to be deducted under either clause (b) above or sub-clauses (1) through (9) of Section 2.11(b)(i), unless otherwise elected by the Company on or prior to the date of the applicable Excess Cash Flow payment, such amounts shall be deemed to have been deducted under sub-clauses (1) through (9) of Section 2.11(b)(i).

“**Excess Cash Flow Period**” means each full fiscal year of the Company ending after the Closing Date (commencing, for the avoidance of doubt, with the fiscal year of the Company ending on January 28, 2023).

“**Exchange Act**” means the Securities Exchange Act of 1934 and the rules and regulations of the SEC promulgated thereunder.

“**Excluded Assets**” has the meaning assigned to such term in the Collateral Agreement.

“**Excluded Contribution**” means Net Cash Proceeds, or the Fair Market Value (as of the date of contribution) of property or assets, received by the Company as capital contributions to the Company after the Closing Date or from the issuance or sale (other than to a Restricted Subsidiary) of Capital Stock (other than Disqualified Stock) of the Company, in each case to the extent designated as an Excluded Contribution pursuant to an Officer’s Certificate of the Company and not previously included in the calculation set forth in Section 6.02(a)(3)(B)(x) for purposes of determining whether a Restricted Payment may be made.

“Excluded Subsidiary” means:

- (a) any Restricted Subsidiary that is not a Wholly-Owned Subsidiary,
- (b) any Immaterial Subsidiary,
- (c) any Restricted Subsidiary that is prohibited or restricted by law, rule or regulation or contractual obligation (in the case of any such contractual obligation, where such contractual obligation exists on the Closing Date or on the date such entity becomes a Restricted Subsidiary, as long as such contractual obligation was not entered into in contemplation of such person becoming a Restricted Subsidiary) from Guaranteeing the Obligations or that would require a governmental (including regulatory) or third party consent, approval, license or authorization to Guarantee the Obligations (including under any financial assistance, corporate benefit, thin capitalization, capital maintenance, liquidity maintenance or similar legal principles) for so long as the applicable prohibition or restriction is in effect and unless and until such consent has been received, it being understood that the Company and its subsidiaries shall have no obligation to obtain any such consent, approval, license or authorization,
- (d) any not-for-profit subsidiary,
- (e) any Captive Insurance Subsidiary or subsidiary that is a broker-dealer,
- (f) any special purpose entity (including a special purpose entity used for any permitted securitization or receivables facility or financing) and any Receivables Subsidiary,
- (g) any Foreign Subsidiary,
- (h) (i) any Disregarded Domestic Subsidiary or (ii) any Domestic Subsidiary that is a direct or indirect subsidiary of any Foreign Subsidiary or any Disregarded Domestic Subsidiary,
- (i) any Unrestricted Subsidiary,
- (j) any Restricted Subsidiary acquired pursuant to an acquisition or other Investment permitted by this Agreement that has Indebtedness at the time of such acquisition or Investment, and not Incurred in contemplation thereof, and any Restricted Subsidiary thereof that guarantees such Indebtedness, in each case to the extent the terms of such Indebtedness prohibit such Restricted Subsidiary from becoming a Subsidiary Guarantor,
- (k) any Restricted Subsidiary if the provision of a Guarantee of the Obligations could reasonably be expected to result in adverse tax or regulatory consequences to any Loan Party or any of its subsidiaries or parent companies that are not de minimis as determined by the Company in good faith, and
- (l) any other Restricted Subsidiary with respect to which, in the good faith judgment of the Administrative Agent and the Company, the burden or cost of providing a Guarantee of the Obligations outweighs the benefits afforded thereby.

“Excluded Taxes” means, any of the following Taxes imposed on or, with respect to, or required to be withheld or deducted from a payment to, the Administrative Agent, any Lender or any other recipient of any payment to be made by or on account of any obligation of any Loan Party hereunder, (a) Taxes imposed on (or measured by) its net income, franchise Taxes and branch profits Taxes, in each case, (i) imposed by the jurisdiction under the laws of which such recipient is organized or in which its principal office is located or, in the case of any Lender, in which its applicable lending office is located or (ii) that are Other Connection Taxes, (b) in the case of a Lender, any U.S. federal withholding tax that is imposed on amounts payable to or for the account of such Lender at the time such Lender becomes a party to this Agreement (or designates a new lending office), except (i) pursuant to an assignment or designation of a new lending office under Section 2.19 and (ii) to the extent that such Lender (or the assignor, if any) was entitled, immediately before the designation of a new lending office (or assignment), to receive additional amounts from any Loan Party with respect to such withholding tax pursuant to Section 2.17, (c) any tax imposed as a result of a failure by the Administrative Agent or any Lender or any other recipient to comply with Section 2.17(f) and (d) any withholding tax under FATCA.

“Exempt Sale and Leaseback Transaction” means any Sale and Leaseback Transaction (a) in which the sale or transfer of property occurs within 180 days of the acquisition of such property by the Company or any of its Subsidiaries or (b) that involves property with a book value equal to the greater of \$60.0 million and 1.5% of Consolidated Tangible Assets or less and is not part of a series of related Sale and Leaseback Transactions involving property with an aggregate value in excess of such amount and entered into with a single Person or group of Persons. For purposes of the foregoing, “Sale and Leaseback Transaction” means any arrangement with any Person providing for the leasing by the Company or any of its Subsidiaries of real or personal property that has been or is to be sold or transferred by the Company or any such Subsidiary to such Person or to any other Person to whom funds have been or are to be advanced by such Person on the security of such property or rental obligations of the Company or such Subsidiary.

“Extended Term Loans” has the meaning assigned to such term in Section 2.23(a)(ii).

“Extension” has the meaning assigned to such term in Section 2.23(a).

“Extension Amendment” means an amendment to this Agreement that is reasonably satisfactory to the Administrative Agent (to the extent required by Section 2.23) and the Company, executed by each of (a) the Company, (b) the Administrative Agent and (c) each Lender that has accepted the applicable Extension Offer pursuant hereto and in accordance with Section 2.23.

“Extension Offer” has the meaning assigned to such term in Section 2.23(a).

“Failed Auction” has the meaning assigned to such term in the definition of “Dutch Auction”.

“Fair Market Value” means, with respect to any asset or property, the fair market value of such asset or property as determined in good faith by senior management of the Company or the Board of Directors, whose determination shall be conclusive.

“FATCA” means Sections 1471 through 1474 of the Code, as of the date of this Agreement (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 intergovernmental agreements entered into thereunder and any law, regulation or official guidance adopted pursuant to any such intergovernmental agreements; and any agreements entered into pursuant to Section 1471(b)(1) of the Code.

“Federal Funds Effective Rate” means, for any day, the rate calculated by the NYFRB based on such day’s federal funds transactions by depository institutions (as determined in such manner as shall be set forth on the Federal Reserve Bank of New York’s Website from time to time) and published on the next succeeding Business Day by the NYFRB as the federal funds effective rate; provided that if such rate shall be less than zero, such rate shall be deemed to be zero for all purposes of this Agreement.

“**Federal Reserve Bank of New York’s Website**” means the website of the Federal Reserve Bank of New York at <http://www.newyorkfed.org>, or any successor source.

“**Fee Letter**” means that certain Fee Letter dated June 28, 2021.

“**Finance Lease Obligation**” means an obligation that is required to be classified and accounted for as a finance lease for financial reporting purposes in accordance with GAAP. The Stated Maturity of any Finance Lease Obligation shall be the date of the last payment of rent or any other amount due under the related lease.

“**Financing Disposition**” means any sale, transfer, conveyance or other disposition of, or creation or incurrence of any Lien on, property or assets by the Company or any Subsidiary thereof to or in favor of any Receivables Subsidiary in connection with the Incurrence by a Receivables Subsidiary of Indebtedness, or obligations to make payments to the obligor on Indebtedness, which may be secured by a Lien in respect of such property or assets.

“**Fixed Amounts**” has the meaning assigned to such term in Section 1.04(g).

“**Fixed Charges**” means, with respect to any Person for any period, the sum, without duplication, of: (1) Consolidated Interest Expense (excluding amortization or write-off of deferred financing costs) of such Person for such period, and (2) all cash dividend payments (excluding items eliminated in consolidation) on any series of Preferred Stock or Disqualified Stock of such Person and its Restricted Subsidiaries.

“**Floor**” means the benchmark rate floor, if any, provided in this Agreement initially (as of the execution of this Agreement, the modification, amendment or renewal of this Agreement or otherwise) with respect to the Adjusted LIBO Rate.

“**Foreign Lender**” means any Lender that is not a U.S. Person.

“**Foreign Subsidiary**” means any Subsidiary that is not a Domestic Subsidiary.

“**Funding Account**” has the meaning assigned to such term in [Section 2.03\(f\)](#).

“**GAAP**” means generally accepted accounting principles in the United States.

“**Governmental Authority**” means the government of the United States, any other nation or any political subdivision thereof, whether state or local, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government (including any supra-national bodies such as the European Union or the European Central Bank).

“**Granting Lender**” has the meaning assigned to such term in [Section 9.05\(e\)](#).

“**Guarantee**” means any obligation, contingent or otherwise, of any Person directly or indirectly guaranteeing any Indebtedness or other obligation of any other Person; provided that the term “Guarantee” shall not include endorsements for collection or deposit in the ordinary course of business. The term “Guarantee” used as a verb has a corresponding meaning.

“**Guarantor Subordinated Obligations**” means, with respect to a Subsidiary Guarantor, any Indebtedness of such Subsidiary Guarantor (whether outstanding on the Closing Date or thereafter Incurred) that is expressly subordinated in right of payment to the obligations of such Subsidiary Guarantor under its Subsidiary Guarantee pursuant to a written agreement (other than Indebtedness owing to the Company or a Restricted Subsidiary).

“**Hazardous Materials**” means all explosive or radioactive substances or wastes and all hazardous or toxic substances, wastes or other pollutants, including petroleum or petroleum distillates, asbestos or asbestos containing materials, polychlorinated biphenyls, radon gas, infectious or medical wastes in each case which are regulated pursuant to any Environmental Law.

“**Hedging Agreements**” means, collectively, Interest Rate Agreements, Currency Agreements and Commodities Agreements or other agreement or arrangement designed to protect against fluctuations in interest rates or currency, commodity or equity values (including, without limitation, any option with respect to any of the foregoing and any combination of the foregoing agreement or arrangements), and any confirmation executed in connection with any such agreement or arrangement.

“**Hedging Obligations**” of any Person means the obligations of such Person pursuant to any Interest Rate Agreement, Currency Agreement or Commodities Agreement.

“**IFRS**” means international accounting standards within the meaning of the IAS Regulation 1606/2002, as in effect from time to time (subject to the provisions of Section 1.04), to the extent applicable to the relevant financial statements.

“**Immaterial Subsidiary**” means, at any time, Restricted Subsidiaries that at such time, in the aggregate for all such Restricted Subsidiaries, (i) directly own less than 10% of the amount of Qualifying Assets owned directly by all Restricted Subsidiaries and (ii) directly own accounts receivable and inventory representing less than 5% of the book value of the accounts receivable and inventory directly owned by all Restricted Subsidiaries.

“**Impacted Interest Period**” has the meaning assigned to it in the definition of “LIBO Rate.”

“**Incremental Cap**” means, as of any date of determination:

(a) the Shared Incremental Amount as of such date, *plus*

(b) in the case of any Incremental Facility or Incremental Equivalent Debt that effectively extends the Maturity Date with respect to any Class of Loans and/or commitments hereunder, an amount equal to the portion of the relevant Class of Loans or commitments that will be replaced by such Incremental Facility or Incremental Equivalent Debt, *plus*

(c) [reserved], *plus*

(d) (i) the amount of any optional prepayment of any Loan (including any Incremental Loan) in accordance with Section 2.11(a), (ii) the amount of any optional prepayment, redemption, repurchase or retirement of Incremental Equivalent Debt that is *pari passu* with the Initial Term Loans in right of payment and with respect to security (without regard to the control of remedies) or that was originally incurred in reliance on the preceding clause (a), (iii) the amount of any optional prepayment, redemption or repurchase of any Replacement Term Loan or any borrowing or issuance of Replacement Debt previously applied to the permanent prepayment of any Loan hereunder or of any Incremental Equivalent Debt, in each case that is *pari passu* with the Initial Term Loans in right of payment and with respect to security (without regard to the control of remedies) or that was originally incurred in reliance on the preceding clause (a), (iv) [reserved] and (v) the aggregate amount of any Indebtedness referred to in clauses (i) through (iii) repaid or retired resulting from any assignment of such Indebtedness to (and/or assignment and/or purchase of such Indebtedness by) the Company and/or any Restricted Subsidiary; provided that for each of clauses (i) through (v), the relevant prepayment, redemption, repurchase or assignment and/or purchase was not funded with the proceeds of any long-term Indebtedness (other than revolving Indebtedness), *plus*

(e) an unlimited amount so long as, in the case of this clause (e), on a pro forma basis after giving effect to the incurrence of the Incremental Facility or the Incremental Equivalent Debt, as applicable, and the application of the proceeds thereof (other than any Cash funded to the consolidated balance sheet of the Company or any of its Restricted Subsidiaries) and to any relevant Subject Transaction,

(i) if such Indebtedness is secured by Parity Priority Liens on the Collateral either (x) the Consolidated First Lien Leverage Ratio does not exceed the greater of (x) 1.50:1.00 and (y) if such Indebtedness is incurred to finance an acquisition or other Investment permitted hereunder, the Consolidated First Lien Leverage Ratio immediately prior to giving effect thereto, and

(ii) in the case of any other Indebtedness the Consolidated Coverage Ratio is not less than the lesser of (x) 2.00:1.00 and (y) if such Indebtedness is incurred to finance an acquisition or other Investment permitted hereunder, the Consolidated Coverage Ratio immediately prior to giving effect thereto,

provided that:

(1) any Incremental Facility and/or Incremental Equivalent Debt may be incurred under one or more of clauses (a) through (e) of this definition as selected by the Company in its sole discretion (provided that, in the case of clause (e), an Incremental Facility may be incurred only under clause (i) thereof),

(2) if any Incremental Facility or Incremental Equivalent Debt is intended to be incurred under clause (e) of this definition and any other clause of this definition in a single transaction or series of related transactions, (A) the incurrence of the portion of such Incremental Facility or Incremental Equivalent Debt to be incurred or implemented under clause (e) of this definition shall be calculated first without giving effect to any Incremental Facilities or Incremental Equivalent Debt to be incurred under any other clause of this definition, but giving full pro forma effect to the use of proceeds of the entire amount of such Incremental Facility or Incremental Equivalent Debt and the related transactions and (B) the incurrence of the portion of such Incremental Facility or Incremental Equivalent Debt to be incurred or implemented under the other applicable clauses of this definition shall be calculated thereafter, and

(3) any portion of any Incremental Facility or Incremental Equivalent Debt that is Incurred under clauses (a) through (d) of this definition, unless otherwise elected by the Company, shall automatically and without need for action by any Person, be reclassified as having been Incurred under clause (e) of this definition if, at any time after the Incurrence thereof, when financial statements required pursuant to Section 5.01(a)(i) or (ii) are delivered, such portion of such Incremental Facility or Incremental Equivalent Debt would, using the figures reflected in such financial statements, be (or have been) permitted under the Consolidated First Lien Leverage Ratio or Consolidated Coverage Ratio test, as applicable, set forth in clause (e) of this definition.

“**Incremental Commitment**” means any commitment made by a lender to provide all or any portion of any Incremental Facility or Incremental Loans.

“**Incremental Equivalent Debt**” means any Indebtedness incurred by any Loan Party (which may be Guaranteed by one or more Loan Parties) that satisfies the following conditions:

(a) the aggregate outstanding principal amount thereof does not exceed the Incremental Cap as in effect at the time of determination (after giving effect to any reclassification on or prior to such date of determination),

(b) the Weighted Average Life to Maturity of such Indebtedness is no shorter than the remaining Weighted Average Life to Maturity of the Initial Term Loans and the final maturity date of such Indebtedness is no earlier than the Latest Maturity Date, in each case as determined on the date of the issuance or incurrence, as applicable, thereof; provided, that the foregoing limitations shall not apply to (i) customary bridge loans with a maturity date of not longer than one year; provided, that either (x) the terms of such bridge loans provide for automatic extension of the maturity date thereof to a date that is not earlier than the Initial Term Loan Maturity Date or (y) any loans, notes, securities or other Indebtedness (other than revolving loans) which are exchanged for or otherwise replace such bridge loans shall be subject to the requirements of this clause (b), (ii) [reserved] and (iii) Indebtedness having an aggregate principal amount outstanding not exceeding the greater of \$500.0 million and 50% of Consolidated EBITDA as of the last day of the most recently ended Test Period,

(c) subject to clause (b), such Indebtedness may otherwise have an amortization schedule as determined by the Company and the lenders providing such Indebtedness,

(d) if such Indebtedness is in the form of broadly syndicated Dollar-denominated term B loans that are *pari passu* with the Initial Term Loans in right of payment and with respect to security, the MFN Provisions of Section 2.22(a)(v) shall apply to such Indebtedness as if (but only to the extent, including after giving effect to the applicable exclusions and sunset provisions thereof) such Indebtedness was an Incremental Term Facility of the type subject to the provisions of Section 2.22(a)(v), *mutatis mutandis*, and

(e) if such Indebtedness is secured by assets that constitute Collateral, the holders of such Indebtedness (or a representative therefor) shall be party to an Acceptable Intercreditor Agreement.

“**Incremental Facilities**” has the meaning assigned to such term in Section 2.22(a).

“**Incremental Facility Amendment**” means an amendment to this Agreement that is reasonably satisfactory to the Administrative Agent (solely for purposes of giving effect to Section 2.22) and the Company executed by each of (a) the Company and each other Borrower, (b) the Administrative Agent and (c) each Lender that agrees to provide all or any portion of the Incremental Facility being incurred pursuant thereto and in accordance with Section 2.22.

“**Incremental Loans**” has the meaning assigned to such term in Section 2.22(a).

“**Incremental Term Facility**” has the meaning assigned to such term in Section 2.22(a).

“**Incremental Term Loans**” has the meaning assigned to such term in Section 2.22(a).

“**Incur**” means issue, assume, enter into any Guarantee of, incur or otherwise become liable for; and the terms “**Incurs**,” “**Incurred**” and “**Incurrence**” shall have a correlative meaning; provided that any Indebtedness or Capital Stock of a Person existing at the time such Person becomes a Subsidiary (whether by merger, consolidation, acquisition or otherwise) shall be deemed to be Incurred by such Subsidiary at the time it becomes a Subsidiary. Accrual of interest, the accretion of accreted value, the payment of interest in the form of additional Indebtedness, and the payment of dividends on Capital Stock constituting Indebtedness in the form of additional shares of the same class of Capital Stock, will be deemed not to be an Incurrence of Indebtedness. Any Indebtedness issued at a discount (including Indebtedness on which interest is payable through the issuance of additional Indebtedness) shall be deemed Incurred at the time of original issuance of the Indebtedness at the initial accreted amount thereof.

“**Incurrence-Based Amounts**” has the meaning assigned to such term in Section 1.04(g).

“**Indebtedness**” means, with respect to any Person on any date of determination (without duplication):

- (i) the principal of indebtedness of such Person for borrowed money;
- (ii) the principal of obligations of such Person evidenced by bonds, debentures, notes or other similar instruments;
- (iii) all reimbursement obligations of such Person in respect of letters of credit, bankers’ acceptances or other similar instruments (the amount of such obligations being equal at any time to the aggregate amount of drawings thereunder that have not then been reimbursed);
- (iv) all obligations of such Person to pay the deferred and unpaid purchase price of property (except accruals and Trade Payables), which purchase price is due more than one year after the date of placing such property in final service or taking final delivery and title thereto;
- (v) all Finance Lease Obligations of such Person;
- (vi) the redemption, repayment or other repurchase amount of such Person with respect to any Disqualified Stock of such Person or (if such Person is a Subsidiary of the Company other than a Subsidiary Guarantor) any Preferred Stock of such Subsidiary, but excluding, in each case, any accrued dividends (the amount of such obligation to be equal at any time to the maximum fixed involuntary redemption, repayment or repurchase price for such Capital Stock, or if less (or if such Capital Stock has no such fixed price), to the involuntary redemption, repayment or repurchase price therefor calculated in accordance with the terms thereof as if then redeemed, repaid or repurchased, and if such price is based upon or measured by the Fair Market Value of such Capital Stock, such Fair Market Value shall be as determined in good faith by senior management of the Company, the Board of Directors of the Company or the Board of Directors of the issuer of such Capital Stock);
- (vii) all Indebtedness of other Persons secured by a Lien on any asset of such Person, whether or not such Indebtedness is assumed by such Person; provided that the amount of Indebtedness of such Person shall be the lesser of (A) the Fair Market Value of such asset at such date of determination (as determined in good faith by the Company) and (B) the amount of such Indebtedness of such other Persons;

(viii) all Guarantees by such Person of Indebtedness of other Persons, to the extent so Guaranteed by such Person; and

(ix) to the extent not otherwise included in this definition, net Hedging Obligations of such Person (the amount of any such obligation to be equal at any time to the termination value of such agreement or arrangement giving rise to such Hedging Obligation that would be payable by such Person at such time); provided that Indebtedness shall not include Contingent Obligations Incurred in the ordinary course of business.

The amount of Indebtedness of any Person at any date shall be determined as set forth above or as otherwise provided for in this Agreement, or otherwise shall equal the amount thereof that would appear as a liability on a balance sheet of such Person (excluding any notes thereto) prepared in accordance with GAAP.

“**Indemnified Taxes**” means (a) Taxes, other than Excluded Taxes, imposed on or with respect to any payment made by or on account of any obligation of the Company under any Loan Document and (b) to the extent not otherwise described in (a), Other Taxes.

“**Indemnitee**” has the meaning assigned to such term in Section 9.03(b).

“**Initial Agreement**” has the meaning assigned to such term in Section 6.03(iii).

“**Initial Lenders**” means the Arrangers and the affiliates of the Arrangers who are party to this Agreement as Lenders on the Closing Date.

“**Initial Term Lender**” means any Lender with an Initial Term Loan Commitment or an outstanding Initial Term Loan.

“**Initial Term Loan Commitment**” means, with respect to each Term Lender, the commitment of such Term Lender to make Initial Term Loans hereunder in an aggregate amount not to exceed the amount set forth opposite such Term Lender’s name on the Commitment Schedule, as the same may be (a) reduced from time to time pursuant to Section 2.09 or Section 2.19 and (b) reduced or increased from time to time pursuant to (x) assignments by or to such Term Lender pursuant to Section 9.05 or (y) an Additional Term Loan Commitment. The aggregate amount of the Term Lenders’ Initial Term Loan Commitments on the Closing Date is \$400,000,000.

“**Initial Term Loan Maturity Date**” means the date that is seven years after the Closing Date.

“**Initial Term Loans**” means the term loans made by the Initial Term Lenders to the Company pursuant to Section 2.01(a).

“**Intellectual Property Security Agreement**” means any agreement executed on or after the Closing Date confirming or effecting the grant of any Lien on IP Rights owned by any Loan Party to the Administrative Agent, for the benefit of the Secured Parties, in accordance with this Agreement, including any of the following: (a) a Trademark Security Agreement substantially in the form of Exhibit H-1 hereto, (b) a Patent Security Agreement substantially in the form of Exhibit H-2 hereto or (c) a Copyright Security Agreement substantially in the form of Exhibit H-3 hereto.

“**Intercreditor Agreements**” means, collectively, (a) the ABL Intercreditor Agreement, (b) the Pari Passu Intercreditor Agreement and (c) any other Acceptable Intercreditor Agreement.

“**Interest Election Request**” means a request by the Company in the form of Exhibit D hereto or another form reasonably acceptable to the Administrative Agent to convert or continue a Borrowing in accordance with Section 2.08.

“**Interest Payment Date**” means (a) with respect to any ABR Loan, the last Business Day of each March, June, September and December (commencing with the last Business Day of September 2021) or the maturity date applicable to such Loan and (b) with respect to any LIBO Rate Loan, the last day of the Interest Period applicable to the Borrowing of which such Loan is a part and, in the case of a LIBO Rate Borrowing with an Interest Period of more than three-months’ duration, each day prior to the last day of such Interest Period that occurs at intervals of three-months’ duration after the first day of such Interest Period.

“**Interest Period**” means with respect to any LIBO Rate Borrowing, the period commencing on the date of such Borrowing and ending on the numerically corresponding day in the calendar month that is one, three or six months (or, with the consent of each Lender, twelve months) thereafter, as the Company may elect; provided, that (i) if any Interest Period would end on a day other than a Business Day, such Interest Period shall be extended to the next succeeding Business Day unless, in the case of a LIBO Rate Borrowing only, such next succeeding Business Day would fall in the next calendar month, in which case such Interest Period shall end on the next preceding Business Day, (ii) any Interest Period pertaining to a LIBO Rate Borrowing that commences on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the last calendar month of such Interest Period) shall end on the last Business Day of the last calendar month of such Interest Period and (iii) any Interest Period with respect to any Class that would otherwise end after the Maturity Date applicable to such Class will end on the Maturity Date applicable to such Class. For purposes hereof, the date of a Borrowing initially shall be the date on which such Borrowing is made and thereafter shall be the effective date of the most recent conversion or continuation of such Borrowing.

“**Interest Rate Agreement**” means, with respect to any Person, any interest rate protection agreement, future agreement, option agreement, swap agreement, cap agreement, collar agreement, hedge agreement or other similar agreement or arrangement (including derivative agreements or arrangements), as to which such Person is a party or a beneficiary.

“**Interpolated Rate**” means, at any time, for any Interest Period, the rate *per annum* (rounded to the same number of decimal places as the LIBO Screen Rate) determined by the Administrative Agent (which determination shall be conclusive and binding absent manifest error) to be equal to the rate that results from interpolating on a linear basis between: (a) the LIBO Screen Rate for the longest period (for which the LIBO Screen Rate is available) that is shorter than the Impacted Interest Period; and (b) the LIBO Screen Rate for the shortest period (for which that LIBO Screen Rate is available) that exceeds the Impacted Interest Period, in each case, at such time.

“**Inventory**” means goods held for sale, lease or use by a Person in the ordinary course of business, net of any reserve for goods that have been segregated by such Person to be returned to the applicable vendor for credit, as determined in accordance with GAAP.

“Investment” in any Person by any other Person means any direct or indirect advance, loan or other extension of credit (other than to customers, dealers, licensees, sublicenses, franchisees, suppliers, consultants, directors, officers or employees of any Person in the ordinary course of business) or capital contribution (by means of any transfer of cash or other property to others or any payment for property or services for the account or use of others) to, or any purchase or acquisition of Capital Stock, Indebtedness or other similar instruments issued by, such Person. For purposes of the definition of “Unrestricted Subsidiary” and Section 6.02 only, (i) “Investment” shall include the portion (proportionate to the Company’s equity interest in such Subsidiary) of the Fair Market Value of the net assets of any Subsidiary of the Company at the time that such Subsidiary is designated an Unrestricted Subsidiary; provided that upon a redesignation of such Subsidiary as a Restricted Subsidiary, the Company shall be deemed to continue to have a permanent “Investment” in an Unrestricted Subsidiary in an amount (if positive) equal to (x) the Company’s “Investment” in such Subsidiary at the time of such redesignation less (y) the portion (proportionate to the Company’s equity interest in such Subsidiary) of the Fair Market Value of the net assets of such Subsidiary at the time of such redesignation, (ii) any property transferred to or from an Unrestricted Subsidiary shall be valued at its Fair Market Value (as determined in good faith by the Company) at the time of such transfer and (iii) for purposes of Section 6.02(a)(3)(C), the amount resulting from the redesignation of any Unrestricted Subsidiary as a Restricted Subsidiary shall be the Fair Market Value of the Investment in such Unrestricted Subsidiary at the time of such redesignation. Guarantees shall not be deemed to be Investments. The amount of any Investment outstanding at any time shall be the original cost of such Investment, reduced (at the Company’s option) by any dividend, distribution, interest payment, return of capital, repayment or other amount or value received in respect of such Investment; provided that to the extent that the amount of Restricted Payments outstanding at any time pursuant to Section 6.02(a) is so reduced by any portion of any such amount or value that would otherwise be included in the calculation of Consolidated Net Income, such portion of such amount or value shall not be so included for purposes of calculating the amount of Restricted Payments that may be made pursuant to Section 6.02(a).

“Investment Grade Rating” means a rating equal to or higher than Baa3 (or the equivalent) by Moody’s and BBB- (or the equivalent) by S&P, or any equivalent rating by any other rating agency.

“Investment Grade Securities” means (i) securities issued or directly and fully guaranteed or insured by the United States government or any agency or instrumentality thereof (other than Cash Equivalents); (ii) debt securities or debt instruments with an Investment Grade Rating, but excluding any debt securities or instruments constituting loans or advances among the Company and its Subsidiaries; (iii) investments in any fund that invests exclusively in investments of the type described in clauses (i) and (ii) above, which fund may also hold cash pending investment or distribution; and (iv) corresponding instruments in countries other than the United States customarily utilized for high-quality investments.

“IP Rights” refers to the Patents, Trademarks, Copyrights, domain names, trade secrets and all other similar intellectual property rights owned or licensed by the Company and its Restricted Subsidiaries.

“IRS” means the United States Internal Revenue Service.

“ISDA CDS Definitions” has the meaning assigned to such term in Section 9.02(b).

“ISDA Definitions” means the 2006 ISDA Definitions published by the International Swaps and Derivatives Association, Inc. or any successor thereto, as amended or supplemented from time to time, or any successor definitional booklet for interest rate derivatives published from time to time by the International Swaps and Derivatives Association, Inc. or such successor thereto.

“Junior Capital” means, collectively, any Indebtedness of the Company that (i) is not secured by any asset of the Company or any Restricted Subsidiary, (ii) is expressly subordinated to the prior payment in full of the Loans on terms consistent with those for senior subordinated high yield debt securities issued by U.S. companies (as determined in good faith by the Company, which determination shall be conclusive), (iii) has a final maturity date that is not earlier than, and provides for no scheduled payments of principal prior to, the date that is 91 days after the maturity of the Initial Term Loans (other than through conversion or exchange of any such Indebtedness for Capital Stock (other than Disqualified Stock) of the Company or any other Junior Capital), (iv) has no mandatory redemption or prepayment obligations other than (x) obligations that are subject to the prior payment in full in cash of the Initial Term Loans or (y) pursuant to an escrow or similar arrangement with respect to the proceeds of such Junior Capital and (v) does not require the payment of cash interest until the date that is 91 days after the maturity of the Initial Term Loans.

“**L Brands**” means L Brands, Inc., a Delaware corporation.

“**Latest Maturity Date**” means, as of any date of determination, the latest maturity or expiration date applicable to any Loan or Commitment hereunder at such time, including the latest maturity or expiration date of any Initial Term Loan or Additional Term Loan.

“**Lender Presentation**” means the Lender Presentation dated June 22, 2021 used in connection with the syndication of the initial credit facilities hereunder.

“**Lender-Related Person**” has the meaning assigned to it in [Section 9.04](#).

“**Liabilities**” means any losses, claims (including intraparty claims), demands, damages or liabilities of any kind.

“**Lenders**” means the Term Lenders, any lender with an Additional Commitment or an outstanding Additional Loan and any other Person that becomes a party hereto pursuant to an Assignment Agreement, other than any such Person that ceases to be a party hereto pursuant to an Assignment Agreement or as a result of the application of [Section 9.05\(g\)](#).

“**LIBO Rate**” means, with respect to any Eurodollar Borrowing for any Interest Period, the LIBO Screen Rate at approximately 11:00 a.m., London time, two Business Days prior to the commencement of such Interest Period; provided that if the LIBO Screen Rate shall not be available at such time for such Interest Period (an “**Impacted Interest Period**”) then the LIBO Rate shall be the Interpolated Rate.

“**LIBO Screen Rate**” means, for any day and time, with respect to any LIBO Rate Borrowing for any Interest Period, the London interbank offered rate as administered by ICE Benchmark Administration (or any other Person that takes over the administration of such rate for Dollars for a period equal in length to such Interest Period as displayed on such day and time on pages LIBOR01 or LIBOR02 of the Reuters screen that displays such rate (or, in the event such rate does not appear on a Reuters page or screen, on any successor or substitute page on such screen that displays such rate, or on the appropriate page of such other information service that publishes such rate from time to time as selected by the Administrative Agent in its reasonable discretion).

“**Lien**” means any mortgage, pledge, security interest, encumbrance, lien or charge of any kind (including any conditional sale or other title retention agreement or lease in the nature thereof), in each case in the nature of security; provided that in no event shall a Non-Financing Lease Obligation in and of itself be deemed to constitute a Lien or lease in the nature thereof).

“**Loan Documents**” means this Agreement, any Promissory Note, the Collateral Documents, the ABL Intercreditor Agreement, any Acceptable Intercreditor Agreement and any other document or instrument designated by the Company and the Administrative Agent as a “Loan Document”, including any Incremental Facility Amendment, Refinancing Amendment or Extension Amendment or any other amendment hereto or thereto. Any reference in this Agreement or any other Loan Document to a Loan Document shall include all appendices, exhibits or schedules thereto.

“**Loan Installment Date**” has the meaning assigned to such term in [Section 2.10\(a\)](#).

“Loan Parties” means the Borrowers and the Subsidiary Loan Parties.

“Loans” means the loans made by the Lenders to the Borrowers pursuant to this Agreement.

“Management Advances” means (1) loans or advances made to directors, management members, officers, employees or consultants of the Company or any Restricted Subsidiary (x) in respect of travel, entertainment or moving-related expenses incurred in the ordinary course of business, (y) in respect of moving-related expenses incurred in connection with any closing or consolidation of any facility or (z) in the ordinary course of business and (in the case of this clause (z)) not exceeding \$20.0 million in the aggregate outstanding at any time, (2) promissory notes of Management Investors acquired in connection with the issuance of Management Stock to such Management Investors, (3) Management Guarantees, or (4) other Guarantees of borrowings by Management Investors in connection with the purchase of Management Stock, which Guarantees are permitted under Section 6.01.

“Management Guarantees” means guarantees (x) of up to an aggregate principal amount outstanding at any time of \$30.0 million of borrowings by Management Investors in connection with their purchase of Management Stock or (y) made on behalf of, or in respect of loans or advances made to, directors, officers, employees or consultants of the Company or any Restricted Subsidiary (1) in respect of travel, entertainment and moving related expenses incurred in the ordinary course of business or (2) in the ordinary course of business and (in the case of this clause (2)) not exceeding \$15.0 million in the aggregate outstanding at any time.

“Management Indebtedness” means Indebtedness Incurred to (a) any Person other than a Management Investor of up to an aggregate principal amount outstanding at any time of \$30.0 million and (b) any Management Investor, in each case, to finance the repurchase or other acquisition of Capital Stock of the Company or any Restricted Subsidiary (including any options, warrants or other rights in respect thereof) from any Management Investor, which repurchase or other acquisition of Capital Stock is permitted by Section 6.02.

“Management Investors” means the management members, officers, directors, employees and other members of the management of the Company or any of its Subsidiaries, or family members or relatives of any of the foregoing, or trusts, partnerships or limited liability companies for the benefit of any of the foregoing, or any of their heirs, executors, successors and legal representatives, who at any date beneficially own or have the right to acquire, directly or indirectly, Capital Stock of the Company or any Restricted Subsidiary.

“Management Stock” means Capital Stock of the Company or any Restricted Subsidiary (including any options, warrants or other rights in respect thereof) held by any of the Management Investors.

“Market Capitalization” means an amount equal to (i) the total number of issued and outstanding shares of capital stock of the Company or any direct or indirect parent company on the date of declaration of the relevant dividend multiplied by (ii) the arithmetic mean of the closing prices per share of such capital stock on the New York Stock Exchange (or, if the primary listing of such capital stock is on another exchange, on such other exchange) for the 30 consecutive trading days immediately preceding the date of declaration of such dividend.

“Market Intercreditor Agreement” means an intercreditor or subordination agreement or arrangement (which may take the form of a “waterfall” or similar provision) the terms of which are either (a) consistent with market terms governing intercreditor arrangements for the sharing or subordination of liens or arrangements relating to the distribution of payments, as applicable, at the time the applicable agreement or arrangement is proposed to be established in light of the type of Indebtedness subject thereto or (b) in the case of the ABL Intercreditor Agreement, or in the event a “Market Intercreditor Agreement” has been entered into after the Closing Date meeting the requirement of preceding clause (a), the terms of which are, taken as a whole, not materially less favorable to the Lenders than the terms of such Intercreditor Agreement or Market Intercreditor Agreement to the extent such agreement governs similar priorities, in each case of clause (a) or (b) as determined by the Company in good faith.

“**Material Acquisition**” means any acquisition or other Investment the aggregate consideration for which exceeds \$375,000,000.

“**Material Adverse Effect**” means a material adverse effect on (i) the business, financial condition or results of operations of the Company and its Restricted Subsidiaries, taken as a whole or (ii) the material rights and remedies (taken as a whole) of the Administrative Agent under the applicable Loan Documents.

“**Material Debt Instrument**” means any physical instrument evidencing any Indebtedness for borrowed money which is required to be pledged and delivered to the Administrative Agent (or its bailee) pursuant to the Collateral Agreement.

“**Material Investment**” means any Investment, the aggregate consideration for which is greater than \$375,000,000.

“**Material Subsidiary**” means any Restricted Subsidiary of the Company that is not an Immaterial Subsidiary.

“**Maturity Date**” means (a) with respect to the Initial Term Loans, the Initial Term Loan Maturity Date, (b) with respect to any Replacement Term Loans, the final maturity date for such Replacement Term Loans, as set forth in the applicable Refinancing Amendment, and (c) with respect to any Incremental Facility, the final maturity date set forth in the applicable Incremental Facility Amendment.

“**Maximum Rate**” has the meaning assigned to such term in Section 9.19.

“**MFN Provision**” has the meaning assigned to such term in Section 2.22(a)(v).

“**Moody’s**” means Moody’s Investors Service, Inc.

“**Multiemployer Plan**” means a multiemployer plan as defined in Section 4001(a)(3) of ERISA.

“**Net Available Cash**” from an Asset Disposition means an amount equal to the cash payments received (including any cash payments received by way of deferred payment of principal pursuant to a note or installment receivable or otherwise, but only as and when received, but excluding any other consideration received in the form of assumption by the acquiring Person of Indebtedness or other obligations relating to the properties or assets that are the subject of such Asset Disposition or received in any other non-cash form) therefrom, in each case net of (i) all legal, title and recording tax expenses, commissions and other fees and expenses incurred, and all Federal, state, provincial, foreign and local taxes required to be paid or to be accrued as a liability under GAAP, in each case as a consequence of, or in respect of, such Asset Disposition (including as a consequence of any transfer of funds in connection with the application thereof in accordance with Section 6.04), (ii) all payments made, and all installment payments required to be made, on any Indebtedness (x) that is secured by any assets subject to such Asset Disposition, in accordance with the terms of any Lien upon such assets (except, in the case of Collateral, to the extent such Lien ranks junior to the Lien thereon securing the Obligations hereunder), or (y) that must by its terms, or in order to obtain a necessary consent to such Asset Disposition, or by applicable law, be repaid out of the proceeds from such Asset Disposition, including but not limited to any payments required to be made to increase borrowing availability under any revolving credit facility, (iii) all distributions and other payments required to be made to minority interest holders in Subsidiaries or joint ventures as a result of such Asset Disposition, or to any other Person (other than the Company or a Restricted Subsidiary) owning a beneficial interest in the assets disposed of in such Asset Disposition, (iv) any liabilities or obligations associated with the assets disposed of in such Asset Disposition and retained, indemnified or insured by the Company or any Restricted Subsidiary after such Asset Disposition, including without limitation pension and other post-employment benefit liabilities, Environmental Liabilities, and liabilities relating to any indemnification obligations associated with such Asset Disposition, and (v) the amount of any purchase price or similar adjustment (x) claimed by any Person to be owed by the Company or any Restricted Subsidiary, until such time as such claim shall have been settled or otherwise finally resolved, or (y) paid or payable by the Company or any Restricted Subsidiary, in either case in respect of such Asset Disposition.

“**Net Cash Proceeds**” with respect to any issuance or sale of any Indebtedness or securities of the Company or any Subsidiary by the Company or any Subsidiary, or any capital contribution, means the cash proceeds of such issuance, sale, contribution or Incurrence net of attorneys’ fees, accountants’ fees, underwriters’ or placement agents’ fees, discounts or commissions and brokerage, consultant and other fees actually incurred in connection with such issuance, sale, contribution or Incurrence and net of all taxes paid or payable as a result, or in respect, thereof.

“**Net Income**” means, with respect to any Person, the net income (loss) of such Person and its Restricted Subsidiaries, determined in accordance with GAAP and before any reduction in respect of Preferred Stock dividends.

“**Net Insurance/Condemnation Proceeds**” means an amount equal to: (a) any Cash payments or proceeds (including Cash Equivalents) received by the Company or any of its Restricted Subsidiaries (i) under any casualty insurance policy in respect of a covered loss thereunder of any assets of the Company or any of its Restricted Subsidiaries or (ii) as a result of the taking of any assets of the Company or any of its Restricted Subsidiaries by any Person pursuant to the power of eminent domain, condemnation or otherwise, or pursuant to a sale of any such assets to a purchaser with such power under threat of such a taking, *minus* (b) (i) any actual out-of-pocket costs and expenses incurred in connection with the adjustment, settlement or collection of any claims in respect thereof, (ii) payment of the outstanding principal amount of, premium or penalty, if any, and interest and other amounts on any Indebtedness (other than the Loans, any other Indebtedness secured by a Lien on the Collateral that is *pari passu* with or expressly subordinated to the Lien on the Collateral securing the Secured Obligations and any unsecured Indebtedness Incurred by a Loan Party) that is secured by a Lien on the assets in question and that is required to be repaid or otherwise comes due or would be in default under the terms thereof as a result of such loss, taking or sale, (iii) in the case of a taking, the reasonable out-of-pocket costs of putting any affected property in a safe and secure position, (iv) any selling costs and out-of-pocket expenses (including reasonable broker’s fees or commissions, legal fees, accountants’ fees, investment banking fees, survey costs, title insurance premiums, and related search and recording charges, deed or mortgage recording taxes, other expenses and brokerage, consultant and other customary fees actually incurred in connection therewith and transfer and similar Taxes and the Company’s good faith estimate of income Taxes paid or payable (including pursuant to Tax sharing arrangements or that are or would be imposed on intercompany distributions with such proceeds)) in connection with any sale or taking of such assets as described in clause (a) of this definition, (v) any amounts provided as a reserve in accordance with GAAP against any liabilities under any indemnification obligation or purchase price adjustments associated with any sale or taking of such assets as referred to in clause (a) of this definition (provided that to the extent and at the time any such amounts are released from such reserve, other than to make a payment for which such amount was reserved, such amounts shall constitute Net Insurance/Condemnation Proceeds) and (vi) in the case of any covered loss or taking from any non-Wholly-Owned Subsidiary, the pro rata portion thereof (calculated without regard to this clause (vi)) attributable to minority interests and not available for distribution to or for the account of the Company or a Wholly-Owned Subsidiary as a result thereof.

“**Net Short Lender**” has the meaning assigned to such term in Section 9.02.

“**Non-Consenting Lender**” has the meaning assigned to such term in Section 2.19(b).

“**Non-Financing Lease Obligation**” of any Person means a lease obligation of such Person that is not an obligation in respect of a Finance Lease Obligation. A straight-line or operating lease shall be considered a Non-Financing Lease Obligation.

“**Non-ABL Priority Collateral**” has the meaning assigned to such term in the ABL Credit Agreement.

“**Non-ABL Secured Debt Obligations**” means the Obligations hereunder (including the Subsidiary Guarantees), the Collateral Documents and this Agreement, and any Additional Non-ABL Secured Debt Obligations; provided, however, that (i) such indebtedness is permitted to be incurred and is permitted to be so secured and guaranteed on such basis by this Agreement and (ii) in the case of any Non-ABL Secured Debt Obligations incurred after the Closing Date, the Representative for the holders of such indebtedness will have become party to the ABL Intercreditor Agreement and, if applicable, the Pari Passu Intercreditor Agreement or another Acceptable Intercreditor Agreement.

“**NYFRB**” means the Federal Reserve Bank of New York.

“**NYFRB Rate**” means, for any day, the greater of (a) the Federal Funds Effective Rate in effect on such day and (b) the Overnight Bank Funding Rate in effect on such day (or for any day that is not a Business Day, for the immediately preceding Business Day); provided that if none of such rates are published for any day that is a Business Day, the term “NYFRB Rate” shall mean the rate for a federal funds transaction quoted at 11:00 a.m., New York City time, on such day received by the Administrative Agent from a Federal funds broker of recognized standing selected by it; provided, further, that if any of the aforesaid rates shall be less than zero, such rate shall be deemed to be zero for purposes of this Agreement.

“**Obligations**” means, with respect to any Indebtedness, any principal, premium (if any), interest (including interest accruing on or after the filing of any petition in bankruptcy or for reorganization relating to the Company or any Restricted Subsidiary whether or not a claim for post-filing interest is allowed or allowable in such proceedings), fees, charges, expenses, reimbursement obligations, Guarantees of such Indebtedness (or of Obligations in respect thereof), other monetary obligations of any nature and all other amounts payable thereunder or in respect thereof. As used herein, unless the context dictates otherwise, the “Obligations” shall refer to Obligations under this Agreement and the other Loan Documents.

“**Officer**” means, with respect to the Company or any other obligor upon the Loans, the Chairman of the Board, the President, the Chief Executive Officer, the Chief Financial Officer, any Vice President, the Controller, the Treasurer or the Secretary (a) of such Person or (b) if such Person is owned or managed by a single entity, of such entity (or any other individual designated as an “Officer” for the purposes of this Agreement by the Board of Directors).

“**Officer’s Certificate**” means, with respect to the Company or any other obligor upon the Loans, a certificate signed by one Officer of such Person.

“Organizational Documents” means (a) with respect to any corporation, its certificate or articles of incorporation or organization and its by-laws, (b) with respect to any limited partnership, its certificate of limited partnership and its partnership agreement, (c) with respect to any general partnership, its partnership agreement, (d) with respect to any limited liability company, its articles of organization or certificate of formation, and its operating agreement or limited liability company agreement and (e) with respect to any other form of entity, such other organizational documents required by local Requirements of Law or customary under the jurisdiction in which such entity is organized to document the formation and governance principles of such type of entity. In the event that any term or condition of this Agreement or any other Loan Document requires any Organizational Document to be certified by a secretary of state or similar governmental official, the reference to any such “Organizational Document” shall only be to a document of a type customarily certified by such governmental official.

“Open Account Agreement” has the meaning specified in the ABL Credit Agreement.

“Open Account Obligations” of any Person means the obligations of such Person pursuant to any Open Account Agreement.

“Overnight Bank Funding Rate” means, for any day, the rate comprised of both overnight federal funds and overnight Eurodollar borrowings by U.S.-managed banking offices of depository institutions, as such composite rate shall be determined by the NYFRB as set forth on the Federal Reserve Bank of New York’s Website from time to time, and published on the next succeeding Business Day by the NYFRB as an overnight bank funding rate.

“Other Connection Taxes” means, with respect to any Lender, Administrative Agent, any other recipient of any payment to be made by or on account of any obligation of any Loan Party hereunder, Taxes imposed as a result of a present or former connection between such recipient and the jurisdiction imposing such Tax (other than connections arising from such recipient having executed, delivered, become a party to, performed its obligations under, received payments under, received or perfected a security interest under, engaged in any other transaction pursuant to or enforced any Loan Document, or sold or assigned an interest in any Loan or Loan Document).]

“Other Subject Indebtedness” means any Indebtedness of any Loan Party evidenced by bonds, debentures, notes or similar instruments incurred in compliance with this Agreement that is secured by Liens on the Collateral on a pari passu basis with the Liens on the Collateral securing the Obligations (without regard to the control of remedies).

“Other Taxes” means any and all present or future recording, stamp, documentary, intangible filing, excise, property or similar taxes, charges or levies imposed by the United States or any political subdivision thereof arising from any payment made under, from the execution, delivery, performance, enforcement or registration of, or from the registration, receipt or perfection of a security interest under, or otherwise with respect to, this Agreement, or any other Loan Document, except any such Taxes that are Other Connection Taxes imposed with respect to an assignment (other than an assignment made pursuant to Section 2.19).

“Parent Entity” means, with respect to a Person, any direct or indirect parent of such Person, and, if not in reference to any Person, any direct or indirect parent of the Company.

“Parent Entity Expenses” means (i) costs (including all professional fees and expenses) incurred by any Parent Entity in connection with maintaining its existence or in connection with its reporting obligations under, or in connection with compliance with, applicable laws or applicable rules of any governmental, regulatory or self-regulatory body or stock exchange, this Agreement or any other agreement or instrument relating to Indebtedness of the Company or any Restricted Subsidiary, including in respect of any reports filed with respect to the Securities Act, the Exchange Act or the respective rules and regulations promulgated thereunder, (ii) expenses incurred by any Parent Entity in connection with the acquisition, development, maintenance, ownership, prosecution, protection and defense of its intellectual property and associated rights (including but not limited to trademarks, service marks, trade names, trade dress, patents, copyrights and similar rights, including registrations and registration or renewal applications in respect thereof; inventions, processes, designs, formulae, trade secrets, know-how, confidential information, computer software, data and documentation, and any other intellectual property rights; and licenses of any of the foregoing) to the extent such intellectual property and associated rights relate to the business or businesses of the Company or any Subsidiary thereof, (iii) indemnification obligations of any Parent Entity owing to directors, officers, employees or other Persons under its charter or by-laws or pursuant to written agreements with or for the benefit of any such Person, or obligations in respect of director and officer insurance (including premiums therefor), (iv) other administrative and operational expenses of any Parent Entity incurred in the ordinary course of business, (v) fees and expenses incurred by any Parent Entity in connection with maintenance and implementation of any management equity incentive plan, and (vi) fees and expenses incurred by any Parent Entity in connection with any offering of Capital Stock or Indebtedness, (w) which offering is not completed, or (x) where the net proceeds of such offering are intended to be received by or contributed or loaned to the Company or a Restricted Subsidiary, or (y) in a prorated amount of such expenses in proportion to the amount of such net proceeds intended to be so received, contributed or loaned, or (z) otherwise on an interim basis prior to completion of such offering so long as any Parent Entity shall cause the amount of such expenses to be repaid to the Company or the relevant Restricted Subsidiary out of the proceeds of such offering promptly if completed.

“Pari Passu Intercreditor Agreement” means an intercreditor agreement substantially in the form attached hereto as Exhibit M or any other intercreditor agreement that is an Acceptable Intercreditor Agreement.

“Parity Priority Lien” means, with respect to specified Indebtedness, a Lien on the Collateral securing such Indebtedness that ranks equal with the Lien on such Collateral securing the Loans or any Subsidiary Guarantee, as applicable, either pursuant to the Pari Passu Intercreditor Agreement or one or more other intercreditor agreements that are Acceptable Intercreditor Agreements.

“Participant” has the meaning assigned to such term in [Section 9.05\(c\)](#).

“Participant Register” has the meaning assigned to such term in [Section 9.05\(c\)](#).

“Patents” means the following: (a) all patents and patent applications; (b) all inventions described and claimed therein; (c) all reissues, divisions, continuations, renewals, extensions and continuations in part thereof; (d) all income, royalties, damages and payments now or hereafter due or payable under any of the foregoing, including, without limitation, damages or payments for past or future infringements thereof; (e) the right to sue for past, present, and future infringements thereof; and (f) all domestic rights corresponding to any of the foregoing.

“Payment” has the meaning set forth in [Section 8.03](#).

“Payment Notice” has the meaning set forth in [Section 8.03](#).

“PBGC” means the Pension Benefit Guaranty Corporation referred to and defined in ERISA and any successor entity performing similar functions.

“**Perfection Certificate**” means a certificate substantially in the form of Exhibit II to the Collateral Agreement.

“**Permitted Investment**” means an Investment by the Company or any Restricted Subsidiary in, or consisting of, any of the following:

- (i) a Restricted Subsidiary, the Company, or a Person that will, upon the making of such Investment, become a Restricted Subsidiary (and any Investment held by such Person that was not acquired by such Person, or made pursuant to a commitment by such Person that was not entered into, in contemplation of so becoming a Restricted Subsidiary);
- (ii) another Person if as a result of such Investment such other Person is merged or consolidated with or into, or transfers or conveys all or substantially all its assets to, or is liquidated into, the Company or a Restricted Subsidiary (and, in each case, any Investment held by such other Person that was not acquired by such Person, or made pursuant to a commitment by such Person that was not entered into, in contemplation of such merger, consolidation or transfer);
- (iii) Temporary Cash Investments, Investment Grade Securities or Cash Equivalents;
- (iv) receivables owing to the Company or any Restricted Subsidiary, if created or acquired in the ordinary course of business;
- (v) any securities or other Investments received as consideration in, or retained in connection with, sales or other dispositions of property or assets, including Asset Dispositions made in compliance with Section 6.04;
- (vi) securities or other Investments received in settlement of debts created in the ordinary course of business and owing to, or of other claims asserted by, the Company or any Restricted Subsidiary, or as a result of foreclosure, perfection or enforcement of any Lien, or in satisfaction of judgments, including in connection with any bankruptcy proceeding or other reorganization of another Person;
- (vii) Investments in existence or made pursuant to legally binding written commitments in existence on the Closing Date, and in each case any extension, modification, replacement, reinvestment or renewal thereof; provided that the amount of any such Investment may be increased in such extension, modification, replacement, reinvestment or renewal only (x) as required by the terms of such Investment or binding commitment as in existence on the Closing Date or (y) as otherwise permitted by this Agreement;
- (viii) Currency Agreements, Interest Rate Agreements, Commodities Agreements and related Hedging Obligations, which obligations are Incurred in compliance with Section 6.01;
- (ix) pledges or deposits (x) with respect to leases or utilities provided to third parties in the ordinary course of business or (y) otherwise described in the definition of “Permitted Liens” or made in connection with Liens permitted under Section 6.06;
- (x) (1) Investments in or by any Receivables Subsidiary, or in connection with a Financing Disposition by, to, in or in favor of any Receivables Subsidiary, including Investments of funds held in accounts permitted or required by the arrangements governing such Financing Disposition or any related Indebtedness, or (2) any promissory note issued by the Company;

(xi) bonds secured by assets leased to and operated by the Company or any Restricted Subsidiary that were issued in connection with the financing of such assets so long as the Company or any Restricted Subsidiary may obtain title to such assets at any time by paying a nominal fee, canceling such bonds and terminating the transaction;

(xii) [reserved];

(xiii) any Investment to the extent made using Capital Stock of the Company (other than Disqualified Stock) or Junior Capital as consideration;

(xiv) Management Advances;

(xv) Investments in Related Businesses in an aggregate amount outstanding at any time not to exceed an amount equal to the greater of \$50.0 million and 1.25% of Consolidated Tangible Assets;

(xvi) any transaction to the extent it constitutes an Investment that is permitted by and made in accordance with Section 6.05(b) (except transactions described in clauses (i), (v) and (vi) of Section 6.05(b)), including any Investment pursuant to any transaction described in Section 6.05(b)(ii) (whether or not any Person party thereto is at any time an Affiliate of the Company);

(xvii) any Investment by any Captive Insurance Subsidiary in connection with its provision of insurance to the Company or its Subsidiaries which Investment is made in the ordinary course of business of such Captive Insurance Subsidiary or by reason of applicable law, rule, regulation or order, or is required or approved by any regulatory authority having jurisdiction over such Captive Insurance Subsidiary or its business, as applicable;

(xviii) other Investments in an aggregate amount outstanding at any time not to exceed an amount equal to the greater of \$50.0 million and 1.25% of Consolidated Tangible Assets;

(xix) Investments consisting of or to finance purchases and acquisitions of inventory, supplies, materials, services or equipment or purchases of contract rights to, or licenses or sublicenses of, intellectual property in the ordinary course of business;

(xx) advances in the form of a prepayment of expenses, so long as such expenses are being paid in accordance with customary trade terms of the Company or the Restricted Subsidiaries;

(xxi) any Investment in any Subsidiary of the Company or any joint venture in connection with intercompany cash management arrangements or related activities arising in the ordinary course of business; and

(xxii) any Investment acquired by the Company or any Restricted Subsidiary (x) in exchange for any other Investment or accounts receivable held by the Company or such Restricted Subsidiary in connection with or as a result of a bankruptcy, workout, reorganization or recapitalization of the issuer of such other Investment or accounts receivable, or (y) as a result of a foreclosure by the Company or any Restricted Subsidiary with respect to any secured Investment or other transfer of title with respect to any secured Investment in default.

If any Investment pursuant to clause (xv) or (xviii) above, or Section 6.02(b)(vii) or Section 6.02(b)(xii), as applicable, is made in any Person that is not a Restricted Subsidiary and such Person thereafter (A) becomes a Restricted Subsidiary or (B) is merged or consolidated into, or transfers or conveys all or substantially all of its assets to, or is liquidated into, the Company or a Restricted Subsidiary, then such Investment shall thereafter be deemed to have been made pursuant to clause (i) or (ii) above, respectively, and not clause (xv) or (xviii) above, or Section 6.02(b)(vii) or Section 6.02(b)(xi), as applicable.

“Permitted Liens” means:

- (a) Liens for taxes, assessments or other governmental charges not yet delinquent or the nonpayment of which in the aggregate would not reasonably be expected to have a material adverse effect on the Company and its Restricted Subsidiaries, taken as a whole, or that are being contested in good faith and by appropriate proceedings if adequate reserves with respect thereto are maintained on the books of the Company or a Subsidiary thereof, as the case may be, in accordance with GAAP;
- (b) Liens with respect to outstanding motor vehicle fines, and carriers’, warehousemen’s, mechanics’, landlords’, materialmen’s, repairmen’s or other like Liens arising in the ordinary course of business in respect of obligations that are not known to be overdue for a period of more than 60 days or that are bonded or that are being contested in good faith and by appropriate proceedings;
- (c) pledges, deposits or Liens in connection with workers’ compensation, professional liability insurance, insurance programs, unemployment insurance and other social security and other similar legislation or other insurance-related obligations (including, without limitation, pledges or deposits securing liability to insurance carriers under insurance or self-insurance arrangements);
- (d) pledges, deposits or Liens to secure the performance of bids, tenders, trade, government or other contracts (other than for borrowed money), obligations for utilities, leases, licenses, sublicenses, statutory obligations, completion guarantees, surety, judgment, appeal or performance bonds, other similar bonds, instruments or obligations, and other obligations of a like nature incurred in the ordinary course of business;
- (e) easements (including reciprocal easement agreements), rights-of-way, building, zoning and similar restrictions, utility agreements, covenants, reservations, restrictions, encroachments, charges, and other similar encumbrances or title defects incurred, or leases or subleases granted to others, in the ordinary course of business, which do not in the aggregate materially interfere with the ordinary conduct of the business of the Company and its Subsidiaries, taken as a whole;

- (f) Liens existing on, or provided for under written arrangements existing on, the Closing Date (or in the case of any such Liens securing Indebtedness of the Company or any of its Subsidiaries existing or arising under written arrangements existing on the Closing Date) or securing any Refinancing Indebtedness in respect of such Indebtedness (other than Indebtedness Incurred under Section 6.01(b)(i) and secured under clause (k)(1) of this definition) so long as the Lien securing such Refinancing Indebtedness is limited to all or part of the same property or assets (plus improvements, accessions, proceeds or dividends or distributions in respect thereof) that secured (or under such written arrangements would secure) the original Indebtedness; provided that any Lien on any Collateral also securing Refinancing Indebtedness shall be permitted to be equal or senior in priority to the Liens securing the Obligations in respect of the Initial Term Loans (including the Subsidiary Guarantees) on such Collateral only to the extent that the corresponding Lien securing the Indebtedness so refinanced was (or, under the written arrangements under which the original Lien arose, would have been) a Lien equal or senior in priority, as applicable, to the Liens securing the Obligations in respect of the Initial Term Loans (including the Subsidiary Guarantees) and if the Indebtedness being refinanced was subject to an Intercreditor Agreement such Refinancing Indebtedness is also subject to an Acceptable Intercreditor Agreement;
- (g) (i) mortgages, liens, security interests, restrictions, encumbrances or any other matters of record that have been placed by any developer, landlord or other third party on property over which the Company or any Restricted Subsidiary of the Company has easement rights or on any leased property and subordination or similar agreements relating thereto and (ii) any condemnation or eminent domain proceedings affecting any real property;
- (h) Liens securing Indebtedness or other obligations (including Liens securing any Obligations in respect thereof) consisting of Hedging Obligations, Bank Products Obligations, Open Account Obligations, Purchase Money Obligations or Finance Lease Obligations Incurred in compliance with Section 6.01;
- (i) Liens arising out of judgments, decrees, orders or awards in respect of which the Company or any Restricted Subsidiary shall in good faith be prosecuting an appeal or proceedings for review, which appeal or proceedings shall not have been finally terminated, or if the period within which such appeal or proceedings may be initiated shall not have expired;
- (j) leases, subleases, licenses, sublicenses, covenants not to sue or other similar rights granted to or from third parties (including, for the avoidance of doubt, with respect to intellectual property);
- (k) Liens securing Indebtedness (including Liens securing any Obligations in respect thereof) consisting of (1) Indebtedness Incurred in compliance with Section 6.01(b)(i), (b)(iii) (other than Refinancing Indebtedness Incurred in respect of Indebtedness described in Section 6.01(a)), (b)(iv), (b)(v), (b)(vi), (b)(vii) (other than Section 6.01(b)(viii)(H)), (b)(xi), (b)(xiii), (b)(xv), (b)(xvi) or (b)(xvii); provided that (I) in the case of Indebtedness Incurred in compliance with Section 6.01(b)(i)(A)(I), any such Liens on ABL Priority Collateral may rank senior to the Liens thereon securing the Term Loans, in which case Liens securing such Indebtedness on Non-ABL Priority Collateral shall rank junior to the Liens thereon securing the Term Loans and the Subsidiary Guarantees, in each case, pursuant to the ABL Intercreditor Agreement, (II) in the case of Indebtedness Incurred in compliance with Section 6.01(b)(xi)(y), any such Liens on the Collateral shall rank junior to the Liens securing the Term Loans and the Subsidiary Guarantees pursuant to an Acceptable Intercreditor Agreement and (III) in all other cases, such Liens on the Collateral shall be Parity Priority Liens), (2) the Term Loans and the Subsidiary Guarantees in respect thereof, (3) Indebtedness of any Restricted Subsidiary that is not a Subsidiary Guarantor, or (4) obligations in respect of Management Advances or Management Guarantees; and in each case under the foregoing clauses (1) through (4) Liens securing any Guarantee of any thereof;

- (l) Liens existing on property or assets of a Person at, or provided for under written arrangements existing at, the time such Person becomes a Subsidiary of the Company (or at the time the Company or a Restricted Subsidiary acquires such property or assets, including any acquisition by means of a merger or consolidation with or into the Company or any Restricted Subsidiary); provided, however, that such Liens and arrangements are not created in connection with, or in contemplation of, such other Person becoming such a Subsidiary (or such acquisition of such property or assets), and that such Liens are limited to all or part of the same property or assets (plus improvements, accessions, proceeds or dividends or distributions in respect thereof) that secured (or, under the written arrangements under which such Liens arose, could secure) the obligations to which such Liens relate; provided, further, that for purposes of this clause (l), if a Person other than the Company is the Successor Company with respect thereto, any Subsidiary thereof shall be deemed to become a Subsidiary of the Company, and any property or assets of such Person or any such Subsidiary shall be deemed acquired by the Company or a Restricted Subsidiary, as the case may be, when such Person becomes such Successor Company;
- (m) Liens on Capital Stock, Indebtedness or other securities of an Unrestricted Subsidiary or any joint venture that is not a Subsidiary of the Company that secure Indebtedness or other obligations of such Unrestricted Subsidiary or joint venture, respectively;
- (n) any encumbrance or restriction (including, but not limited to, pursuant to put and call agreements or buy/sell arrangements) with respect to Capital Stock of any joint venture or similar arrangement pursuant to any joint venture or similar agreement;
- (o) Liens securing Indebtedness (including Liens securing any Obligations in respect thereof) consisting of Refinancing Indebtedness Incurred in respect of any Indebtedness (other than Indebtedness Incurred under Section 6.01(b)(i) and secured under clause (k)(1) of this definition) secured by, or securing any refinancing, refunding, extension, renewal or replacement (in whole or in part) of any other obligation secured by, any other Permitted Liens; provided that any such new Lien is limited to all or part of the same property or assets (plus improvements, accessions, proceeds or dividends or distributions in respect thereof) that secured (or, under the written arrangements under which the original Lien arose, could secure) the obligations to which such Liens relate; provided, further that any Lien on any Collateral also securing Refinancing Indebtedness shall be permitted to be equal or senior in priority to the Liens on such Collateral securing the Obligations in respect of the Term Loans (including the Subsidiary Guarantees) on such Collateral only to the extent that the corresponding Lien securing the Indebtedness so refinanced was (or, under the written arrangements under which the original Lien arose, could have been) a Lien equal or senior in priority, as applicable, to the Liens securing the Obligations in respect of the Term Loans (including the Subsidiary Guarantees) and if the Indebtedness being refinanced was subject to an Intercreditor Agreement such Refinancing Indebtedness is also subject to an Acceptable Intercreditor Agreement;

- (p) Liens (1) arising by operation of law (or by agreement to the same effect) in the ordinary course of business, (2) on property or assets under construction (and related rights) in favor of a contractor or developer or arising from progress or partial payments by a third party relating to such property or assets, (3) on receivables (including related rights), (4) on cash set aside at the time of the Incurrence of any Indebtedness or government securities purchased with such cash, in either case to the extent that such cash or government securities prefund the payment of interest on such Indebtedness and are held in an escrow account or similar arrangement to be applied for such purpose, (5) securing or arising by reason of any netting or set-off arrangement entered into in the ordinary course of banking or other trading activities (including in connection with purchase orders and other agreements with customers), (6) in favor of the Company or any Subsidiary (other than Liens on property or assets of the Company or any Subsidiary Guarantor in favor of any Subsidiary that is not a Subsidiary Guarantor), (7) arising out of conditional sale, title retention, consignment or similar arrangements for the sale of goods entered into in the ordinary course of business, (8) on inventory or other goods and proceeds securing obligations in respect of bankers' acceptances issued or created to facilitate the purchase, shipment or storage of such inventory or other goods, (9) relating to pooled deposit or sweep accounts to permit satisfaction of overdraft, cash pooling or similar obligations incurred in the ordinary course of business, (10) attaching to commodity trading or other brokerage accounts incurred in the ordinary course of business, (11) arising in connection with repurchase agreements permitted under Section 6.01 on assets that are the subject of such repurchase agreements, or (12) in favor of any Receivables Subsidiary in connection with any Financing Disposition;
- (q) other Liens securing Indebtedness or other obligations that in the aggregate at any time outstanding do not exceed an amount equal to the greater of \$100.0 million and 2.5% of Consolidated Tangible Assets at the time of Incurrence of such Indebtedness or other obligations;
- (r) Liens securing Indebtedness (including Liens securing any Obligations in respect thereof) or other obligations of, or in favor of, any Receivables Subsidiary, or in connection with a Specified Receivables Facility or otherwise Incurred pursuant to Section 6.01(b)(ix); and
- (s) Liens on the Collateral, if such Liens rank junior to the Liens on such Collateral in relation to the Lien securing the Initial Term Loans and the Subsidiary Guarantees, as applicable (so long as any such Liens (and related Obligations) are subject to an Acceptable Intercreditor Agreement).

For purposes of determining compliance with this definition, (u) a Lien need not be incurred solely by reference to one category of Permitted Liens described in this definition but may be incurred under any combination of such categories (including in part under one such category and in part under any other such category), (v) in the event that a Lien (or any portion thereof) meets the criteria of one or more of such categories of Permitted Liens, the Company shall, in its sole discretion, classify or reclassify such Lien (or any portion thereof) in any manner that complies with this definition, (w) the principal amount of Indebtedness secured by a Lien outstanding under any category of Permitted Liens shall be determined after giving effect to the application of proceeds of any such Indebtedness to refinance any such other Indebtedness, (x) any Lien securing Indebtedness that was permitted to secure such Indebtedness at the time of the Incurrence of such Indebtedness shall also be permitted to secure any increase in the amount of such Indebtedness in connection with the accrual of interest, the accretion of accreted value, the payment of interest in the form of additional Indebtedness and the payment of dividends on Capital Stock constituting Indebtedness in the form of additional shares of the same class of Capital Stock, (y) if any Indebtedness or other obligation is secured by any Lien outstanding under any category of Permitted Liens measured by reference to a percentage of Consolidated Tangible Assets at the time of incurrence of such Indebtedness or other obligations, and is refinanced by any Indebtedness or other obligation secured by any Lien incurred by reference to such category of Permitted Liens, and such refinancing would cause the percentage of Consolidated Tangible Assets to be exceeded if calculated based on the Consolidated Tangible Assets on the date of such refinancing, such percentage of Consolidated Tangible Assets shall not be deemed to be exceeded (and such refinancing Lien shall be deemed permitted) so long as the principal amount of such refinancing Indebtedness or other obligation does not exceed an amount equal to the principal amount of such Indebtedness or other obligation being refinanced, plus the aggregate amount of fees, underwriting discounts, premiums and other costs and expenses (including accrued and unpaid interest) incurred or payable in connection with such refinancing and (z) if any Indebtedness or other obligation is secured by any Lien outstanding under any category of Permitted Liens measured by reference to a dollar amount, and is refinanced by any Indebtedness or other obligation secured by any Lien incurred by reference to such category of Permitted Liens, and such refinancing would cause such dollar amount to be exceeded, such dollar amount shall not be deemed to be exceeded (and such refinancing Lien shall be deemed permitted) so long as the principal amount of such refinancing Indebtedness or other obligation does not exceed an amount equal to the principal amount of such Indebtedness being refinanced, plus the aggregate amount of fees, underwriting discounts, premiums and other costs and expenses (including accrued and unpaid interest) incurred or payable in connection with such refinancing.

“**Person**” means any natural person, corporation, limited liability company, unlimited liability corporation, trust, joint venture, association, company, partnership, Governmental Authority or other entity.

“**Plan**” means any “employee pension benefit plan” as defined in Section 3(2) of the ERISA (other than a Multiemployer Plan) subject to the provisions of Title IV of ERISA or Section 412 of the Code or Section 302 of ERISA, and in respect of which the Company or any ERISA Affiliate is (or, if such plan were terminated, would under Section 4069 of ERISA be deemed to be) an “employer” as defined in Section 3(5) of ERISA.

“**Platform**” has the meaning assigned to such term in Section 9.01(b).

“**Pre-Closing Reorganization Transactions**” means each of transactions that collectively constitute the Restructuring (as defined in the Separation Agreement).

“**Preferred Stock**” as applied to the Capital Stock of any corporation or company means Capital Stock of any class or classes (however designated) that by its terms is preferred as to the payment of dividends, or as to the distribution of assets upon any voluntary or involuntary liquidation or dissolution of such corporation or company, over Capital Stock of any other class of such corporation or company.

“**Prepayment Asset Sale**” means any Disposition by the Company or any Restricted Subsidiary of assets constituting Collateral that is subject to Section 6.04(a)(iii).

“**Prime Rate**” means the rate of interest last quoted by The Wall Street Journal as the “Prime Rate” in the U.S. or, if The Wall Street Journal ceases to quote such rate, the highest per annum interest rate published by the Board in Federal Reserve Statistical Release H.15 (519) (Selected Interest Rates) as the “bank prime loan” rate or, if such rate is no longer quoted therein, any similar rate quoted therein (as determined by the Administrative Agent) or any similar release by the Board (as determined by the Administrative Agent). Each change in the Prime Rate shall be effective from and including the date such change is publicly announced or quoted as being effective.

“**Promissory Note**” means a promissory note of the Company payable to any Lender or its registered assigns, in substantially the form of Exhibit G hereto, evidencing the aggregate outstanding principal amount of Loans of the Company to such Lender resulting from the Loans made by such Lender.

“**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**” has the meaning assigned to such term in Section 9.01(c).

“**Purchase Money Obligations**” means any Indebtedness Incurred to finance or refinance the acquisition, leasing, construction or improvement of property (real or personal) or assets, and whether acquired through the direct acquisition of such property or assets or the acquisition of the Capital Stock of any Person owning such property or assets, or otherwise.

“Qualifying Assets” means any and all assets directly owned by the Restricted Subsidiaries that are Domestic Subsidiaries, other than (a) real property, including improvements thereto and fixtures, (b) aircraft and (c) investments in the Company or any of its Subsidiaries. The amount or value of any Qualifying Assets at any time shall be the book value thereof at such time determined in accordance with GAAP.

“Qualifying Bid” has the meaning assigned to such term in the definition of “Dutch Auction”.

“Receivable” means a right to receive payment pursuant to an arrangement with another Person pursuant to which such other Person is obligated to pay, as determined in accordance with GAAP.

“Receivables Facility” means any of one or more transactions pursuant to which the Company or any of the Restricted Subsidiaries sells or conveys Receivables Facility Assets to a Receivables Subsidiary that borrows or issues debt on a secured basis against Receivables Facility Assets.

“Receivables Facility Asset” means (a) Accounts and, in each case, any related assets and rights (including any collateral securing such Accounts, any contract rights in respect of such Accounts, proceeds collected on such Accounts, lockbox accounts into which such proceeds are collected and related records) customarily transferred in connection with similar receivables financing or securitization transactions and/or (b) Capital Stock issued by any Receivables Subsidiary;

“Receivables Facility Guarantee” means (i) any guarantee of performance and related indemnification entered into by the Company or any Restricted Subsidiary in respect of the obligations of a seller or servicer of Receivables Facility Assets in a Receivables Facility or (ii) any other guarantee of performance entered into by the Company or any Restricted Subsidiary which the Company has determined in good faith to be customary in a Receivables Facility.

“Receivables Subsidiary” means a Subsidiary (x) formed as a special purpose entity for the purpose of facilitating or entering into one or more Specified Receivables Facilities and (y) engaged only in activities reasonably related or incidental to Specified Receivables Facilities (it being understood and agreed that any entity formed solely for the purpose of holding any bank account into which collections or other proceeds of Receivables Facility Assets are paid shall satisfy the requirement in clause (y) above).

“Recipient” means (a) the Administrative Agent and (b) any Lender, as applicable.

“Reference Time” with respect to any setting of the then-current Benchmark means (1) if such Benchmark is LIBO Rate, 11:00 a.m. (London time) on the day that is two London banking days preceding the date of such setting, and (2) if such Benchmark is not LIBO Rate, the time determined by the Administrative Agent in its reasonable discretion.

“refinance” means refinance, refund, replace, renew, repay, modify, restate, defer, substitute, exchange, supplement, reissue, resell or extend (including pursuant to any defeasance or discharge mechanism); and the terms “refinances,” “refinanced” and “refinancing” as used for any purpose in this Agreement shall have a correlative meaning.

“Refinancing Amendment” means an amendment to this Agreement that is reasonably satisfactory to the Administrative Agent and the Company executed by (a) the Company, each other Borrower, (b) the Administrative Agent and (c) each Lender that agrees to provide all or any portion of the Replacement Term Loans being incurred pursuant thereto and in accordance with Section 9.02(b).

“Refinancing Indebtedness” means Indebtedness that is Incurred to refinance any Indebtedness (or unutilized commitment in respect of Indebtedness) existing on the date of this Agreement or Incurred (or established) in compliance with this Agreement (including Indebtedness of the Company that refinances Indebtedness of any Restricted Subsidiary (to the extent permitted in this Agreement) and Indebtedness of any Restricted Subsidiary that refinances Indebtedness of the Company or of another Restricted Subsidiary) including Indebtedness that refinances Refinancing Indebtedness, and Indebtedness Incurred pursuant to a commitment that refinances any Indebtedness or unutilized commitment; provided, that (1) if the Indebtedness being refinanced is Subordinated Obligations or Guarantor Subordinated Obligations, the Refinancing Indebtedness has a final Stated Maturity at the time such Refinancing Indebtedness is Incurred that is equal to or greater than the final Stated Maturity of the Indebtedness being refinanced (or if shorter, of the Initial Term Loans), (2) such Refinancing Indebtedness is Incurred in an aggregate principal amount (or if issued with original issue discount, an aggregate issue price) that is equal to or less than the sum of (x) the aggregate principal amount then outstanding of the Indebtedness being refinanced, plus (y) an amount equal to any unutilized commitment relating to the Indebtedness being refinanced or otherwise then outstanding under a Credit Facility or other financing arrangement being refinanced to the extent the unutilized commitment being refinanced could be drawn in compliance with Section 6.01 immediately prior to such refinancing, plus (z) fees, underwriting discounts, premiums and other costs and expenses (including accrued and unpaid interest) Incurred or payable in connection with such refinancing, (3) Refinancing Indebtedness shall not include (x) Indebtedness of a Restricted Subsidiary that is not a Subsidiary Guarantor that refinances Indebtedness of the Company or a Subsidiary Guarantor that could not have been initially Incurred by such Restricted Subsidiary pursuant to Section 6.01 or (y) Indebtedness of the Company or a Restricted Subsidiary that refinances Indebtedness of an Unrestricted Subsidiary and (4) to the extent such Refinancing Indebtedness is secured by Collateral, the Liens on Collateral securing such Refinancing Indebtedness have a priority that is equal or junior to the priority of Liens on Collateral securing the Indebtedness being extended, replaced, refinanced, renewed, repaid or restructured and such Liens shall be subject to the applicable Acceptable Intercreditor Agreements.

“Refunding Capital Stock” has the meaning assigned to such term in Section 6.02(b)(i).

“Register” has the meaning assigned to such term in Section 9.05(b)(iv).

“Registration Statement” means the registration statement filed with the SEC on June 21, 2021, as amended from time to time prior to the date hereof.

“Regulated Bank” means an Approved Commercial Bank that is (i) a U.S. depository institution the deposits of which are insured by the Federal Deposit Insurance Corporation; (ii) a corporation organized under section 25A of the U.S. Federal Reserve Act of 1913; (iii) a branch, agency or commercial lending company of a foreign bank operating pursuant to approval by and under the supervision of the Board under 12 CFR part 211; (iv) a non-U.S. branch of a foreign bank managed and controlled by a U.S. branch referred to in clause (iii); or (v) any other U.S. or non-U.S. depository institution or any branch, agency or similar office thereof supervised by a bank regulatory authority in any jurisdiction.

“Regulation U” means Regulation U of the Board as from time to time in effect and all official rulings and interpretations thereunder or thereof.

“Related Business” means those businesses in which the Company or any of its Subsidiaries is engaged on the Closing Date, or that are similar, related, complementary, incidental or ancillary thereto or extensions, developments or expansions thereof.

“**Related Funds**” means with respect to any Lender that is an Approved Fund, any other Approved Fund that is managed by the same investment advisor as such Lender or by an Affiliate of such investment advisor.

“**Related Parties**” means, with respect to any specified Person, such Person’s Affiliates and the respective directors, officers, employees, agents and advisors of such Person and such Person’s Affiliates.

“**Relevant Governmental Body**” means the Board or the NYFRB, or a committee officially endorsed or convened by the Board or the NYFRB, or any successor thereto.

“**Replaced Term Loans**” has the meaning assigned to such term in Section 9.02(b)(iii).

“**Replacement Debt**” means any Refinancing Indebtedness (whether borrowed in the form of secured or unsecured loans, issued in a public offering, Rule 144A under the Securities Act or other private placement or bridge financing in lieu of the foregoing or otherwise) incurred in respect of Indebtedness permitted under Section 6.01(b)(i)(C) (and any subsequent refinancing of such Replacement Debt).

“**Replacement Term Loans**” has the meaning assigned to such term in Section 9.02(b)(iii).

“**Reply Amount**” has the meaning assigned to such term in the definition of “Dutch Auction”.

“**Reply Price**” has the meaning assigned to such term in the definition of “Dutch Auction”.

“**Representative**” has the meaning assigned to such term in Section 9.13(a).

“**Repricing Transaction**” means each of (a) the optional prepayment, repayment, refinancing, substitution or replacement of all or a portion of the Initial Term Loans substantially concurrently with the incurrence by any Loan Party of any broadly syndicated Dollar denominated long-term term “B” credit facility secured on a *pari passu* basis with the Initial Term Loans (including any first-lien secured Replacement Term Loans) having an Effective Yield that is less than the Effective Yield applicable to the Initial Term Loans so prepaid, repaid, refinanced, substituted or replaced and (b) any amendment, waiver or other modification to this Agreement that would have the effect of reducing the Effective Yield applicable to the Initial Term Loans; provided that the primary purpose (as determined by the Company in good faith) of such prepayment, repayment, refinancing, substitution, replacement, amendment, waiver or other modification was to reduce the Effective Yield applicable to the Initial Term Loans; provided, further, that in no event shall any such prepayment, repayment, refinancing, substitution, replacement, amendment, waiver or other modification in connection with a Change of Control or Material Acquisition (or other Material Investment) constitute a Repricing Transaction. Any determination by the Administrative Agent of the Effective Yield for purposes of the definition shall be conclusive and binding on all Lenders, and the Administrative Agent shall have no liability to any Person with respect to such determination absent bad faith, gross negligence or willful misconduct.

“**Required Asset Sale/Casualty Event Percentage**” means (a) if the Consolidated First Lien Leverage Ratio is greater than 1.00:1.00, 100%, (b) if the Consolidated First Lien Leverage Ratio is less than or equal to 1.00:1.00 and greater than 0.75:1.00, 25% and (c) if the Consolidated First Lien Leverage Ratio is less than or equal to 0.75:1.00, 0%; it being understood and agreed that, for purposes of this definition as it applies to the determination of the amount of Net Available Cash that is required to be applied to prepay Subject Loans under Section 2.11(b)(ii), the Consolidated First Lien Leverage Ratio shall be determined after giving pro forma effect to such prepayment and to any other repayment or prepayment at or prior to the time such prepayment is due.

“Required Excess Cash Flow Percentage” means, as of the last day of any Excess Cash Flow Period, (a) if the Consolidated First Lien Leverage Ratio is greater than 1.00:1.00, 50%, (b) if the Consolidated First Lien Leverage Ratio is less than or equal to 1.00:1.00 and greater than 0.75:1.00, 25% and (c) if the Consolidated First Lien Leverage Ratio is less than or equal to 0.75:1.00, 0%; it being understood and agreed that, for purposes of this definition as it applies to the determination of the amount of Excess Cash Flow that is required to be applied to prepay Subject Loans under Section 2.11(b), (i) for any Excess Cash Flow Period, the Consolidated First Lien Leverage Ratio shall be determined after giving pro forma effect to such prepayment and to any other repayment or prepayment at or prior to the time such Excess Cash Flow prepayment is due.

“Required Lenders” means, at any time, Lenders having Loans or unused Commitments representing more than 50% of the sum of the total Loans and such unused Commitments at such time.

“Required Secured Parties” has the meaning set forth in the Collateral Agreement.

“Requirements of Law” means, with respect to any Person, collectively, the common law and all federal, state, local, foreign, multinational or international laws, statutes, codes, treaties, standards, rules and regulations, guidelines, ordinances, orders, judgments, writs, injunctions, decrees (including administrative or judicial precedents or authorities) and the interpretation or administration thereof by, and other determinations, directives, requirements or requests of any Governmental Authority, in each case whether or not having the force of law and that are applicable to or binding upon such Person or any of its property or to which such Person or any of its property is subject.

“Resolution Authority” means an EEA Resolution Authority or, with respect to any U.K. Financial Institution, a UK Resolution Authority.

“Responsible Officer” of any Person means the chief executive officer, the president, the chief financial officer, the treasurer, any assistant treasurer, any executive vice president, any senior vice president, any vice president or the chief operating officer of such Person and any other individual or similar official thereof responsible for the administration of the obligations of such Person in respect of this Agreement, and, as to any document delivered on the Closing Date, shall include any secretary or assistant secretary or any other individual or similar official thereof with substantially equivalent responsibilities of a Loan Party and, solely for purposes of notices given pursuant to Article 2, any other officer of the applicable Loan Party so designated by any of the foregoing officers in a written notice to the Administrative Agent (including, for the avoidance of doubt, by electronic means). Any document delivered hereunder that is signed by a Responsible Officer of any Loan Party shall be conclusively presumed to have been authorized by all necessary corporate, partnership and/or other action on the part of such Loan Party, and such Responsible Officer shall be conclusively presumed to have acted on behalf of such Loan Party.

“Restricted Amount” has the meaning assigned to such term in Section 2.11(b)(iv).

“Restricted Payment” has the meaning assigned to such term in Section 6.02(a).

“Restricted Payment Transaction” means any Restricted Payment permitted pursuant to Section 6.02, any Permitted Payment, any Permitted Investment, or any transaction specifically excluded from the definition of the term “Restricted Payment” (including pursuant to the exception contained in clause (i) of such definition and the parenthetical exclusions contained in clauses (ii) and (iii) of such definition).

“**Restricted Subsidiary**” means any Subsidiary of the Company other than an Unrestricted Subsidiary.

“**Return Bid**” has the meaning assigned to such term in the definition of “Dutch Auction”.

“**S&P**” means Standard & Poor’s Ratings Services.

“**Sanctioned Country**” means any country that is the subject of comprehensive territorial Sanctions (as of the date of this Agreement, Crimea, Cuba, Iran, North Korea and Syria).

“**Sanctioned Person**” means at any time (a) any Person named at such time on (i) the SDN List, (ii) the Sanctioned Entities List maintained by the U.S. Department of State, (iii) the consolidated list of persons, groups and entities subject to European Union financial sanctions maintained by the European Union External Action Committee, (iv) the Consolidated List of Financial Sanctions Targets in the UK maintained by Her Majesty’s Treasury of the United Kingdom, (v) the Compendium of United Nations Security Council Sanctions Lists and (vi) any Sanctions-related list of designated Persons maintained by the Government of Canada pursuant to, or as described in, any applicable Canadian Economic Sanctions and Export Control Laws, (b) any Person located, organized or resident in a Sanctioned Country, or (c) any Person 50% or more owned by any Person or Persons in (a)(i) of this definition.

“**Sanctions**” means any economic or financial sanctions or trade embargoes imposed, administered or enforced by OFAC, the U.S. Department of State, the European Union, the United Nations Security Council, Her Majesty’s Treasury or the Government of Canada.

“**Sanctions Authority**” means the United States Government (including without limitation, OFAC, the U.S. Department of Commerce, and the U.S. Department of State), the European Union, the United Kingdom (including Her Majesty’s Treasury) and Canada.

“**Sanctions List**” means OFAC’s Specially Designated Nationals and Blocked Persons List and Sectoral Sanctions Identifications List, the Consolidated United Nations Security Council Sanctions List, HMT’s Consolidated List of Financial Sanctions Targets or any other Sanctions-related list of designated Persons maintained by a Sanctions Authority, each as amended, supplemented or substituted from time to time.

“**Scheduled Consideration**” has the meaning assigned to such term in Section 2.11(b)(i)(B)(7).

“**SEC**” means the Securities and Exchange Commission, or any Governmental Authority succeeding to any or all of its functions.

“**Secured Obligations**” means all Obligations hereunder.

“**Secured Parties**” means (i) the Lenders, (ii) the Administrative Agent, (iii) the Arrangers and (iv) the beneficiaries of each indemnification obligation undertaken by any Loan Party under any Loan Document.

“**Securities Act**” means the Securities Act of 1933 and the rules and regulations of the SEC promulgated thereunder.

“**Senior Notes**” has the meaning assigned to such term in the preamble.

“**Separation Agreement**” means the Separation and Distribution Agreement, dated as of August 2, 2021 between L Brands and the Company.

“**Shared Incremental Amount**” means, as of any date of determination, (a) the greater of (i) \$1,000.0 million and (ii) 100% of Consolidated EBITDA as of the last day of the most recently ended Test Period minus (b) the aggregate principal amount of all Incremental Facilities and/or Incremental Equivalent Debt originally incurred or issued in reliance on the Shared Incremental Amount outstanding on such date, in each case after giving effect to any reclassification of any such Indebtedness as having been incurred under clause (e) of the definition of “Incremental Cap” hereunder.

“**SOFR**” with respect to any day means the secured overnight financing rate published for such day by the Federal Reserve Bank of New York, as the administrator of the benchmark, (or a successor administrator) on the Federal Reserve Bank of New York’s Website.

“**SPC**” has the meaning assigned to such term in Section 9.05(e).

“**Special Purpose Financing Fees**” means distributions or payments made directly or by means of discounts with respect to any participation interest issued or sold in connection with, and other fees paid to a Person that is not a Restricted Subsidiary in connection with, any Specified Receivables Facility.

“**Specified Event of Default**” means an Event of Default pursuant to Section 7.01(a) or, with respect to the Company or any other Borrower, Section 7.01(f) or (g).

“**Specified Receivables Facility**” means any Receivables Facility that meets the following conditions: (a) the Company shall have determined in good faith that such Receivables Facility (including financing terms, covenants, termination events and other provisions) is in the aggregate economically fair, reasonable and beneficial to the Company; (b) all sales or other conveyances of Receivables Facility Assets by the Company or applicable Restricted Subsidiary to any Receivables Subsidiary are made for fair market value; (c) the financing terms, covenants, termination events and other provisions thereof shall be on market terms (as determined by the Company in good faith) and may include Standard Receivables Undertakings; and (d) the obligations under such Receivables Facility shall not be guaranteed by, or secured by assets of, the Company or any of its Restricted Subsidiaries, other than a Receivables Subsidiary (it being agreed that the foregoing shall not prohibit Standard Receivables Undertakings, or precautionary financing statements or similar filings, in respect of Receivables Facility Assets).

“**Standard Receivables Undertakings**” means any Receivables Facility Guarantee and/or any representations, warranties, covenants and indemnities entered into by the Company or any Restricted Subsidiary which the Company has determined in good faith to be customary in a Receivables Facility, including, without limitation, those relating to the servicing of the assets of a Receivables Subsidiary.

“**Stated Maturity**” means, with respect to any Indebtedness, the date specified in such Indebtedness as the fixed date on which the payment of principal of such Indebtedness is due and payable, including pursuant to any mandatory redemption provision (but excluding any provision providing for the repurchase or repayment of such Indebtedness at the option of the holder thereof upon the happening of any contingency).

“**Statutory Reserve Rate**” means a fraction (expressed as a decimal), the numerator of which is the number one and the denominator of which is the number one minus the aggregate of the maximum reserve percentage (including any marginal, special, emergency or supplemental reserves) expressed as a decimal established by the Board to which the Administrative Agent is subject with respect to the Adjusted LIBO Rate, for eurocurrency funding (currently referred to as “Eurocurrency liabilities” in Regulation D). Such reserve percentage shall include those imposed pursuant to Regulation D. LIBO Rate Loans shall be deemed to constitute eurocurrency funding and to be subject to such reserve requirements without benefit of or credit for proration, exemptions or offsets that may be available from time to time to any Lender under Regulation D or any comparable regulation. The Statutory Reserve Rate shall be adjusted automatically on and as of the effective date of any change in any reserve percentage.

“**Subordinated Obligations**” means any Indebtedness of the Company (whether outstanding on the date of this Agreement or thereafter Incurred) that is expressly subordinated in right of payment to the Loans pursuant to a written agreement (other than Indebtedness owing to a Restricted Subsidiary).

“**Subject Loans**” means, as of any date of determination, (a) Initial Term Loans and (b) any Additional Term Loans that are subject to ratable prepayment requirements in accordance with Section 2.11(b) on such date of determination.

“**Subject Proceeds**” has the meaning assigned to such term in Section 2.11(b)(ii).

“**Subject Transaction**” means, with respect to any Test Period, (a) the Transactions, (b) any Purchase, (c) any Sale, (d) the designation of a Restricted Subsidiary as an Unrestricted Subsidiary or an Unrestricted Subsidiary as a Restricted Subsidiary, (e) any incurrence or repayment of Indebtedness (other than revolving Indebtedness), (f) any Cost Saving Initiative and/or (g) any other event that by the terms of the Loan Documents requires pro forma compliance with a test or covenant hereunder or requires such test or covenant to be calculated on a pro forma basis.

“**Subsidiary**” of any Person means any corporation, association, partnership or other business entity of which more than 50.0% of the total voting power of shares of Capital Stock or other equity interests (including partnership interests) entitled (without regard to the occurrence of any contingency) to vote in the election of directors, managers or trustees thereof is at the time owned or controlled, directly or indirectly, by (i) such Person or (ii) one or more Subsidiaries of such Person.

“**Subsidiary Guarantee**” means any guarantee of the Loans that may from time to time be entered into by a Restricted Subsidiary of the Company on the Closing Date or after the Closing Date. As used in this Agreement, “Subsidiary Guarantee” refers to a Subsidiary Guarantee of the Loans.

“**Subsidiary Guarantor**” means (x) on the Closing Date, each subsidiary of the Company (other than any subsidiary that is an Excluded Subsidiary on the Closing Date) and (y) thereafter, each subsidiary of the Company that becomes a guarantor of the Secured Obligations pursuant to the terms of this Agreement, in each case, until such time as the relevant subsidiary is released from its obligations under the Collateral Agreement in accordance with the terms and provisions hereof. Notwithstanding the foregoing, the Company may from time to time, upon notice to the Administrative Agent, elect to cause any subsidiary that would otherwise be an Excluded Subsidiary to become a Subsidiary Guarantor hereunder (but shall have no obligation to do so), subject to the satisfaction of guarantee and collateral requirements consistent with the Collateral and Guarantee Requirements or otherwise reasonably acceptable to the Company and the Administrative Agent (which shall include, in the case of a Foreign Subsidiary, guarantee and collateral requirements customary under local law, including customary local limitations).

“**Swap Obligations**” means, with respect to any Loan Party, any obligation to pay or perform under any agreement, contract or transaction that constitutes a “swap” within the meaning of Section 1a(47) of the Commodity Exchange Act.

“**Taxes**” means any and all present or future taxes, levies, imposts, duties, deductions, charges or withholdings imposed by any Governmental Authority, including any interest, additions to tax or penalties applicable thereto.

“**Temporary Cash Investments**” means any of the following: (i) any investment in (x) direct obligations of the United States, Canada, a member state of the European Union or any country in whose currency funds are being held pending their application in the making of an investment or capital expenditure by the Company or a Restricted Subsidiary in that country or with such funds, or any agency or instrumentality of any thereof, or obligations Guaranteed by the United States or a member state of the European Union or any country in whose currency funds are being held pending their application in the making of an investment or capital expenditure by the Company or a Restricted Subsidiary in that country or with such funds, or any agency or instrumentality of any of the foregoing, or obligations guaranteed by any of the foregoing or (y) direct obligations of any foreign country recognized by the United States rated at least “A” by S&P or “A-1” by Moody’s (or, in either case, the equivalent of such rating by such organization or, if no rating of S&P or Moody’s then exists, the equivalent of such rating by any nationally recognized rating organization), (ii) overnight bank deposits, and investments in time deposit accounts, certificates of deposit, bankers’ acceptances and money market deposits (or, with respect to foreign banks, similar instruments) maturing not more than one year after the date of acquisition thereof issued by (x) any bank or other institutional lender under a Credit Facility or any affiliate thereof or (y) a bank or trust company that is organized under the laws of the United States, any state thereof or any foreign country recognized by the United States having capital and surplus aggregating in excess of \$250.0 million (or the foreign currency equivalent thereof) and whose long term debt is rated at least “A” by S&P or “A-1” by Moody’s (or, in either case, the equivalent of such rating by such organization or, if no rating of S&P or Moody’s then exists, the equivalent of such rating by any nationally recognized rating organization) at the time such Investment is made, (iii) repurchase obligations for underlying securities or instruments of the types described in clause (i) or (ii) above entered into with a bank meeting the qualifications described in clause (ii) above, (iv) Investments in commercial paper, maturing not more than 24 months after the date of acquisition, issued by a Person (other than that of the Company or any of its Subsidiaries), with a rating at the time as of which any Investment therein is made of “P-2” (or higher) according to Moody’s or “A-2” (or higher) according to S&P (or, in either case, the equivalent of such rating by such organization or, if no rating of S&P or Moody’s then exists, the equivalent of such rating by any nationally recognized rating organization), (v) Investments in securities maturing not more than 24 months after the date of acquisition issued or fully guaranteed by any state, commonwealth or territory of the United States, or by any political subdivision or taxing authority thereof, and rated at least “BBB-” by S&P or “Baa3” by Moody’s (or, in either case, the equivalent of such rating by such organization or, if no rating of S&P or Moody’s then exists, the equivalent of such rating by any nationally recognized rating organization), (vi) Indebtedness or Preferred Stock (other than of the Company or any of its Subsidiaries) having a rating of “A” or higher by S&P or “A2” or higher by Moody’s (or, in either case, the equivalent of such rating by such organization or, if no rating of S&P or Moody’s then exists, the equivalent of such rating by any nationally recognized rating organization), (vii) investment funds investing 95.0% of their assets in securities of the type described in clauses (i) through (vi) above (which funds may also hold cash pending investment and/or distribution), (viii) any money market deposit accounts issued or offered by a domestic commercial bank or a commercial bank organized and located in a country recognized by the United States, in each case, having capital and surplus in excess of \$250.0 million (or the foreign currency equivalent thereof), or investments in money market funds subject to the risk limiting conditions of Rule 2a-7 (or any successor rule) of the SEC under the Investment Company Act of 1940, as amended, and (ix) similar investments approved by the Board of Directors in the ordinary course of business.

“**Trade Payables**” means, with respect to any Person, any accounts payable or any indebtedness or monetary obligation to trade creditors created, assumed or guaranteed by such Person arising in the ordinary course of business in connection with the acquisition of goods or services.

“**Term Facility**” means the Term Loans provided to or for the benefit of the Company pursuant to the terms of this Agreement.

“**Term Lender**” means a Lender with an Initial Term Loan Commitment or an Additional Term Loan Commitment or an outstanding Initial Term Loan or Additional Term Loan.

“**Term Loan**” means the Initial Term Loans and, if applicable, any Additional Term Loans.

“**Term Loan Borrower**” means (a) the Company and (b) any Subsidiary that enters into a Borrower Joinder pursuant to [Section 9.02\(d\)](#) of this Agreement as a Term Loan Borrower.

“**Term Loan Priority Collateral**” has the meaning assigned to the term “Term Priority Collateral” in the ABL Intercreditor Agreement.

“**Term SOFR**” means, for the applicable Corresponding Tenor as of the applicable Reference Time, the forward-looking term rate based on SOFR that has been selected or recommended by the Relevant Governmental Body.

“**Term SOFR Notice**” means a notification by the Administrative Agent to the Lenders and the Company of the occurrence of a Term SOFR Transition Event.

“**Term SOFR Transition Event**” means the determination by the Administrative Agent that (a) Term SOFR has been recommended for use by the Relevant Governmental Body, (b) the administration of Term SOFR is administratively feasible for the Administrative Agent and (c) a Benchmark Transition Event or an Early Opt-in Election, as applicable, has previously occurred resulting in a Benchmark Replacement in accordance with Section 2.14 that is not Term SOFR.

“**Test Period**” means, as of any date of determination under this Agreement, the then most recently ended period of four consecutive fiscal quarters of the Company for which financial statements of the Company and its consolidated subsidiaries are available.

“**Titled Person**” has the meaning assigned to such term in [Section 8.01](#).

“**Threshold Amount**” means \$300 million.

“**Trademarks**” means the following: (a) all trademarks (including service marks), common law marks, trade names, trade dress, logos, slogans and other indicia of origin, and the registrations and applications for registration thereof and the goodwill of the business symbolized by the foregoing; (b) all renewals of the foregoing; (c) all income, royalties, damages and payments now or hereafter due or payable under any of the foregoing, including, without limitation, damages or payments for past or future infringements thereof; (d) the right to sue for past, present and future infringements thereof; and (e) all domestic rights corresponding to any of the foregoing.

“**Transaction Costs**” means fees, premiums, expenses and other transaction costs (including original issue discount or upfront fees) payable or otherwise borne by the Company and/or its subsidiaries in connection with the Transactions and the transactions contemplated thereby.

“**Transactions**” means (a) the execution, delivery and performance by the Loan Parties of the Loan Documents to which they are a party, (b) the transactions contemplated by the Separation Agreement, (c) the borrowing of Loans and the use of the proceeds thereof, (d) the issuance of the Senior Notes and the use of the proceeds thereof, (e) the payment of the Closing Date Payment, (f) the distribution of the Closing Date Distribution and (g) the payment of Transaction Costs.

“**Treasury Capital Stock**” has the meaning assigned to such term in Section 6.02(b)(i).

“**Treasury Regulations**” means the U.S. federal income tax regulations promulgated under the Code.

“**Type**”, when used in reference to any Loan or Borrowing, refers to whether the rate of interest on such Loan, or on the Loans comprising such Borrowing, is determined by reference to the LIBO Rate, or the Alternate Base Rate.

“**UCC**” means the Uniform Commercial Code as in effect from time to time in the State of New York or any other state the laws of which are required to be applied in connection with the creation or perfection of security interests.

“**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 Regulatory Authority) or any Person falling within 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.

“**Unfunded Liabilities**” means, with respect to any Plan at any time, the amount (if any) by which (a) the present value of all benefits under such Plan exceeds (b) the fair market value of all assets of such Plan allocable to such benefits, all determined as of the then most recent valuation date for such Plan, but only to the extent that such excess represents a potential liability of the Company or any ERISA Affiliate to the PBGC or any other Person under Title IV of ERISA.

“**Unrestricted Subsidiary**” means (i) [reserved], (ii) any Subsidiary of the Company that at the time of determination is an Unrestricted Subsidiary, as designated by the Board of Directors in the manner provided below, and (iii) any Subsidiary of an Unrestricted Subsidiary. The Board of Directors may designate any Subsidiary of the Company (including any newly acquired or newly formed Subsidiary of the Company) to be an Unrestricted Subsidiary unless such Subsidiary or any of its Subsidiaries owns any Capital Stock or Indebtedness of, or owns or holds any Lien on any property of, the Company or any other Restricted Subsidiary of the Company that is not a Subsidiary of the Subsidiary to be so designated; provided, that (A) the Subsidiary to be so designated has total consolidated assets of \$1,000 or less or (B) if such Subsidiary has consolidated assets greater than \$1,000, then such designation would be permitted under Section 6.02. The Board of Directors may designate any Unrestricted Subsidiary to be a Restricted Subsidiary; provided, that immediately after giving effect to such designation (x) the Company could Incur at least \$1.00 of additional Indebtedness under Section 6.01(a) or (y) the Consolidated Coverage Ratio would be greater than it was immediately prior to giving effect to such designation or (z) such Subsidiary shall be a Receivables Subsidiary with no Indebtedness outstanding other than Indebtedness that can be Incurred (and upon such designation shall be deemed to be Incurred and outstanding) pursuant to Section 6.01(b)(ix). Any such designation by the Board of Directors shall be evidenced to the Administrative Agent by promptly providing to the Administrative Agent a copy of the resolution of the Company’s Board of Directors giving effect to such designation and an Officer’s Certificate of the Company certifying that such designation complied with the foregoing provisions.

“U.S.” or “United States” means the United States of America.

“U.S. Person” means any Person that is a “United States Person” as defined in Section 7701(a)(30) of the Code.

“USA PATRIOT Act” means The Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (Title III of Pub. L. No. 107-56 (signed into law October 26, 2001)).

“VS Transaction” means (i) the Separation of the Spin Business (each as defined in the Registration Statement) from L Brands as described in the Registration Statement, (ii) the Distribution (as defined in the VS Separation Agreement), (iii) the payment of the Special Cash Payment (as defined in the Separation Agreement), (iv) the consummation of the other ancillary transactions described in the Separation Agreement and the Registration Statement (including the Pre-Closing Reorganization Transactions) and (v) the payment of fees and expenses incurred in connection with the foregoing.

“Weighted Average Life to Maturity” means, when applied to any Indebtedness at any date, the number of years obtained by dividing: (a) the sum of the products obtained by multiplying (i) the amount of each then remaining installment, sinking fund, serial maturity or other required scheduled payments of principal, including payment at final maturity, in respect thereof, by (ii) the number of years (calculated to the nearest one-twelfth) that will elapse between such date and the making of such payment; by (b) the then outstanding principal amount of such Indebtedness; provided that the effect of any prepayment made in respect of such Indebtedness shall be disregarded in making such calculation.

“Wholly-Owned Subsidiary” of any Person means a subsidiary of such Person 100% of the Capital Stock of which (other than directors’ qualifying shares or shares required by Requirements of Law to be owned by a resident of the relevant jurisdiction) is owned by such Person or by one or more Wholly-Owned Subsidiaries of such Person.

“Withdrawal Liability” means liability to a Multiemployer Plan as a result of a complete or partial withdrawal from such Multiemployer Plan, as such terms are defined in Part I of Subtitle E of Title IV of ERISA.

“Withholding Agent” means a Loan Party or the Administrative Agent.

“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 U.K. 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 such 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.

SECTION 1.02. Classification of Loans and Borrowings. For purposes of this Agreement, Loans may be classified and referred to by Class (*e.g.*, a “Term Loan”) or by Type (*e.g.*, a “LIBO Rate Loan”) or by Class and Type (*e.g.*, a “LIBO Rate Term Loan”). Borrowings also may be classified and referred to by Class (*e.g.*, a “Term Loan Borrowing”) or by Type (*e.g.*, a “LIBO Rate Borrowing”) or by Class and Type (*e.g.*, a “LIBO Rate Term Loan Borrowing”).

SECTION 1.03. Terms Generally. (a) The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words “include,” “includes” and “including” shall be deemed to be followed by the phrase “without limitation.” The word “will” shall be construed to have the same meaning and effect as the word “shall.” The words “ordinary course of business” or “ordinary course” shall, with respect to any Person, be deemed to refer to items or actions that are consistent with practice in or the norms of the industry in which such Person operates or such Person’s past practice. Unless the context requires otherwise (i) any definition of or reference to any agreement, instrument or other document herein or in any Loan Document shall be construed as referring to such agreement, instrument or other document as from time to time amended, restated, amended and restated, supplemented or otherwise modified or extended, replaced or refinanced (subject to any restrictions or qualifications on such amendments, restatements, amendment and restatements, supplements or modifications or extensions, replacements or refinancings set forth herein), (ii) any reference to any Requirement of Law in any Loan Document shall include all statutory and regulatory provisions consolidating, amending, replacing, supplementing, superseding or interpreting such Requirement of Law, (iii) any reference herein or in any Loan Document to any Person shall be construed to include such Person’s successors and permitted assigns, (iv) the words “herein,” “hereof” and “hereunder,” and words of similar import, when used in any Loan Document, shall be construed to refer to such Loan Document in its entirety and not to any particular provision hereof, (v) all references herein or in any Loan Document to Articles, Sections, clauses, paragraphs, Exhibits and Schedules shall be construed to refer to Articles, Sections, clauses and paragraphs of, and Exhibits and Schedules to, such Loan Document, (vi) in the computation of periods of time in any Loan Document from a specified date to a later specified date, the word “from” means “from and including”, the words “to” and “until” mean “to but excluding” and the word “through” means “to and including”, (vii) the words “asset” and “property”, when used in any Loan Document, shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including Cash, securities, accounts and contract rights and (viii) the fair market value of any asset or property shall be determined by the Company in good faith.

(b) For purposes of determining compliance at any time with Sections 6.01, 6.02, 6.04, 6.05 and 6.06, in the event that any Indebtedness, Lien, Restricted Payment Transaction, Disposition or Affiliate Transaction, as applicable, or portion thereof, at any time meets the criteria of more than one of the categories of transactions or items permitted pursuant to any clause of such Sections 6.01 (other than Sections 6.01(b)(i)(A) or (iii) (in the case of Indebtedness Incurred on the Closing Date)), 6.02, 6.04, 6.05 and 6.06 (each of the foregoing, a “**Reclassifiable Item**”), the Company, in its sole discretion, may, from time to time, divide, classify or reclassify such Reclassifiable Item (or portion thereof) under one or more clauses of each such Section and will only be required to include such Reclassifiable Item (or portion thereof) in any one category; provided that, upon delivery of any financial statements pursuant to Section 5.01(a)(i) or (ii) following the initial incurrence or making of any such Reclassifiable Item, if such Reclassifiable Item could, based on such financial statements, have been incurred in reliance on Section 6.01(a) or Section 6.01(b)(i)(A)(II) (in the case of Indebtedness and Liens) or any “ratio-based” basket or exception (in the case of all other Reclassifiable Items), such Reclassifiable Item shall automatically be reclassified as having been incurred or made under the applicable provisions of Section 6.01(a) or Section 6.01(b)(i)(A)(II) or such “ratio-based” basket or exception, as applicable (in each case, subject to any other applicable provision of Section 6.01(a) or Section 6.01(b)(i)(A)(II) or such “ratio-based” basket or exception, as applicable). It is understood and agreed that any Indebtedness, Lien, Restricted Payment Transaction, Disposition and/or Affiliate transaction need not be permitted solely by reference to one category of permitted Indebtedness, Lien, Restricted Payment Transaction, Disposition and/or Affiliate transaction under Sections 6.01, 6.02, 6.04, 6.05 and 6.06, respectively, but may instead be permitted in part under any combination thereof or under any other available exception.

(c) With respect to any Default or Event of Default, the words “exists”, “is continuing” or similar expressions with respect thereto shall mean that the Default or Event of Default has occurred and has not yet been cured or waived. If any Default or Event of Default occurs due to the failure by any Loan Party or Restricted Subsidiary to take any action by a specified time, such Default or Event of Default shall be deemed to have been cured at the time, if any, that the applicable Loan Party or Restricted Subsidiary takes such action but only if the Administrative Agent or the Required Lenders shall not, prior to the taking of such action, have accelerated the Loans pursuant to **Article 7** or otherwise commenced the exercise of secured creditor remedies. If any Default or Event of Default that occurs is subsequently cured as described in the preceding sentence (a “**Cured Default**”), any other Default or Event of Default resulting from the making or deemed making of any representation or warranty by any Loan Party or any Restricted Subsidiary or the taking of (or the failure to take) any action by any Loan Party or any Restricted Subsidiary, in each case which subsequent Default or Event of Default would not have arisen had the Cured Default not occurred, shall be deemed to be cured automatically upon, and simultaneously with, the cure of the Cured Default.

SECTION 1.04. Accounting Terms; GAAP.

(a) (i) All financial statements to be delivered pursuant to this Agreement shall be prepared in accordance with GAAP as in effect from time to time and, except as otherwise expressly provided herein, all terms of an accounting or financial nature that are used in calculating the Consolidated Total Leverage Ratio, the Consolidated First Lien Leverage Ratio, the Consolidated Coverage Ratio, Consolidated EBITDA, Consolidated Net Income or Consolidated Tangible Assets shall be construed and interpreted in accordance with GAAP, as in effect from time to time; provided that (A) if any change to GAAP or in the application thereof or any change as a result of the adoption or modification of accounting policies (including the conversion to IFRS as described below) and/or there is any change in the functional currency reflected in the financial statements or (B) if the Company elects or is required to report under IFRS, the Company or the Required Lenders may, in either case, request to amend the relevant affected provisions hereof (whether or not the request for such amendment is delivered before or after the relevant change or election) to eliminate the effect of such change or election, as the case may be, on the operation of such provisions and, upon any such request, (x) the Company and the Administrative Agent shall negotiate in good faith to enter into an amendment of the relevant affected provisions (it being understood that no amendment or similar fee shall be payable to the Administrative Agent or any Lender in connection therewith) to preserve the original intent thereof in light of the applicable change or election, as the case may be and (y) the relevant affected provisions shall be interpreted on the basis of GAAP and the currency, in each case, as in effect and applied immediately prior to the applicable change or election, as the case may be, until the request for amendment has been withdrawn by the Company or the Required Lenders, as applicable, or this Agreement has been amended as contemplated hereby. Any consent required from the Administrative Agent or any Required Lender with respect to the foregoing shall not be unreasonably withheld, conditioned or delayed.

(ii) All terms of an accounting or financial nature used herein shall be construed, and all computations of amounts and ratios referred to herein shall be made, without giving effect to (i) any election under Accounting Standards Codification 825-10-25 (previously referred to as Statement of Financial Accounting Standards 159) (or any other Accounting Standards Codification, International Accounting Standard or Financial Accounting Standard having a similar result or effect) to value any Indebtedness or other liabilities of the Company or any subsidiary at “fair value,” as defined therein, (ii) any treatment of Indebtedness in respect of convertible debt instruments under Accounting Standards Codification 470-20 (or any other Accounting Standards Codification, International Accounting Standard or Financial Accounting Standard having a similar result or effect) to value any such Indebtedness in a reduced or bifurcated manner as described therein, and such Indebtedness shall at all times be valued at the full stated principal amount thereof, (iii) the application of Accounting Standards Codification 480, 815, 805 and 718 (to the extent these pronouncements under Accounting Standards Codification 718 result in recording an equity award as a liability on the consolidated balance sheet of the Company and its Restricted Subsidiaries in the circumstance where, but for the application of the pronouncements, such award would have been classified as equity) and (iv) unless the Company elects otherwise, the policies, rules and regulations of the SEC, the American Institute of Certified Public Accountants, the International Accounting Standards Board or any other applicable regulatory or governing body applicable only to public companies. If the Company notifies the Administrative Agent that the Company is required to report under IFRS or has elected to do so through an early adoption policy, “GAAP” shall mean international financial reporting standards pursuant to IFRS (provided thereafter, the Company cannot elect to report under GAAP).

(b) Notwithstanding anything to the contrary herein, but subject to Sections 1.04(d), (e) and (g), all financial ratios and tests (including the Consolidated Coverage Ratio, the Consolidated Total Leverage Ratio, the Consolidated First Lien Leverage Ratio and the amount of Consolidated Tangible Assets, Consolidated Net Income and Consolidated EBITDA) (other than, for the avoidance of doubt, or purposes of calculating Excess Cash Flow) contained in this Agreement that are calculated with respect to any Test Period during which any Subject Transaction occurs shall be calculated with respect to such Test Period and such Subject Transaction on a pro forma basis. Further, if since the beginning of any such Test Period and on or prior to the date of any required calculation of any financial ratio or test (x) any Subject Transaction has occurred or (y) any Person that subsequently became a Restricted Subsidiary or was merged, amalgamated or consolidated with or into the Company or any of its Restricted Subsidiaries since the beginning of such Test Period has consummated any Subject Transaction, then, in each case, any applicable financial ratio or test shall be calculated on a pro forma basis for such Test Period as if such Subject Transaction had occurred at the beginning of the applicable Test Period (or, in the case of Consolidated Tangible Assets (or with respect to any determination pertaining to the balance sheet, including the acquisition of Cash, Cash Equivalents, Investment Grade Securities and Temporary Cash Investments), as of the last day of such Test Period).

(c) Notwithstanding anything to the contrary contained in paragraph (a) above or in the definition of “Finance Lease Obligation”, unless the Company elects otherwise, all obligations of any Person that are or would have been treated as operating leases for purposes of GAAP prior to the issuance by the Financial Accounting Standards Board on February 25, 2016 of an Accounting Standards Update (the “ASU”) shall continue to be accounted for as operating leases (and not be treated as financing or capital lease obligations or Indebtedness) for purposes of all financial definitions, calculations and deliverables under this Agreement or any other Loan Document (including the calculation of Consolidated Net Income and Consolidated EBITDA) (whether or not such operating lease obligations were in effect on such date) notwithstanding the fact that such obligations are required in accordance with the ASU or any other change in accounting treatment or otherwise (on a prospective or retroactive basis or otherwise) to be treated as or to be recharacterized as financing or capital lease obligations or otherwise accounted for as liabilities in financial statements.

(d) For purposes of determining the permissibility of any action, change, transaction or event that by the terms of the Loan Documents requires a calculation of any financial ratio or financial test (including the Consolidated Coverage Ratio, the Consolidated Total Leverage Ratio, the Consolidated First Lien Leverage Ratio and the amount of Consolidated EBITDA, Consolidated Net Income or Consolidated Tangible Assets), subject to the succeeding clause (e), such financial ratio or test shall be calculated at the time such action is taken, such change is made, such transaction is consummated or such event occurs, as the case may be, and no Default or Event of Default shall be deemed to have occurred solely as a result of a change in such financial ratio or financial test occurring after the time such action is taken, such change is made, such transaction is consummated or such event occurs, as the case may be.

(e) Notwithstanding anything to the contrary herein (including in connection with any calculation made on a pro forma basis), if the terms of this Agreement require (i) compliance with any financial ratio or financial test (including, without limitation, any Consolidated Coverage Ratio test, any Consolidated First Lien Leverage Ratio test and/or any Consolidated Total Leverage Ratio test) and/or any cap expressed as a percentage of Consolidated Tangible Assets, Consolidated Net Income or Consolidated EBITDA, (ii) accuracy of any representation or warranty and/or the absence of a Default or Event of Default (or any type of default or event of default) or (iii) compliance with any basket, as a condition to (A) the consummation of any transaction (including in connection with any acquisition or other Investment or the assumption or incurrence of Indebtedness), or (B) the making of any Restricted Payment Transaction, the determination of whether the relevant condition is satisfied may be made, at the election of the Company, (1) in the case of any acquisition or other Investment or any Disposition and any transaction related thereto, at the time of (or on the basis of the financial statements for the most recently ended Test Period at the time of) either (x) the execution of the definitive agreement with respect to such acquisition, Investment or Disposition (or, solely in connection with an acquisition, consolidation or business combination to which the United Kingdom City Code on Takeovers and Mergers applies, the date on which a “Rule 2.7 Announcement” of a firm intention to make an offer is made) or the establishment of a commitment with respect to such Indebtedness or (y) the consummation of such acquisition, Investment or Disposition, and (2) in the case of any Restricted Payment Transaction, at the time of (or on the basis of the financial statements for the most recently ended Test Period at the time of) (x) the declaration of such Restricted Payment Transaction or delivery of notice with respect to such Restricted Payment or (y) the making of such Restricted Payment Transaction, in each case, after giving effect to the relevant acquisition, Restricted Payment Transaction or other transaction on a pro forma basis (including, in each case, giving effect to the relevant transaction, any relevant Indebtedness (including the intended use of proceeds thereof) and, at the election of the Company, giving pro forma effect to other prospective “limited conditionality” acquisitions or other Investments for which definitive agreements have been executed, and no Default or Event of Default shall be deemed to have occurred solely as a result of an adverse change in such financial ratio or test occurring after the time such election is made (but any subsequent improvement in the applicable financial ratio or test may be utilized by the Company or any Restricted Subsidiary). For the avoidance of doubt, if the Company shall have elected the option set forth in clause (x) of any of the preceding clauses (1), (2) or (3) in respect of any transaction, then the Company shall be permitted to consummate such transaction even if any applicable test or condition shall cease to be satisfied subsequent to the Company’s election of such option. The provisions of this paragraph (e) shall also apply in respect of the incurrence of any Incremental Facility.

(f) [Reserved].

(g) Notwithstanding anything to the contrary herein, unless the Company otherwise notifies the Administrative Agent, with respect to any amount incurred under any revolving facility or any amounts incurred or transactions entered into (or consummated) in reliance on a provision of this Agreement that does not require compliance with a financial ratio or financial test (including any Consolidated Coverage Ratio test, Consolidated First Lien Leverage Ratio test, and/or Consolidated Total Leverage Ratio test) (any such amounts, the “**Fixed Amounts**”) substantially concurrently with any amounts incurred or transactions entered into (or consummated) in reliance on a provision of this Agreement that requires compliance with a financial ratio or financial test (including any Consolidated Coverage Ratio test, Consolidated First Lien Leverage Ratio test and/or any Consolidated Total Leverage Ratio test) (any such amounts, the “**Incurrence-Based Amounts**”), it is understood and agreed that the incurrence of the Incurrence-Based Amount shall be calculated first without giving effect to any Fixed Amount but giving full pro forma effect to the use of proceeds of such Fixed Amount and the related transactions and (B) the Incurrence of the Fixed Amount shall be calculated thereafter. Unless the Company elects otherwise, the Company or the applicable Restricted Subsidiary shall be deemed to have used amounts under an Incurrence-Based Amount then available to the Company or the applicable Restricted Subsidiary prior to utilization of any amount under a Fixed Amount then available to the Company or the applicable Restricted Subsidiary.

(h) The principal amount of any non-interest bearing Indebtedness or other discount security constituting Indebtedness at any date shall be the principal amount thereof that would be shown on a balance sheet of the Company dated such date prepared in accordance with GAAP.

(i) The increase in any amount secured by any Lien by virtue of the accrual of interest, the accretion of accreted value, the payment of interest or a dividend in the form of additional Indebtedness, amortization of original issue discount and/or any increase in the amount of Indebtedness outstanding solely as a result of any fluctuation in the exchange rate of any applicable currency will not be deemed to be the granting of a Lien for purposes of Section 6.02.

(j) For purposes of determining compliance with Section 6.01 or Section 6.06, if any Indebtedness or Lien is Incurred in reliance on a basket measured by reference to a percentage of Consolidated Tangible Assets, and any refinancing or replacement thereof would cause the percentage of Consolidated Tangible Assets to be exceeded if calculated based on the Consolidated Tangible Assets on the date of such refinancing or replacement, such percentage of Consolidated Tangible Assets will be deemed not to be exceeded so long as the principal amount of such refinancing or replacement Indebtedness or other obligation does not exceed an amount sufficient to repay the principal amount of such Indebtedness or other obligation being refinanced or replaced, except by an amount equal to (x) unpaid accrued interest, penalties and premiums (including tender, prepayment or repayment premiums) thereon plus underwriting discounts and other customary fees, commissions and expenses (including upfront fees, original issue discount or initial yield payment) incurred in connection with such refinancing or replacement, (y) any existing commitments unutilized thereunder and (z) additional amounts permitted to be incurred under Section 6.01.

(k) Any financial ratios required to be maintained by the Company or any of its Restricted Subsidiaries pursuant to this Agreement (or required to be satisfied in order for a specific action to be permitted under this Agreement) shall be calculated by dividing the appropriate component by the other component, carrying the result to one place more than the number of places by which such ratio is expressed herein and rounding the result up or down to the nearest number (with a rounding-up if there is no nearest number).

SECTION 1.05. Effectuation of Transactions. Each of the representations and warranties contained in this Agreement (and all corresponding definitions) is made after giving effect to the Transactions, unless the context otherwise requires.

SECTION 1.06. Timing of Payment and Performance. When payment of any obligation or the performance of any covenant, duty or obligation is stated to be due or required on a day which is not a Business Day, the date of such payment (other than as described in the definition of "Interest Period") or performance shall extend to the immediately succeeding Business Day, and, in the case of any payment accruing interest, interest thereon shall be payable for the period of such extension.

SECTION 1.07. Times of Day. Unless otherwise specified, all references herein to times of day shall be references to New York City time (daylight or standard, as applicable).

SECTION 1.08. Currency Equivalents Generally.

(a) Notwithstanding anything to the contrary in clause (b) below, for purposes of any determination under Article 5, Article 6 (other than the calculation of compliance with any financial ratio for purposes of taking any action hereunder) or Article 7 with respect to the amount of any Indebtedness, Lien, Restricted Payment Transaction, Investment, Disposition, Affiliate transaction or other transaction, event or circumstance, or any determination under any other provision of this Agreement (any of the foregoing, a “**relevant transaction**”), in a currency other than Dollars, (i) the Dollar equivalent amount of a relevant transaction in a currency other than Dollars shall be calculated based on the rate of exchange quoted by the Bloomberg Foreign Exchange Rates & World Currencies Page (or any successor page thereto, or in the event such rate does not appear on any Bloomberg Page, by reference to such other publicly available service for displaying exchange rates as may be agreed upon by the Administrative Agent and the Company) for such foreign currency, as in effect at 11:00 a.m. (London time) on the date of such relevant transaction (which, in the case of any Restricted Payment Transaction, Investment, Disposition or incurrence of Indebtedness, shall be determined as set forth in Section 1.04(e)); provided, that if any Indebtedness is incurred (and, if applicable, associated Lien granted) to refinance or replace other Indebtedness denominated in a currency other than Dollars, and the relevant refinancing or replacement would cause the applicable Dollar-denominated restriction to be exceeded if calculated at the relevant currency exchange rate in effect on the date of such refinancing or replacement, such Dollar-denominated restriction shall be deemed not to have been exceeded so long as the principal amount of such refinancing or replacement Indebtedness (and, if applicable, associated Lien granted) does not exceed an amount sufficient to repay the principal amount of such Indebtedness being refinanced or replaced, except by an amount equal to (x) unpaid accrued interest, penalties and premiums (including tender premiums) thereon *plus* underwriting discounts and other customary fees, commissions and expenses (including upfront fees, original issue discount or initial yield payment) incurred in connection with such refinancing or replacement, (y) any existing commitments unutilized thereunder and (z) additional amounts permitted to be incurred under Section 6.01 and (ii) for the avoidance of doubt, no Default or Event of Default shall be deemed to have occurred solely as a result of a change in the rate of currency exchange occurring after the time of any relevant transaction so long as such relevant transaction was permitted at the time incurred, made, acquired, committed, entered or declared as set forth in clause (i). For purposes of the calculation of compliance with any financial ratio for purposes of taking any action hereunder (including for purposes of calculating compliance with the Incremental Cap) on any relevant date of determination, amounts denominated in currencies other than Dollars shall be translated into Dollars at the applicable currency exchange rate used in preparing the financial statements delivered pursuant to Sections 5.01(a)(i) or (ii) (or, prior to the first such delivery, the financial statements referred to in Section 3.04(a)), as applicable, for the relevant Test Period and, at the option of the Company, will reflect the currency translation effects, determined in accordance with GAAP, of Hedging Agreements permitted hereunder in respect of currency exchange risks with respect to the applicable currency in effect on the date of determination for the Dollar equivalent amount of such Indebtedness.

(b) Each provision of this Agreement shall be subject to such reasonable changes of construction as the Administrative Agent may from time to time specify with the Company’s consent to appropriately reflect a change in currency of any country and any relevant market convention or practice relating to such change in currency.

SECTION 1.09. Cashless Rollovers. Notwithstanding anything to the contrary contained in this Agreement or in any other Loan Document, to the extent that any Lender extends the maturity date of, or replaces, renews or refinances, any of its then-existing Loans with Incremental Loans, Replacement Term Loans, Extended Term Loans, or loans incurred under a new credit facility, in each case, to the extent such extension, replacement, renewal or refinancing is effected by means of a “cashless roll” by such Lender, such extension, replacement, renewal or refinancing shall be deemed to comply with any requirement hereunder or any other Loan Document that such payment be made “in Dollars”, “in immediately available funds”, “in Cash” or any other similar requirement.

SECTION 1.10. Divisions. For all purposes under the Loan 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 and acquired on the first date of its existence by the holders of its Capital Stock at such time.

SECTION 1.11. Guarantees and Collateral. Notwithstanding any provision of any Loan Document to the contrary:

(a) For purposes of any determination relating to the ABL Priority Collateral as to which the Administrative Agent is granted discretion hereunder or under any other Loan Document (including any determination with respect to any waiver or extension or any opportunity to request that is permitted or required under the definition of "Collateral and Guarantee Requirement," under this Agreement or under any other Loan Document), the Administrative Agent shall be deemed to have agreed and accepted any determination in respect thereof by the Applicable Administrative Agent; and

(b) For purposes of any determination relating to the Term Loan Priority Collateral as to which the Administrative Agent is granted discretion hereunder or under any other Loan Document (including any determination with respect to any waiver or extension or any opportunity to request that is permitted or required under the definition of "Collateral and Guarantee Requirement," under this Agreement or under any other Loan Document), the Administrative Agent shall be deemed to have agreed and accepted any determination in respect thereof by the Applicable Administrative Agent; it being understood and agreed that as of the Closing Date, the Administrative Agent is the Applicable Administrative Agent with respect to the Term Loan Priority Collateral.

ARTICLE 2 THE CREDITS

SECTION 2.01. Commitments.

(a) Subject to the terms and conditions set forth herein, each Initial Term Lender severally, and not jointly, agrees to make Initial Term Loans to the Company on the Closing Date in Dollars in a principal amount not to exceed its Initial Term Loan Commitment. Amounts paid or prepaid in respect of the Initial Term Loans may not be re-borrowed. The Initial Term Loans will be funded with original issue discount of 1.00% (it being agreed that the Borrower shall be obligated to repay 100% of the principal amount of the Initial Term Loans and interest shall accrue on 100% of the principal amount of the Initial Term Loans, in each case as provided herein).

(b) Subject to the terms and conditions of this Agreement and any applicable Refinancing Amendment, Extension Amendment or Incremental Facility Amendment, each Lender with an Additional Commitment of a given Class, severally and not jointly, agrees to make Additional Loans of such Class to the Company, which Loans shall not exceed for any such Lender at the time of any incurrence thereof the Additional Commitment of such Class of such Lender as set forth in the applicable Refinancing Amendment, Extension Amendment or Incremental Facility Amendment.

SECTION 2.02. Loans and Borrowings.

(a) Each Loan shall be made as part of a Borrowing consisting of Loans of the same Class and Type made by the Lenders ratably in accordance with their respective Commitments of the applicable Class.

(b) Subject to Section 2.01 and Section 2.14, each Borrowing shall be comprised entirely of ABR Loans or LIBO Rate Loans as the Company may request in accordance herewith. Each Lender at its option may make any LIBO Rate Loan by causing any domestic or foreign branch or Affiliate of such Lender to make such Loan; provided that (i) any exercise of such option shall not affect the obligation of the Company to repay such Loan in accordance with the terms of this Agreement, (ii) such LIBO Rate Loan shall be deemed to have been made and held by such Lender, and the obligation of the Company to repay such LIBO Rate Loan shall nevertheless be to such Lender for the account of such domestic or foreign branch or Affiliate of such Lender and (iii) in exercising such option, such Lender shall use reasonable efforts to minimize increased costs to the Company resulting therefrom (which obligation of such Lender shall not require it to take, or refrain from taking, actions that it determines would result in increased costs for which it will not be compensated hereunder or that it otherwise determines would be disadvantageous to it and in the event of such request for costs for which compensation is provided under this Agreement, the provisions of Section 2.15 shall apply); provided, further, that no such domestic or foreign branch or Affiliate of such Lender shall be entitled to any greater indemnification under Section 2.17 with respect to such LIBO Rate Loan than that to which the applicable Lender was entitled on the date on which such Loan was made (except in connection with any indemnification entitlement arising as a result of a Change in Law after the date on which such Loan was made).

(c) At the commencement of each Interest Period for any LIBO Rate Borrowing, such Borrowing shall comprise an aggregate principal amount that is an integral multiple of \$100,000 and not less than \$500,000. Each ABR Borrowing when made shall be in a minimum principal amount of \$100,000. Borrowings of more than one Type and Class may be outstanding at the same time; provided that there shall not at any time be more than a total of two different Interest Periods in effect for LIBO Rate Borrowings at any time outstanding (or such greater number of different Interest Periods as the Administrative Agent may agree from time to time).

(d) Notwithstanding any other provision of this Agreement, the Company shall not, nor shall it be entitled to, request, or to elect to convert or continue, any Borrowing if the Interest Period requested with respect thereto would end after the Maturity Date applicable to such Loans.

SECTION 2.03. Requests for Borrowings. Each Borrowing, each conversion of Loans from one Type to the other, and each continuation of LIBO Rate Loans shall be made upon irrevocable notice by the Company to the Administrative Agent (provided that, subject to Section 2.16, notices in respect of borrowings to be made on the Closing Date may be conditioned on the closing of the Transactions and any borrowing in connection with any acquisition, Investment or repayment, redemption or refinancing of Indebtedness may be conditioned on the closing of such acquisition, Investment or repayment, redemption or refinancing of Indebtedness). Each such notice must be in writing or by telephone (and promptly confirmed in writing) and must be received by the Administrative Agent (by hand delivery, fax or other electronic transmission (including “.pdf” or “.tif”)) not later than (i) 1:00 p.m. three Business Days prior to the requested day of any Borrowing of, conversion to or continuation of LIBO Rate Loans or conversion to ABR Loans (or 11:00 a.m. one Business Day prior in the case of any Borrowing of LIBO Rate Loans to be made on the Closing Date) and (ii) 12:00 p.m. on the requested date of any Borrowing of or conversion to ABR Loans (or, in each case, such later time as shall be reasonably acceptable to the Administrative Agent); provided, however, that if the Company wishes to request LIBO Rate Loans having an Interest Period of other than one, three or six months in duration as provided in the definition of “Interest Period,” (A) the applicable notice must be received by the Administrative Agent not later than 1:00 p.m. four Business Days prior to the requested date of such Borrowing, conversion or continuation (or such later time as is reasonably acceptable to the Administrative Agent), whereupon the Administrative Agent shall give prompt notice to the appropriate Lenders of such request and determine whether the requested Interest Period is acceptable to them and (B) not later than 11:00 a.m. three Business Days before the requested date of such Borrowing, conversion or continuation, the Administrative Agent shall notify the Company whether or not the requested Interest Period has been consented to by all the appropriate Lenders. Each written notice (or confirmation of telephonic notice) with respect to a Borrowing by the Company pursuant to this Section 2.03 shall be delivered to the Administrative Agent in the form of a written Borrowing Request, appropriately completed and signed by a Responsible Officer of the Company. Each such written Borrowing Request shall specify the following information in compliance with Section 2.02:

- (a) the Class of such Borrowing;
- (b) the aggregate amount of the requested Borrowing;
- (c) the date of such Borrowing, which shall be a Business Day;
- (d) whether such Borrowing is to be an ABR Borrowing or a LIBO Rate Borrowing;
- (e) in the case of a LIBO Rate Borrowing, the initial Interest Period to be applicable thereto, which shall be a period contemplated by the definition of the term "Interest Period"; and
- (f) the location and number of the Company's account or any other designated account(s) to which funds are to be disbursed (the "**Funding Account**").

If no election as to the Type of Borrowing is specified, then the requested Borrowing shall be an ABR Borrowing. If no Interest Period is specified with respect to any requested LIBO Rate Borrowing, then the Company shall be deemed to have selected an Interest Period of one month's duration. The Administrative Agent shall advise each Lender of the details thereof and of the amount of the Loan to be made as part of the requested Borrowing (x) in the case of any ABR Borrowing, on the same Business Day of receipt of a Borrowing Request in accordance with this Section 2.03 or (y) in the case of any LIBO Rate Borrowing, no later than one Business Day following receipt of a Borrowing Request in accordance with this Section 2.03.

SECTION 2.04. [Reserved].

SECTION 2.05. [Reserved].

SECTION 2.06. [Reserved].

SECTION 2.07. Funding of Borrowings.

(a) Each Lender shall make each Loan to be made by it hereunder on the proposed date thereof by wire transfer of immediately available funds by 2:00 p.m. to the account of the Administrative Agent most recently designated by it for such purpose by notice to the Lenders in an amount equal to such Lender's respective Applicable Percentage. The Administrative Agent will make such Loans available to the Company by promptly crediting the amounts so received, in like funds, to the Funding Account or as otherwise directed by the Company.

(b) Unless the Administrative Agent has received notice from any Lender prior to the proposed date of any 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 paragraph (a) of this **Section 2.07** and may, in reliance upon such assumption, make available a corresponding amount. In such event, if any Lender has not in fact made its share of the applicable Borrowing available to the Administrative Agent, then the applicable Lender and the Company severally agree to pay to the Administrative Agent forthwith on demand (without duplication) such corresponding amount with interest thereon, for each day from and including the date such amount is made available to the Company to but excluding the date of payment to the Administrative Agent, at (i) in the case of such Lender, the greater of the Federal Funds Effective Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation or (ii) in the case of the Company, the interest rate applicable to the Loans comprising such Borrowing at such time. If such Lender pays such amount to the Administrative Agent, then such amount shall constitute such Lender's Loan included in such Borrowing and the Company's obligation to repay the Administrative Agent such corresponding amount pursuant to this **Section 2.07(b)** shall cease. If the Company pays such amount to the Administrative Agent, the amount so paid shall constitute a repayment of such Borrowing by such amount. Nothing herein shall be deemed to relieve any Lender from its obligation to fulfill its Commitment or to prejudice any rights which the Administrative Agent or the Company or any other Loan Party may have against any Lender as a result of any default by such Lender hereunder.

SECTION 2.08. Type; Interest Elections.

(a) Each Borrowing initially shall be of the Type specified in the applicable Borrowing Request and, in the case of a LIBO Rate Borrowing, shall have an initial Interest Period as specified in such Borrowing Request. Thereafter, the Company may elect to convert any Borrowing to a Borrowing of a different Type or to continue such Borrowing and, in the case of a LIBO Rate Borrowing, may elect Interest Periods therefor, all as provided in this **Section 2.08**. The Company may elect different options with respect to different portions of the affected Borrowing, in which case each such portion shall be allocated ratably among the Lenders based upon their Applicable Percentages and the Loans comprising each such portion shall be considered a separate Borrowing.

(b) To make an election pursuant to this Section, the Company shall notify the Administrative Agent of such election in writing (by hand delivery, fax or other electronic transmission (including ".pdf" or ".tif")) by the time that a Borrowing Request would be required under **Section 2.03** if the Company were requesting a Borrowing of the Type resulting from such election to be made on the effective date of such election.

(c) Each written Interest Election Request shall specify the following information in compliance with **Section 2.02**:

(i) the Borrowing to which such Interest Election Request applies and, if different options are being elected with respect to different portions thereof, the portions thereof to be allocated to each resulting Borrowing (in which case the information to be specified pursuant to clauses (iii) and (iv) below shall be specified for each resulting Borrowing);

(ii) the effective date of the election made pursuant to such Interest Election Request, which shall be a Business Day;

(iii) whether the resulting Borrowing is to be an ABR Borrowing or a LIBO Rate Borrowing; and

(iv) if the resulting Borrowing is a LIBO Rate Borrowing, the Interest Period to be applicable thereto after giving effect to such election, which shall be a period contemplated by the definition of the term “Interest Period”.

If any such Interest Election Request requests a LIBO Rate Borrowing but does not specify an Interest Period, then the Company shall be deemed to have selected an Interest Period of one month’s duration.

(d) Promptly following receipt of an Interest Election Request, the Administrative Agent shall advise each applicable Lender of the details thereof and of such Lender’s portion of each resulting Borrowing.

(e) If the Company fails to deliver a timely Interest Election Request with respect to a LIBO Rate Borrowing prior to the end of the Interest Period applicable thereto, then, unless such Borrowing is repaid as provided herein, such Borrowing shall be converted at the end of such Interest Period to a LIBO Rate Borrowing with an Interest Period of one month. Notwithstanding any contrary provision hereof, if an Event of Default exists and the Administrative Agent, at the request of the Required Lenders, so notifies the Company, then, so long as such Event of Default exists (i) no outstanding Borrowing may be converted to or continued as a LIBO Rate Borrowing and (ii) unless repaid, each LIBO Rate Borrowing shall be converted to an ABR Borrowing at the end of the then-current Interest Period applicable thereto.

SECTION 2.09. Termination and Reduction of Commitments. Unless previously terminated, (i) the Initial Term Loan Commitments on the Closing Date shall automatically terminate upon the making of the Initial Term Loans on the Closing Date, and (ii) the Additional Term Loan Commitments of any Class shall automatically terminate upon the making of the Additional Term Loans of such Class and, if any such Additional Term Loan Commitment is not drawn on the date that such Additional Term Loan Commitment is required to be drawn pursuant to the applicable Refinancing Amendment, Extension Amendment or Incremental Facility Amendment, the undrawn amount thereof shall terminate unless otherwise provided in the applicable Refinancing Amendment, Extension Amendment or Incremental Facility Amendment.

SECTION 2.10. Repayment of Loans; Evidence of Debt.

(a) The Term Loan Borrowers jointly and severally hereby unconditionally promise to repay the outstanding principal amount of the Initial Term Loans to the Administrative Agent for the account of each applicable Term Lender (i) on the last Business Day of each March, June, September and December prior to the Initial Term Loan Maturity Date (each such date being referred to as a “**Loan Installment Date**”), commencing on the last Business Day of December 2021, in each case in an amount equal to 0.25% of the original principal amount of the Initial Term Loans (as such payments may be reduced from time to time as a result of the application of prepayments in accordance with Section 2.11 and purchases or assignments in accordance with Section 9.05(g) or increased as a result of any increase in the amount of such Initial Term Loans pursuant to Section 2.22(a)) and (ii) on the Initial Term Loan Maturity Date, in an amount equal to the remainder of the principal amount of the Initial Term Loans outstanding on such date, together in each case with accrued and unpaid interest on the principal amount to be paid to but excluding the date of such payment. The Term Loan Borrowers shall repay the Additional Term Loans of any Class in such scheduled amortization installments and on such date or dates as shall be specified therefor in the applicable Refinancing Amendment, Extension Amendment or Incremental Facility Amendment (as such payments may be reduced from time to time as a result of the application of prepayments in accordance with Section 2.11 and purchases or assignments in accordance with Section 9.05(g) or increased as a result of any increase in the amount of such Additional Term Loans pursuant to Section 2.22(a)).

(b) [Reserved].

(c) [Reserved].

(d) Each Lender shall maintain in accordance with its usual practice an account or accounts evidencing the indebtedness of the Company to such Lender resulting from each Loan made by such Lender, including the amounts of principal and interest payable and paid to such Lender from time to time hereunder.

(e) The Administrative Agent shall maintain accounts in which it shall record (i) the amount of each Loan made hereunder, the Class and Type thereof and the Interest Period (if any) applicable thereto, (ii) the amount of any principal or interest due and payable or to become due and payable from the Company to each Lender hereunder and (iii) the amount of any sum received by the Administrative Agent hereunder for the account of the Lenders and each Lender's share thereof.

(f) The entries made in the accounts maintained pursuant to paragraphs (d) or (e) of this Section shall be prima facie evidence of the existence and amounts of the obligations recorded therein (absent manifest error); provided that the failure of any Lender or the Administrative Agent to maintain such accounts or any manifest error therein shall not in any manner affect the obligation of the Company to repay the Loans in accordance with the terms of this Agreement; provided, further, that in the event of any inconsistency between the accounts maintained by the Administrative Agent pursuant to paragraph (e) of this Section 2.10 and any Lender's records, the accounts of the Administrative Agent shall govern.

(g) Any Lender may request that Loans made by it be evidenced by a Promissory Note. In such event, the Company shall prepare, execute and deliver to such Lender a Promissory Note payable to such Lender and its registered permitted assigns; it being understood and agreed that such Lender (and/or its applicable permitted assign) shall be required to return such Promissory Note to the Company in accordance with Section 9.05(b)(iii), and upon the occurrence of the Termination Date (or as promptly thereafter as practicable). If any Lender loses the original copy of its Promissory Note, it shall execute an affidavit of loss containing indemnification provisions reasonably satisfactory to the Company. The obligation of each Lender to execute an affidavit of loss containing a customary indemnification provision that is reasonably satisfactory to the Company shall survive the Termination Date

SECTION 2.11. Prepayment of Loans.

(a) Optional Prepayments.

(i) Upon prior notice in accordance with paragraph (a)(iii) of this Section, the Term Loan Borrowers shall have the right at any time and from time to time to prepay any Borrowing of Term Loans of one or more Classes (such Class or Classes to be selected by the applicable Term Loan Borrower in its sole discretion) in whole or in part without premium or penalty (but subject to (A) in the case of Initial Term Loans only, Section 2.12(f) and (B) to the extent otherwise applicable, Section 2.16). Each such prepayment shall be paid to the Lenders in accordance with their respective Applicable Percentages of the relevant Class.

(ii) [Reserved].

(iii) Any Borrower shall notify the Administrative Agent by telephone (confirmed in writing) of any prepayment under this **Section 2.11(a)** (A) in the case of a prepayment of a LIBO Rate Borrowing, not later than 1:00 p.m. three Business Days before the date of prepayment or (B) in the case of a prepayment of an ABR Borrowing, not later than 1:00 p.m. on the date of prepayment. Each such notice shall be irrevocable (except as set forth in the proviso to this sentence) and shall specify the prepayment date and the principal amount of each Borrowing or portion thereof to be prepaid; provided that a notice of prepayment may state that such notice is conditioned upon the effectiveness of other transactions or other conditional events, in which case such notice may be revoked or its effectiveness deferred by the applicable Borrower (by notice to the Administrative Agent on or prior to the specified effective date) if such condition is not satisfied until such condition is satisfied. Promptly following receipt of any such notice relating to any Borrowing, the Administrative Agent shall advise the relevant Lenders of the contents thereof. Each partial prepayment of any Borrowing shall be in an amount at least equal to the amount that would be permitted in the case of a Borrowing of the same Type and Class as provided in **Section 2.02(c)** or such lesser amount that is then outstanding with respect to such Borrowing being repaid. Each prepayment of Term Loans shall be applied to the Class or Classes of Term Loans specified by the applicable Borrower in the applicable prepayment notice, and each prepayment of Term Loans of such Class or Classes made pursuant to this **Section 2.11(a)** shall be applied against the remaining scheduled installments of principal due in respect of the Term Loans of such Class or Classes in the manner specified by such Borrower or, if not so specified on or prior to the date of such optional prepayment, in direct order of maturity.

(b) Mandatory Prepayments.

(i) No later than the tenth Business Day after the date on which the financial statements with respect to each fiscal year of the Company are delivered pursuant to **Section 5.01(a)(i)**, commencing with the fiscal year of the Company ending January 28, 2023 the Company shall prepay Subject Loans in accordance with clause (vi) below in an aggregate principal amount (the “**ECF Prepayment Amount**”) equal to (A) the Required Excess Cash Flow Percentage of Excess Cash Flow of the Company and its Restricted Subsidiaries for the Excess Cash Flow Period then most recently ended (this clause (A)), the “**Base ECF Prepayment Amount**”, minus (B) at the option of the Company, to the extent occurring during such Excess Cash Flow Period (or occurring after such Excess Cash Flow Period and prior to the date of the applicable Excess Cash Flow payment), and without duplication (including duplication of any amounts deducted in any prior Excess Cash Flow Period), the following (collectively, the “**ECF Deductions**”):

(1) the aggregate principal amount of any (I) Term Loans prepaid pursuant to **Section 2.11(a)** and (II) loans under any ABL Facility or any ABL Incremental Debt voluntarily prepaid (or contractually committed to be prepaid, with an increase in the applicable future period to the extent so deducted but not actually prepaid);

(2) the aggregate principal amount of any Incremental Equivalent Debt, Replacement Debt and/or any other Indebtedness permitted to be incurred pursuant to **Section 6.01** to the extent secured by Liens on the Collateral that are pari passu with the Liens on the Collateral securing the Obligations hereunder (without regard to the control of remedies), voluntarily prepaid, repurchased, redeemed or otherwise retired (or contractually committed to be prepaid, repurchased, redeemed or otherwise retired);

(3) the amount of any reduction in the outstanding amount of any Term Loans, Incremental Equivalent Debt, Replacement Debt and/or any other Indebtedness permitted to be Incurred pursuant to **Section 6.01** to the extent secured by Liens on the Collateral that are pari passu with the Liens on the Collateral securing the Obligations hereunder (without regard to the control of remedies), resulting from any purchase or assignment made in accordance with **Section 9.05(g)** of this Agreement (including in connection with any Dutch Auction) (with respect to Term Loans) and any equivalent provisions with respect to any Incremental Equivalent Debt, Replacement Debt and/or such other Indebtedness, but only to the extent of the actual price paid in connection with such purchase or assignment;

- (4) all Cash payments in respect of Capital Expenditures and all Cash payments made to acquire IP Rights;
- (5) Cash payments by the Company and its Restricted Subsidiaries made (or committed or budgeted) in respect of long-term liabilities (including for purposes of clarity, the current portion of such long-term liabilities) of the Company and its Restricted Subsidiaries other than Indebtedness, except to the extent such Cash payments were deducted in the calculation of Consolidated Net Income or Consolidated EBITDA for such period;
- (6) Cash payments in respect of any Investment (including acquisitions) permitted by Section 6.02 or otherwise consented to by the Required Lenders (other than Investments (x) in Cash or Cash Equivalents or (y) in the Company or any Restricted Subsidiary) and/or any Restricted Payment Transaction permitted by Section 6.02.
- (7) the aggregate consideration (i) required to be paid in Cash by the Company or its Restricted Subsidiaries pursuant to binding contracts entered into prior to or during such period relating to Capital Expenditures, acquisitions or other Investments permitted by Section 6.02 and/or Restricted Payment Transactions described in clause (6) above and/or (ii) otherwise committed or budgeted to be made in connection with Capital Expenditures, acquisitions or other Investments and/or Restricted Payment Transactions described in clause (6) above (clauses (i) and (ii) of this clause (7), the “**Scheduled Consideration**”) (other than Investments in (x) Cash and Cash Equivalents or (y) the Company or any Restricted Subsidiary) to be consummated or made during the period of four consecutive fiscal quarters of the Company following the end of such period; provided that to the extent the aggregate amount actually utilized to finance such Capital Expenditures, acquisitions, Investments or Restricted Payment Transactions during such subsequent period of four consecutive fiscal quarters is less than the Scheduled Consideration, the amount of the resulting shortfall shall be added to the calculation of Excess Cash Flow at the end of such subsequent period of four consecutive fiscal quarters;
- (8) Cash expenditures in respect of any Hedging Agreement to the extent not otherwise deducted in the calculation of Consolidated Net Income or Consolidated EBITDA; and
- (9) the aggregate amount of expenditures actually made by the Company and/or any Restricted Subsidiary in Cash (including any expenditure for the payment of fees or other Charges (or any amortization thereof for such period) in connection with any Disposition, incurrence or repayment of Indebtedness, issuance of Capital Stock, refinancing transaction, amendment or modification of any debt instrument, including this Agreement, and including, in each case, any such transaction consummated prior to, on or after the Closing Date, and Charges incurred in connection therewith, whether or not such transaction was successful), to the extent that such expenditures were not expensed;

in the case of each of clauses (1)-(9), (I) excluding any such payments, prepayments and expenditures made during such fiscal year of the Company that reduced the amount required to be prepaid pursuant to this Section 2.11(b)(i) in the prior fiscal year of the Company, (II) in the case of any prepayment of revolving Indebtedness, to the extent accompanied by a permanent reduction in the relevant commitment and (III) to the extent that such payments, prepayments and expenditures were not financed with the proceeds of other long-term funded Indebtedness (other than revolving Indebtedness) of the Company or its Restricted Subsidiaries; provided that (x) no prepayment under this Section 2.11(b)(i) shall be required unless the principal amount of Subject Loans required to be prepaid exceeds \$10,000,000 (and, in such case, only such amount in excess of \$10,000,000 shall be required to be prepaid) and (y) to the extent the aggregate ECF Deductions for any Excess Cash Flow Period exceeds the Base ECF Prepayment Amount for such period, the Company may carry forward such excess as additional ECF Deductions to any subsequent Excess Cash Flow Period; provided, further, that if at the time that any such prepayment would be required, the Company (or any Restricted Subsidiary) is also required to prepay, repurchase or offer to prepay or repurchase any Indebtedness that is secured on a *pari passu* basis (without regard to the control of remedies) with any Secured Obligation pursuant to the terms of the documentation governing such Indebtedness (such Indebtedness required to be so prepaid or repurchased or offered to be so prepaid or repurchased, “**Other Applicable Indebtedness**”) with any portion of the ECF Prepayment Amount, then the Company may apply such portion of the ECF Prepayment Amount on a pro rata basis (determined on the basis of the aggregate outstanding principal amount of the Subject Loans and the relevant Other Applicable Indebtedness (or accreted amount if such Other Applicable Indebtedness is issued with original issue discount) at such time) to the prepayment of the Subject Loans and to the prepayment of the relevant Other Applicable Indebtedness, and the amount of prepayment of the Subject Loans that would have otherwise been required pursuant to this Section 2.11(b)(i) shall be reduced accordingly; it being understood that (1) the portion of such ECF Prepayment Amount allocated to the Other Applicable Indebtedness shall not exceed the portion of such ECF Prepayment Amount required to be allocated to the Other Applicable Indebtedness pursuant to the terms thereof, and the remaining amount, if any, of such ECF Prepayment Amount shall be allocated to the Subject Loans in accordance with the terms hereof and (2) to the extent the holders of the Other Applicable Indebtedness decline to have such Indebtedness prepaid or repurchased, the declined amount shall promptly (and in any event within ten Business Days after the date of such rejection) be applied to prepay the Subject Loans in accordance with the terms hereof.

(ii) No later than (x) the fifth Business Day following the receipt of Net Available Cash in respect of any Prepayment Asset Sale or Net Insurance/Condemnation Proceeds, in each case, in respect of assets constituting Collateral, or (y) in the event that at the time of such Prepayment Asset Sale or event giving rise to Net Insurance/Condemnation Proceeds any Other Subject Indebtedness is outstanding, the earlier of (A) the 90th day following the receipt of Net Available Cash in respect of any such Prepayment Asset Sale or Net Insurance/Condemnation Proceeds, as applicable, and (B) the date on which the Company or any of its Subsidiaries uses any of such Net Available Cash to prepay or repurchase Other Subject Indebtedness pursuant to an asset sale offer made in accordance with the provisions of the indenture or other agreement governing the terms thereof, in each case, in excess of \$30,000,000 in any fiscal year of the Company, the Company shall apply an amount equal to the Required Asset Sale/Casualty Event Percentage of the Net Available Cash or Net Insurance/Condemnation Proceeds received with respect thereto in excess of such thresholds (collectively, the “**Subject Proceeds**”; and any such Net Available Cash or Net Insurance/Condemnation Proceeds that do not constitute Subject Proceeds, the “**Excluded Proceeds**”) to prepay the outstanding principal amount of Subject Loans in accordance with clause (vi) below; provided that the Company shall not be required to make a mandatory prepayment under this clause (ii) in respect of the Subject Proceeds to the extent (x) the Subject Proceeds are reinvested in assets used or useful in the business of the Company or any of its Restricted Subsidiaries (including acquisitions and other Investments not prohibited by this Agreement (other than a direct Investment in Cash or Cash Equivalents) within 18 months following receipt thereof or (y) the Company or any of its subsidiaries has contractually committed to so reinvest the Subject Proceeds during such 18-month period and the Subject Proceeds are so reinvested within six months after the expiration of such 18-month period; provided, however, that if the Subject Proceeds have not been so reinvested prior to the expiration of the applicable period, the Company shall promptly prepay the outstanding principal amount of Subject Loans with the Subject Proceeds not so reinvested as set forth above (without regard to the immediately preceding proviso) (provided that the Company may elect to deem certain expenditures that would otherwise be permissible reinvestments but that occurred prior to the receipt of the applicable Net Available Cash or Net Insurance/Condemnation Proceeds (as applicable) as having been reinvested in accordance with the provisions of this **Section 2.11(b)(ii)**, but only to the extent such deemed expenditure shall have been made no earlier than (x) in the case of Net Available Cash, the earlier of the execution of a definitive agreement with respect to such Prepayment Asset Sale or the consummation of the applicable Disposition and (y) in the case of Net Insurance/Condemnation Proceeds, the occurrence of the event in respect of which such Net Insurance/Condemnation Proceeds were received) and (1) if, at the time that any such prepayment would be required hereunder, the Company or any of its Restricted Subsidiaries is required to prepay, repay or repurchase (or offer to prepay, repay or repurchase) any Other Applicable Indebtedness, then the relevant Person shall reduce the amount of the Subject Proceeds to be applied pursuant to this **Section 2.11(b)(ii)** in respect of the Subject Loans by an amount equal to the product of (I) the amount of such Net Available Cash or Net Insurance/Condemnation Proceeds and (II) a fraction, the numerator of which is the outstanding principal amount of such Other Applicable Indebtedness and the denominator of which is the sum of the outstanding principal amount of such Other Applicable Indebtedness and the outstanding principal amount of the Subject Loans; it being understood that the portion of the Subject Proceeds allocated to the Other Applicable Indebtedness shall not exceed the amount of the Subject Proceeds required to be allocated to the Other Applicable Indebtedness pursuant to the terms thereof, and the amount of the prepayment of the Subject Loans that would have otherwise been required pursuant to this **Section 2.11(b)(ii)** shall be reduced accordingly.

(iii) In the event that the Company or any of its Restricted Subsidiaries receives Net Cash Proceeds from the issuance or incurrence of Indebtedness by the Company or any of its Restricted Subsidiaries (other than with respect to Indebtedness permitted under **Section 6.01**, except to the extent the relevant Indebtedness constitutes Refinancing Indebtedness incurred to refinance all or a portion of the Initial Term Loans pursuant to **Section 6.01(b)(i)(C)** or Replacement Term Loans incurred to refinance Initial Term Loans in accordance with the requirements of **Section 9.02(b)**), the Company shall, substantially simultaneously with (and in any event not later than two Business Days thereafter) the receipt of such Net Cash Proceeds by the Company or its applicable Restricted Subsidiary, apply an amount equal to 100% of such Net Cash Proceeds to prepay the outstanding principal amount of the relevant Initial Term Loans in accordance with clause (vi) below.

(iv) Notwithstanding anything in this Section 2.11(b) to the contrary, (A) the Company shall not be required to prepay any amount that would otherwise be required to be paid pursuant to Sections 2.11(b)(i), (ii) or (iii) above to the extent that the relevant Excess Cash Flow is generated by any Foreign Subsidiary, the relevant Prepayment Asset Sale is consummated by any Foreign Subsidiary, the relevant Net Insurance/Condemnation Proceeds are received by any Foreign Subsidiary or the relevant Indebtedness is incurred by any Foreign Subsidiary (except to the extent the relevant Indebtedness constitutes Refinancing Indebtedness incurred by any Foreign Subsidiary to refinance all or a portion of the Initial Term Loans or Additional Term Loans pursuant to Section 6.01(b)(i)(C) or Replacement Term Loans incurred to refinance Initial Term Loans or Additional Term Loans in accordance with the requirements of Section 9.02(b)), as the case may be, for so long as the Company determines in good faith that the repatriation to the Company of any such amount would be prohibited or delayed (beyond the time period during which such prepayment is otherwise required to be made pursuant to Section 2.11(b)(i), (ii) or (iii) above) under any Requirement of Law or conflict with the fiduciary duties of such Foreign Subsidiary's directors, or result in, or could reasonably be expected to result in, a material risk of personal or criminal liability for any officer, director, employee, manager, member of management or consultant of such Foreign Subsidiary (including on account of financial assistance, corporate benefit, thin capitalization, capital maintenance or similar considerations); it being understood and agreed that (i) solely within 365 days following the end of the applicable Excess Cash Flow Period, the event giving rise to the relevant Subject Proceeds or the receipt of proceeds from the respective Incurrence of Indebtedness, the Company shall use commercially reasonable efforts required by applicable Requirements of Law to permit such repatriation and (ii) if the repatriation of the relevant affected Excess Cash Flow, Subject Proceeds or Indebtedness proceeds, as the case may be, is permitted under the applicable Requirement of Law and, to the extent applicable, would no longer conflict with the fiduciary duties of such director, or result in, or be reasonably expected to result in, a material risk of personal or criminal liability for the Persons described above, in either case, within 365 days following the end of the applicable Excess Cash Flow Period, the event giving rise to the relevant Subject Proceeds or the receipt of Net Cash Proceeds in respect of any such Indebtedness, the relevant Foreign Subsidiary will promptly repatriate the relevant Excess Cash Flow, Subject Proceeds or Net Cash Proceeds in respect of Indebtedness, as the case may be, and the repatriated Excess Cash Flow, Subject Proceeds or Net Cash Proceeds in respect of Indebtedness, as the case may be, will be promptly (and in any event not later than two Business Days after such repatriation) applied (net of additional Taxes payable or reserved against such Excess Cash Flow, such Subject Proceeds or such Net Cash Proceeds in respect of Indebtedness, as a result thereof, in each case by any Loan Party, such Loan Party's subsidiaries, and any Affiliates or indirect or direct equity owners of the foregoing) to the repayment of Subject Loans pursuant to this Section 2.11(b) to the extent required herein (without regard to this clause (iv)), (B) the Company shall not be required to prepay any amount that would otherwise be required to be paid pursuant to Sections 2.11(b)(i) or (iii) to the extent that the relevant Excess Cash Flow is generated by any joint venture or the relevant Subject Proceeds or Net Cash Proceeds in respect of Indebtedness are received by any joint venture for so long as the Company determines in good faith that the distribution to the Company of such Excess Cash Flow, Subject Proceeds or Net Cash Proceeds in respect of Indebtedness would be prohibited under the Organizational Documents (or any relevant shareholders' or similar agreement) governing such joint venture; it being understood that if the relevant prohibition ceases to exist within the 365-day period following the end of the applicable Excess Cash Flow Period, the event giving rise to the relevant Subject Proceeds or the receipt of Net Cash Proceeds in respect of any such Indebtedness, the relevant joint venture will promptly distribute the relevant Excess Cash Flow, the relevant Subject Proceeds or the relevant Net Cash Proceeds in respect of Indebtedness, as the case may be, and the distributed Excess Cash Flow, Subject Proceeds or Net Cash Proceeds in respect of Indebtedness, as the case may be, will be promptly (and in any event not later than ten Business Days after such distribution) applied (net of additional Taxes payable or reserved against as a result thereof) to the repayment of Subject Loans pursuant to this Section 2.11(b) to the extent required herein (without regard to this clause (iv)) and (C) if the Company determines in good faith that the repatriation to the Company of any amounts required to mandatorily prepay Subject Loans pursuant to Sections 2.11(b)(i), (ii) or (iii) above would result in material and adverse tax consequences for any Loan Party or any of such Loan Party's subsidiaries, taking into account any foreign tax credit or benefit actually realized in connection with such repatriation (such amount, a "Restricted Amount"), as determined by the Company in good faith, the amount the Company shall be required to mandatorily prepay pursuant to Sections 2.11(b)(i), (ii) or (iii) above, as applicable, shall be reduced by the Restricted Amount; provided that to the extent that the repatriation of any Subject Proceeds, Excess Cash Flow or the Net Cash Proceeds in respect of any such Indebtedness from the relevant Foreign Subsidiary would no longer have a material and adverse tax consequence within the 365-day period following the event giving rise to the relevant Subject Proceeds, the receipt of Net Cash Proceeds in respect of any such Indebtedness or the end of the applicable Excess Cash Flow Period, as the case may be, an amount equal to the Subject Proceeds, Excess Cash Flow or the Net Cash Proceeds in respect of any such Indebtedness, as applicable, not previously applied pursuant to this clause (C), shall be promptly applied to the repayment of Subject Loans pursuant to Section 2.11(b) as otherwise required above (without regard to this clause (iv));

(v) Each Lender may elect, by notice to the Administrative Agent at or prior to the time and in the manner specified by the Administrative Agent, prior to any prepayment of Initial Term Loans and Additional Term Loans required to be made by the Company pursuant to this **Section 2.11(b)**, to decline all (but not a portion) of its Applicable Percentage of such prepayment (such declined amounts, the “**Declined Proceeds**”), which Declined Proceeds may be retained by the Company and used for any legal purpose permitted (or not prohibited) hereunder; provided, further, that, for the avoidance of doubt, no Lender may reject any prepayment made under **Section 2.11(b)(iii)** above to the extent that such prepayment is made with the Net Cash Proceeds of (w) Refinancing Indebtedness (including Replacement Debt) incurred to refinance all or a portion of the Initial Term Loans or Additional Term Loans pursuant to **Section 6.01(b)(i)(C)**, (x) Incremental Term Loans incurred to refinance all or a portion of the Term Loans pursuant to **Section 2.22**, (y) Replacement Term Loans incurred to refinance all or a portion of the Term Loans in accordance with the requirements of **Section 9.02(b)** and/or (z) Incremental Equivalent Debt incurred to refinance all or a portion of the Term Loans in accordance with the requirements of **Section 6.01(b)(i)(B)**. If any Lender fails to deliver a notice to the Administrative Agent of its election to decline receipt of its Applicable Percentage of any mandatory prepayment within the time frame specified by the Administrative Agent, such failure will be deemed to constitute an acceptance of such Lender’s Applicable Percentage of the total amount of such mandatory prepayment of Initial Term Loans and Additional Term Loans.

(vi) Except as may otherwise be set forth in any amendment to this Agreement in connection with any Additional Term Loan, (A) each prepayment of Initial Term Loans and Additional Term Loans pursuant to this **Section 2.11(b)** shall be applied ratably to each Class of Term Loans (based upon the then outstanding principal amounts of the respective Classes of Term Loans) (provided that any prepayment constituting (w) Refinancing Indebtedness (including Replacement Debt) incurred to refinance all or a portion of the Initial Term Loans or Additional Term Loans pursuant to **Section 6.01(b)(i)(C)**, (x) Incremental Loans incurred to refinance all or a portion of the Term Loans pursuant to **Section 2.22**, (y) Replacement Term Loans incurred to refinance all or a portion of the Term Loans in accordance with the requirements of **Section 9.02(c)** and/or (z) Incremental Equivalent Debt incurred to refinance all or a portion of the Term Loans in accordance with the requirements of **Section 6.01(b)(i)(B)** shall, in each case be applied solely to each applicable Class of refinanced or replaced Term Loans), (B) with respect to each Class of Initial Term Loans and Additional Term Loans, all accepted prepayments under **Section 2.11(b)(i)**, **(ii)** or **(iii)** shall be applied against the remaining scheduled installments of principal due in respect of the Initial Term Loans and Additional Term Loans as directed by the Company (or, in the absence of direction from the Company, to the remaining scheduled amortization payments in respect of the Initial Term Loans and Additional Term Loans in direct order of maturity), and (C) each such prepayment shall be paid to the Term Lenders in accordance with their respective Applicable Percentages. The amount of such mandatory prepayments shall be applied on a pro rata basis to the then outstanding Initial Term Loans and Additional Term Loans being prepaid irrespective of whether such outstanding Loans are ABR Loans or LIBO Rate Loans; provided that the amount thereof shall be applied first to ABR Loans to the full extent thereof before application to the LIBO Rate Loans in a manner that minimizes the amount of any payments required to be made by the Company pursuant to **Section 2.16**. Any prepayment of Initial Term Loans made on or prior to the date that is six months after the Closing Date pursuant to **Section 2.11(b)(iii)** as part of a Repricing Transaction shall be accompanied by the fee set forth in **Section 2.12(f)**.

(vii) [Reserved].

(viii) Notwithstanding any of the other provisions of this **Section 2.11**, so long as no Event of Default shall have occurred and be continuing, if any prepayment of LIBO Rate Loans is required to be made under this **Section 2.11(b)** prior to the last day of the Interest Period therefor, Borrower may, in its sole discretion, deposit the amount of any such prepayment otherwise required to be made hereunder with the Administrative Agent until the last day of such Interest Period, at which time the Administrative Agent shall be authorized (without any further action by or notice to or from the Company or any other Loan Party) to apply such amount to the prepayment of such Loans in accordance with this **Section 2.11(b)**. Upon the occurrence and during the continuance of any Event of Default, the Administrative Agent shall also be authorized (without any further action by or notice to or from the Company or any other Loan Party) to apply such amount to the prepayment of the outstanding Loans in accordance with this **Section 2.11(b)**.

(ix) At the time of each prepayment required under **Section 2.11(b)(i)**, **(ii)** or **(iii)**, the Company shall deliver to the Administrative Agent a certificate signed by a Responsible Officer of the Company setting forth in reasonable detail the calculation of the amount of such prepayment; provided, however, that in the case of any prepayment that may be declined at the option of any Lender, the Company shall notify the Administrative Agent in writing of such prepayment not later than 1:00 p.m. three Business Days prior to the date of the prepayment. Each such certificate shall specify the Borrowings being prepaid and the principal amount of each Borrowing (or portion thereof) to be prepaid. Prepayments shall be accompanied by accrued interest as required by **Section 2.13**. All prepayments of Borrowings under this **Section 2.11(b)** shall be subject to **Section 2.16** and, except as set forth in the last sentence of clause (vi) above, shall otherwise be without premium or penalty.

SECTION 2.12. Fees.

(a) The Company agrees to pay to the Administrative Agent, for its own account, the fees in the amounts and at the times separately agreed upon by the Company and the Administrative Agent in writing.

(b) All fees payable hereunder shall be paid on the dates due, in Dollars and in immediately available funds, to the Administrative Agent and, if applicable, for distribution to the Lenders. Fees paid shall not be refundable under any circumstances except as otherwise provided in the Fee Letter. Fees payable hereunder shall accrue through and including the last day of the month immediately preceding the applicable fee payment date.

(c) In the event that, on or prior to the date that is six months after the Closing Date, the Company (x) prepays, repays, refinances, substitutes or replaces any Initial Term Loans as part of a Repricing Transaction (including, for the avoidance of doubt, any prepayment made pursuant to Section 2.11(b)(iii) that constitutes a Repricing Transaction) or (y) effects any amendment, modification or waiver of, or consent under, this Agreement resulting in a Repricing Transaction, the Company shall pay to the Administrative Agent, for the ratable account of each of the applicable Initial Term Lenders, (I) in the case of clause (x), a premium of 1.00% of the aggregate principal amount of the Initial Term Loans so prepaid, repaid, refinanced, substituted or replaced and (II) in the case of clause (y), a fee equal to 1.00% of the aggregate principal amount of the Initial Term Loans that are the subject of such Repricing Transaction outstanding immediately prior to such amendment. If, on or prior to the date that is six months after the Closing Date, all or any portion of the Initial Term Loans held by any Term Lender are prepaid, repaid, refinanced, substituted or replaced pursuant to Section 2.19(b)(iv) as a result of, or in connection with, such Term Lender not agreeing or otherwise consenting to any waiver, consent, modification or amendment referred to in clause (y) above (or otherwise in connection with a Repricing Transaction), such prepayment, repayment, refinancing, substitution or replacement will be made at 101% of the principal amount so prepaid, repaid, refinanced, substituted or replaced. All such amounts shall be due and payable on the date of effectiveness of such Repricing Transaction.

(d) Unless otherwise indicated herein, all computations of fees shall be made on the basis of a 360-day year and shall be payable for the actual days elapsed (including the first day but excluding the last day). Each determination by the Administrative Agent of the amount of any fee hereunder shall be conclusive and binding for all purposes, absent manifest error.

SECTION 2.13. Interest.

(a) The Loans comprising each ABR Borrowing shall bear interest at the Alternate Base Rate *plus* the Applicable Rate.

(b) The Loans comprising each LIBO Rate Borrowing shall bear interest at the LIBO Rate for the Interest Period in effect for such Borrowing *plus* the Applicable Rate.

(c) [Reserved]

(d) Notwithstanding the foregoing, during the existence and continuance of any Event of Default under Section 7.01(a), if any principal of or interest on any Loan or any fee payable by the Company hereunder is not, in each case, paid or reimbursed when due, whether at stated maturity, upon acceleration or otherwise, the relevant overdue amount shall bear interest, to the fullest extent permitted by applicable Requirements of Law, after as well as before judgment, at a rate per annum equal to (i) in the case of overdue principal or interest of any Loan, 2.00% plus the rate otherwise applicable to such Loan as provided in the preceding paragraphs of this Section 2.13 or (ii) in the case of any other amount, 2.00%, plus the rate applicable to ABR Loans as provided in paragraph (a) of this Section 2.13; provided that no amount shall be payable pursuant to this Section 2.13(d) to any Defaulting Lender so long as such Lender is a Defaulting Lender; provided further that no amounts shall accrue pursuant to this Section 2.13(d) on any overdue amount or other amount payable to a Defaulting Lender so long as such Lender is a Defaulting Lender.

(e) Accrued interest on each Loan shall be payable in arrears on each Interest Payment Date for such Loan and on the Maturity Date applicable to such Loan, as applicable; provided that (i) interest accrued pursuant to paragraph (d) of this Section shall be payable on demand, (ii) in the event of any repayment or prepayment of any Loan, accrued interest on the principal amount repaid or prepaid shall be payable on the date of such repayment or prepayment and (iii) in the event of any conversion of any LIBO Rate Loan prior to the end of the current Interest Period therefor, accrued interest on such Initial Term Loan shall be payable on the effective date of such conversion. Accrued interest for any Class of Additional Loans shall be payable as set forth in the applicable Refinancing Amendment, Incremental Facility Amendment or Extension Amendment.

(f) All interest hereunder shall be computed on the basis of a year of 360 days, except that interest computed for ABR Loans shall be computed on the basis of a year of 365 days (or 366 days in a leap year), and in each case shall be payable for the actual number of days elapsed (including the first day but excluding the last day). The applicable Alternate Base Rate or LIBO Rate shall be determined by the Administrative Agent, and such determination shall be conclusive absent manifest error. Interest shall accrue on each Loan from 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 bear interest for one day.

SECTION 2.14. Alternate Rate of Interest. (a) Subject to clauses (b), (c), (d), (e), (f) and (g) of this Section 2.14, if prior to the commencement of any Interest Period for a LIBO Rate Borrowing:

- (i) the Administrative Agent determines (which determination shall be conclusive absent manifest error) that adequate and reasonable means do not exist for ascertaining the Adjusted LIBO Rate or the LIBO Rate, as applicable (including because the LIBO Screen Rate is not available or published on a current basis), for such Interest Period; provided that no Benchmark Transition Event shall have occurred at such time; or
- (ii) the Administrative Agent is advised by the Required Lenders that the Adjusted LIBO Rate or the LIBO Rate, as applicable, for such Interest Period will not adequately and fairly reflect the cost to such Lenders (or Lender) of making or maintaining their Loans (or its Loan) included in such Borrowing for such Interest Period;

then the Administrative Agent shall give notice thereof to the Company and the Lenders by telephone, teletype or electronic mail as promptly as practicable thereafter and, until the Administrative Agent notifies the Company and the Lenders that the circumstances giving rise to such notice no longer exist, (A) any Interest Election Request that requests the conversion of any Borrowing to, or continuation of any Borrowing as, a LIBO Rate Borrowing shall be ineffective and (B) if any Borrowing Request requests a LIBO Rate Borrowing, such Borrowing shall be made as an ABR Borrowing; provided that if the circumstances giving rise to such notice affect only one Type of Borrowings, then the other Type of Borrowings shall be permitted.

(b) Notwithstanding anything to the contrary herein or in any other Loan Document, if a Benchmark Transition Event or an Early Opt-in Election, as applicable, and its related Benchmark Replacement Date have occurred prior to the Reference Time in respect of any setting of the then-current Benchmark, then (x) if a Benchmark Replacement is determined in accordance with clause (1) or (2) of the definition of "Benchmark Replacement" for such Benchmark Replacement Date, such Benchmark Replacement will replace such Benchmark for all purposes hereunder and under any Loan Document in respect of such Benchmark setting and subsequent Benchmark settings without any amendment to, or further action or consent of any other party to, this Agreement or any other Loan Document and (y) if a Benchmark Replacement is determined in accordance with clause (3) of the definition of "Benchmark Replacement" for such Benchmark Replacement Date, such Benchmark Replacement will replace such Benchmark for all purposes hereunder and under any Loan Document in respect of any Benchmark setting at or after 5:00 p.m. (New York City time) on the fifth (5th) Business Day after the date notice of such Benchmark Replacement is provided to the Lenders without any amendment to, or further action or consent of any other party to, this Agreement or any other Loan Document so long as the Administrative Agent has not received, by such time, written notice of objection to such Benchmark Replacement from Lenders comprising the Required Lenders.

(c) Notwithstanding anything to the contrary herein or in any other Loan Document and subject to the proviso below in this paragraph, if a Term SOFR Transition Event and its related Benchmark Replacement Date have occurred prior to the Reference Time in respect of any setting of the then-current Benchmark, then the applicable Benchmark Replacement will replace the then-current Benchmark for all purposes hereunder or under any Loan Document in respect of such Benchmark setting and subsequent Benchmark settings, without any amendment to, or further action or consent of any other party to, this Agreement or any other Loan Document; provided that, this clause (c) shall not be effective unless the Administrative Agent has delivered to the Lenders and the Company a Term SOFR Notice. For the avoidance of doubt, the Administrative Agent shall not be required to deliver a Term SOFR Notice after the occurrence of a Term SOFR Transition Event and may do so in its sole discretion.

(d) In connection with the implementation of a Benchmark Replacement, the Administrative Agent will have the right to make Benchmark Replacement Conforming Changes from time to time and, notwithstanding anything to the contrary herein or in any other Loan Document, any amendments implementing such Benchmark Replacement Conforming Changes will become effective without any further action or consent of any other party to this Agreement or any other Loan Document.

(e) The Administrative Agent will promptly notify the Company and the Lenders of (i) any occurrence of a Benchmark Transition Event, a Term SOFR Transition Event or an Early Opt-in Election, as applicable, (ii) the implementation of any Benchmark Replacement, (iii) the effectiveness of any Benchmark Replacement Conforming Changes, (iv) the removal or reinstatement of any tenor of a Benchmark pursuant to clause (f) below and (v) the commencement or conclusion of any Benchmark Unavailability Period. 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 2.14, 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 Agreement or any other Loan Document, except, in each case, as expressly required pursuant to this Section 2.14.

(f) Notwithstanding anything to the contrary herein or in any other Loan Document, at any time (including in connection with the implementation of a Benchmark Replacement), (i) if the then-current Benchmark is a term rate (including Term SOFR or the Adjusted LIBO Rate) and either (A) 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 (B) 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 or will be no longer representative, then the Administrative Agent may modify the definition of "Interest Period" for any Benchmark settings at or after such time to remove such unavailable or non-representative tenor and (ii) if a tenor that was removed pursuant to clause (i) above either (A) is subsequently displayed on a screen or information service for a Benchmark (including a Benchmark Replacement) or (B) is not, or is no longer, subject to an announcement that it is or will no longer be representative for a Benchmark (including a Benchmark Replacement), then the Administrative Agent may modify the definition of "Interest Period" for all Benchmark settings at or after such time to reinstate such previously removed tenor.

(g) Upon the Company's receipt of notice of the commencement of a Benchmark Unavailability Period, any Borrower may revoke any request for a LIBO Rate Borrowing of, conversion to or continuation of LIBO Rate Loans to be made, converted or continued during any Benchmark Unavailability Period and, failing that, such Borrower will be deemed to have converted any such request into a request for a Borrowing of or conversion to ABR Loans. 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 ABR based upon the then-current Benchmark or such tenor for such Benchmark, as applicable, will not be used in any determination of ABR.

SECTION 2.15. Increased Costs.

(a) If any Change in Law:

(i) imposes, modifies or deems applicable any reserve, special deposit or similar requirement against assets of, deposits with or for the account of, or credit extended by, any Lender (except any such reserve requirement reflected in the LIBO Rate);

(ii) imposes on any Lender or the London interbank market any other condition affecting this Agreement or LIBO Rate Loans made by any Lender; or

(iii) subjects any recipient to any Taxes (other than (A) Indemnified Taxes and (B) Excluded Taxes) on its loans, loan principal or other obligations, or its deposits, reserves, other liabilities or capital attributable thereto;

and the result of any of the foregoing is to increase the cost to the relevant Lender or such other Recipient of making or maintaining any LIBO Rate Loan (or of maintaining its obligation to make any such Loan) or to reduce the amount of any sum received or receivable by such Lender hereunder (whether of principal, interest or otherwise) in respect of any LIBO Rate Loan in an amount deemed by such Lender to be material, then, within 30 days after the Company's receipt of the certificate contemplated by paragraph (c) of this Section, the Company will pay to such Lender such additional amount or amounts as will compensate such Lender, for such additional costs incurred or reduction suffered; provided that the Company shall not be liable for such compensation if (x) the relevant Change in Law is publicly announced or occurs on a date prior to the date such Lender becomes a party hereto, (y) such Lender invokes Section 2.20 or (z) in the case of any request for reimbursement under clause (ii) above resulting from a market disruption, (A) the relevant circumstances do not generally affect the banking market or (B) the applicable request has not been made by Lenders constituting Required Lenders.

(b) If any Lender determines that any Change in Law regarding liquidity or capital requirements has or would have the effect of reducing the rate of return on such Lender's capital or on the capital of such Lender's holding company, if any, as a consequence of this Agreement or the Loans made by such Lender to a level below that which such Lender or such Lender's holding company could have achieved but for such Change in Law (taking into consideration such Lender's policies and the policies of such Lender's holding company with respect to capital adequacy), then within 30 days of receipt by the Company of the certificate contemplated by paragraph (c) of this Section the Company will pay to such Lender, such additional amount or amounts as will compensate such Lender or such Lender's holding company for any such reduction suffered.

(c) Any Lender requesting compensation under this Section 2.15 shall be required to deliver a certificate to the Company that (i) sets forth the amount or amounts necessary to compensate such Lender or its holding company, as applicable, as specified in paragraph (a) or (b) of this Section, (ii) sets forth in reasonable detail the manner in which such amount or amounts were determined and (iii) certifies that such Lender is generally charging such amounts to similarly situated borrowers, which certificate shall be conclusive absent manifest error.

(d) Failure or delay on the part of any Lender to demand compensation pursuant to this Section shall not constitute a waiver of such Lender's right to demand such compensation; provided that the Company shall not be required to compensate a Lender pursuant to this Section for any increased costs or reductions incurred more than 180 days prior to the date that such Lender notifies the Company of the Change in Law giving rise to such increased costs or reductions and of such Lender's intention to claim compensation therefor; provided, further, that if the Change in Law giving rise to such increased costs or reductions is retroactive, then the 180-day period referred to above shall be extended to include the period of retroactive effect thereof.

SECTION 2.16. Break Funding Payments. In the event of (a) the conversion or prepayment of any principal of any LIBO Rate Loan other than on the last day of an Interest Period applicable thereto (whether voluntary, mandatory, automatic, by reason of acceleration or otherwise), (b) the failure to borrow, convert, continue or prepay any LIBO Rate Loan on the date or in the amount specified in any notice delivered pursuant hereto or (c) the assignment of any LIBO Rate Loan of any Lender other than on the last day of the Interest Period applicable thereto as a result of a request by the Company pursuant to Section 2.19, then, in any such event, the Company shall compensate each Lender for the loss, cost and expense incurred by such Lender that is attributable to such event (other than loss of profit). In the case of a LIBO Rate Loan, the loss, cost or expense of any Lender shall be the amount reasonably determined by such Lender to be the excess, if any, of (i) the amount of interest which would have accrued on the principal amount of such Loan had such event not occurred, at the LIBO Rate that would have been applicable to such Loan, for the period from the date of such event to the last day of the then current Interest Period therefor (or, in the case of a failure to borrow, convert or continue, for the period that would have been the Interest Period for such Loan) over (ii) the amount of interest which would accrue on such principal amount for such period at the interest rate which such Lender would bid were it to bid, at the commencement of such period, for deposits in the applicable currency of a comparable amount and period from other banks in the Eurodollar market; it being understood that such loss, cost or expense shall in any case exclude any interest rate floor and all administrative, processing or similar fees. Any Lender requesting compensation under this Section 2.16 shall be required to deliver a certificate to the Company (i) setting forth any amount or amounts that such Lender is entitled to receive pursuant to this Section, the basis therefor and, in reasonable detail, the manner in which such amount or amounts were determined and (ii) certifying that such Lender is generally charging the relevant amounts to similarly situated borrowers, which certificate shall be conclusive absent manifest error. The Company shall pay such Lender the amount shown as due on any such certificate within 30 days after receipt thereof.

SECTION 2.17. Taxes.

(a) Each payment by any Loan Party under any Loan Document shall be made without withholding for any Taxes, unless such withholding is required by any law. If any Withholding Agent determines, in its sole discretion exercised in good faith, that it is so required to withhold Taxes, then such Withholding Agent may so withhold and shall timely pay the full amount of withheld Taxes to the relevant Governmental Authority in accordance with applicable law. If such Taxes are Indemnified Taxes, then the amount payable by such Loan Party shall be increased as necessary so that, net of such withholding (including such withholding applicable to additional amounts payable under this Section), the applicable Recipient receives the amount it would have received had no such withholding been made.

(b) In addition, the Loan Parties shall pay any Other Taxes to the relevant Governmental Authority in accordance with applicable law, or at the option of, and upon written request by, the Administrative Agent, timely reimburse it for the payment of, any Other Taxes.

(c) Each Loan Party shall jointly and severally indemnify each Recipient within 15 days after written demand therefor, for the full amount of any Indemnified Taxes paid by such Recipient on or with respect to any payment by or on account of any obligation of any Loan Party hereunder (including Indemnified Taxes imposed or asserted on or attributable to amounts payable under this Section) and any reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority; provided, that the Loan Parties shall not be obligated to make payment to such Recipient for penalties, interest or expenses attributable to the gross negligence or willful misconduct of such Recipient. A certificate as to the amount of such payment or liability delivered to the applicable Loan Party by a Recipient, or by the Administrative Agent on behalf of another Recipient, shall be conclusive absent manifest error.

(d) Each Lender shall severally indemnify the Administrative Agent, within 10 days after written demand therefor, for the full amount of any Taxes (but, in the case of any Indemnified Taxes, only to the extent that the Loan Parties have not already indemnified the Administrative Agent for such Indemnified Taxes and without limiting the obligation of the Loan Parties to do so) attributable to such Lender that are paid or payable by the Administrative Agent in connection with any Loan Document and any reasonable expenses arising therefrom or with respect thereto, whether or not such Excluded Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate setting forth and explaining in reasonable detail the amount of such payment or liability delivered to a Lender by the Administrative Agent shall be conclusive absent manifest error.

(e) As soon as practicable after any payment of Indemnified Taxes or Other Taxes by a Loan Party to a Governmental Authority, the Company shall deliver to the Administrative Agent the original or a certified copy of a receipt issued by such Governmental Authority evidencing such payment, a copy of the return reporting such payment or other evidence of such payment reasonably satisfactory to the Administrative Agent.

(f) (i) Any Foreign Lender that is entitled to an exemption from, or reduction of withholding Tax under the law of the United States, or any treaty to which the United States is a party, with respect to payments under this Agreement or any other Loan Document shall deliver to the Company (with a copy to the Administrative Agent), on or prior to the date of this Agreement (or, in the case of any Lender that becomes a party to this Agreement pursuant to an Assignment and Assumption, on or about the date on which such Lender becomes a Lender under this Agreement) either (a) two properly executed originals of Form W-8ECI or Form W-8BEN or Form W-8BEN-E, as applicable (or any successor forms) prescribed by the IRS or other documents satisfactory to the Company and the Administrative Agent, as the case may be, certifying (i) that all payments to be made to such Foreign Lender under the Loan Documents are exempt from United States withholding Taxes because such payments are effectively connected with the conduct by such Lender of a trade or business within the United States and are included in such Lender's gross income or (ii) that all payments to be made to such Foreign Lender under the Loan Documents are completely exempt from Taxes or are subject to such Taxes at a reduced rate by an applicable Tax treaty, (b) (i) a certificate executed by such Lender certifying that such Lender is not a "bank" within the meaning of Section 881(c)(3)(A) of the Code and that such Lender qualifies for the portfolio interest exemption under Section 881(c) of the Code, and (ii) two properly executed originals of IRS Form W-8BEN or Form W-8BEN-E, as applicable (or any successor form) or (c) in the case of a Foreign Lender that is not the beneficial owner of payments made under this Agreement (including a partnership or a participating Lender) (i) an IRS Form W-8IMY on behalf of itself and (ii) the relevant forms prescribed in this paragraph (f)(A) that would be required of each such beneficial owner or partner of such partnership if such beneficial owner or partner were a Lender; provided, however, that if the Lender is a partnership and one or more of its partners are claiming the exemption for portfolio interest under Section 881(c) of the Code, such Lender may provide a certificate described in clause (b)(i) on behalf of such partners, in each case, certifying such Lender's entitlement to an exemption from, or reduction of, U.S. federal withholding Tax with respect to payments of interest to be made hereunder or under this Agreement or any other Loan Document. In the case of a Foreign Lender claiming the benefits of an income tax treaty to which the United States is a party, the IRS Form W-8BEN or Form W-8BEN-E, as applicable, shall (x) with respect to payments of interest under the Loan Documents, establish an exemption from U.S. federal withholding Tax pursuant to the "interest" article of such tax treaty and (y) with respect to any other applicable payments under the Loan Documents, establish an exemption from U.S. federal withholding Tax pursuant to the "business profits" or "other income" article of such tax treaty. Each Lender that is not a Foreign Lender shall deliver to the Company (with a copy to the Administrative Agent) two properly executed originals IRS Form W-9 (or any successor form). Each Lender agrees (but only to the extent it is legally entitled to do so) to provide the Company (with a copy to the Administrative Agent) with new forms prescribed by the IRS upon the expiration or obsolescence of any previously delivered form, after the occurrence of any event requiring a change in the most recent forms delivered by it to the Company and the Administrative Agent, or at any other time reasonably requested by the Company or promptly notify the Company or the Administrative Agent in writing of its legal inability to do so.

(ii) If a payment made to a Lender under any Loan 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 Withholding Agent, at the time or times prescribed by law and at such time or times reasonably requested by the Withholding 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 Withholding Agent as may be necessary for the Withholding Agent to comply with its obligations under FATCA, to determine that such Lender has or has not complied with such Lender's obligations under FATCA and, as necessary, to determine the amount to deduct and withhold from such payment. Solely for purposes of this **Section 2.17(f)(ii)**, "FATCA" shall include any amendments made to FATCA after the date of this Agreement.

(iii) Any Lender that is entitled to an exemption from, or reduction of withholding Tax under the laws of a country other than the United States, or any treaty to which such country is a party, with respect to payments under this Agreement or any other Loan Document shall deliver to the Company (with a copy to the Administrative Agent), at the time or times reasonably requested by the Company or the Administrative Agent, (A) such properly completed and duly executed documentation prescribed by applicable laws as will permit the Company or the Administrative Agent, as the case may be, to establish such Lender's entitlement to any available exemption from, or reduction of, applicable Taxes (other than United States Taxes), and (B) such other documentation and reasonably requested information as will permit the Company or the Administrative Agent, as the case may be, to determine, if applicable, the required rate of withholding or deduction for any applicable Taxes and any required information reporting requirements, in each case, in respect of any payments to be made to such Lender pursuant to any Loan Document. The completion, execution and submission of any documentation contemplated by this **Section 2.17(f)(iii)** shall not be required if in the Lender's judgment such completion, execution or submission would subject such Lender to any material unreimbursed cost or expense or would materially prejudice the legal or commercial position of such Lender. Each Lender shall deliver to the Company and the Administrative Agent two further original copies of any previously delivered form or certification (or any applicable successor form) on or before the date that any such form or certification expires or becomes obsolete or inaccurate and promptly after the occurrence of any event requiring a change in the most recent form previously delivered by it to the Company or the Administrative Agent, or promptly notify the Company and the Administrative Agent that it is unable to do so. Each Lender shall promptly notify the Administrative Agent at any time it determines that it is no longer in a position to provide any previously delivered form or certification under this **Section 2.17(f)(iii)** to the Company or the Administrative Agent. Notwithstanding any other provision of this **Section 2.17(f)(iii)**, a Lender or Agent shall not be required to deliver any form pursuant to this **Section 2.17(f)(iii)** that it is not legally able to deliver.

(g) If the Administrative Agent or a Lender determines, in its sole discretion, that it has received a refund of any Taxes as to which it has been indemnified by a Loan Party or with respect to which a Loan Party has paid additional amounts pursuant to this Section, it shall pay over such refund to the Loan Party (but only to the extent of indemnity payments made, or additional amounts paid, by the Loan Party under this Section with respect to the Taxes giving rise to such refund), net of all out-of-pocket expenses of the Administrative Agent or such Lender and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund); provided, that the Loan Party, upon the request of the Administrative Agent or such Lender, agrees to repay the amount paid over to the Loan Party (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) to the Administrative Agent or such Lender in the event the Administrative Agent or such Lender is required to repay such refund to such Governmental Authority. This Section shall not be construed to require the Administrative Agent or any Lender to make available its tax returns (or any other information relating to its taxes which it deems confidential) to the Loan Party or any other Person.

(h) Each party's obligations under this Section 2.17 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 this Agreement and any other Loan Document.

SECTION 2.18. Payments Generally; Allocation of Proceeds; Sharing of Payments.

(a) Unless otherwise specified, the Company shall make each payment required to be made by it hereunder (whether of principal, interest or fees or of amounts payable under Section 2.15, 2.16 or 2.17 or otherwise) prior to the time expressed hereunder or under such Loan Document (or, if no time is expressly required, by 2:00 p.m.) on the date when due, in immediately available funds, without set-off (except as otherwise provided in Section 2.17) or counterclaim. Any amounts received after such time on any date may, in the discretion of the Administrative Agent, be deemed to have been received on the next succeeding Business Day for purposes of calculating interest thereon. All such payments shall be made to the Administrative Agent to the applicable account designated to the Company by the Administrative Agent, except that payments pursuant to Sections 2.15, 2.16, 2.17 and 9.03 shall be made directly to the Persons entitled thereto. The Administrative Agent shall distribute any such payments received by it for the account of any other Person to the appropriate recipient promptly following receipt thereof. Each Lender agrees that in computing such Lender's portion of any Borrowing to be made hereunder, the Administrative Agent may, in its discretion, round such Lender's percentage of such Borrowing to the next higher or lower whole dollar amount. All payments (including accrued interest) hereunder shall be made in Dollars. Any payment required to be made by the Administrative Agent hereunder shall be deemed to have been made by the time required if the Administrative Agent shall, at or before such time, have taken the necessary steps to make such payment in accordance with the regulations or operating procedures of the clearing or settlement system used by the Administrative Agent to make such payment.

(b) Subject in all respects to the provisions of the ABL Intercreditor Agreement or any other applicable Acceptable Intercreditor Agreement, all proceeds of Collateral received by the Administrative Agent at any time when an Event of Default exists and all or any portion of the Loans have been accelerated hereunder pursuant to Section 7.01, shall, upon election by the Administrative Agent or at the direction of the Required Lenders, be applied, first, on a pro rata basis, to pay any fees, indemnities or expense reimbursements then due to the Administrative Agent from the Company constituting Obligations hereunder, second, on a pro rata basis, to pay any fees or expense reimbursements then due to the Lenders from the Company constituting Obligations hereunder, third, to pay interest due and payable in respect of any Loans, on a pro rata basis, fourth, to prepay principal on the Loans on a pro rata basis among the Secured Parties, fifth, to the payment of any other Secured Obligation due to the Administrative Agent, any Lender or any other Secured Party by the Company on a pro rata basis, sixth, as provided for under the ABL Intercreditor Agreement or any other applicable Acceptable Intercreditor Agreement and seventh, to the Company or as the Company shall direct.

(c) If any Lender obtains payment (whether voluntary, involuntary, through the exercise of any right of set-off or otherwise) in respect of any principal of or interest on any of its Loans of any Class held by it resulting in such Lender receiving payment of a greater proportion of the aggregate amount of its Loans of such Class and accrued interest thereon than the proportion received by any other Lender with Loans of such Class, then the Lender receiving such greater proportion shall purchase (for Cash at face value) participations in the Loans of other Lenders of such Class at such time outstanding to the extent necessary so that the benefit of all such payments shall be shared by the Lenders of such Class ratably in accordance with the aggregate amount of principal of and accrued interest on their respective Loans of such Class; provided that (i) if any such participations are purchased and all or any portion of the payment giving rise thereto is recovered, such participations shall be rescinded and the purchase price restored to the extent of such recovery, without interest and (ii) the provisions of this paragraph shall not apply to (x) any payment made by the Company pursuant to and in accordance with the express terms of this Agreement or (y) any payment obtained by any Lender as consideration for the assignment of or sale of a participation in any of its Loans to any permitted assignee or participant, including any payment made or deemed made in connection with Sections 2.22, 2.23, 9.02(b) and/or Section 9.05. The Company consents to the foregoing and agrees, to the extent it may effectively do so under applicable Requirements of Law, that any Lender acquiring a participation pursuant to the foregoing arrangements may exercise against the Company rights of set-off and counterclaim with respect to such participation as fully as if such Lender were a direct creditor of the Company in the amount of such participation. The Administrative Agent will keep records (which shall be conclusive and binding in the absence of manifest error) of participations purchased under this Section 2.18(c) and will, in each case, notify the Lenders following any such purchases or repayments. Each Lender that purchases a participation pursuant to this Section 2.18(c) shall from and after such purchase have the right to give all notices, requests, demands, directions and other communications under this Agreement with respect to the portion of the Obligations purchased to the same extent as though the purchasing Lender were the original owner of the Obligations purchased.

(d) Unless the Administrative Agent has received notice from the Company or any other applicable Borrower prior to the date on which any payment is due to the Administrative Agent for the account of any Lender hereunder that the Company will not make such payment, the Administrative Agent may assume that the Company has made such payment on such date in accordance herewith and may, in reliance upon such assumption, distribute to the applicable Lender the amount due. In such event, if the Company has not in fact made such payment, then each Lender severally agrees to repay to the Administrative Agent forthwith on demand the amount so distributed to such Lender 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 Effective Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation.

(e) If any Lender fails to make any payment required to be made by it pursuant to Section 2.07(a) or Section 2.18(d), then the Administrative Agent may, in its discretion (notwithstanding any contrary provision hereof), apply any amounts thereafter received by the Administrative Agent for the account of such Lender to satisfy such Lender's obligations under such Sections until all such unsatisfied obligations are fully paid.

SECTION 2.19. Mitigation Obligations; Replacement of Lenders.

(a) If any Lender requests compensation under Section 2.15 or such Lender determines it can no longer make or maintain LIBO Rate Loans pursuant to Section 2.20, or the Company is required to pay any additional amount to or indemnify any Lender or any Governmental Authority for the account of any Lender pursuant to Section 2.17, then such Lender shall use reasonable efforts to designate a different 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 reasonable judgment of such Lender, such designation or assignment (i) would eliminate or reduce amounts payable pursuant to Section 2.15 or 2.17, as applicable, in the future or mitigate the impact of Section 2.20, as the case may be, and (ii) would not subject such Lender to any material unreimbursed out-of-pocket cost or expense and would not otherwise be disadvantageous to such Lender in any material respect. The Company hereby agrees to pay all reasonable out-of-pocket costs and expenses incurred by any Lender in connection with any such designation or assignment.

(b) If (i) any Lender requests compensation under Section 2.15 or such Lender determines it can no longer make or maintain LIBO Rate Loans pursuant to Section 2.20, (ii) the Company is required to pay any additional amount to or indemnify any Lender or any Governmental Authority for the account of any Lender pursuant to Section 2.17, (iii) any Lender is a Defaulting Lender or (iv) in connection with any proposed amendment, waiver or consent requiring the consent of “each Lender” or “each Lender directly affected thereby” (or any other Class or group of Lenders other than the Required Lenders) with respect to which Required Lender consent (or the consent of Lenders holding loans or commitments of such Class or lesser group representing more than 50% of the sum of the total loans and unused commitments of such Class or lesser group at such time) has been obtained, as applicable, any Lender is a non-consenting Lender (each such Lender, a “**Non-Consenting Lender**”), then the Company may, at its sole expense and effort, upon notice to such Lender and the Administrative Agent, (x) terminate the applicable Commitments and/or Additional Commitments of such Lender, and repay all Obligations of the Company owing to such Lender relating to the applicable Loans and participations held by such Lender as of such termination date under one or more credit facilities or Additional Credit Facilities hereunder as the Company may elect or (y) replace such Lender by requiring such Lender to assign and delegate (and such Lender shall be obligated to assign and delegate), without recourse (in accordance with and subject to the restrictions contained in Section 9.05), all of its interests, rights and obligations under this Agreement to an Eligible Assignee that shall assume such obligations (which Eligible Assignee may be another Lender, if any Lender accepts such assignment); provided that (A) such Lender shall have received payment of an amount equal to the outstanding principal amount of its Loans of such Class, accrued interest thereon, accrued fees and all other amounts payable to it hereunder with respect to such Class of Loans, Commitments and/or Additional Commitments, (B) in the case of any assignment resulting from a claim for compensation under Section 2.15 or payments required to be made pursuant to Section 2.17, such assignment will result in a reduction in such compensation or payments and (C) such assignment does not conflict with applicable law. No action by or consent of a Defaulting Lender or a Non-Consenting Lender shall be necessary in connection with such assignment, which shall be immediately and automatically effective upon payment of the amounts described in clause (A) of the immediately preceding sentence. No Lender (other than a Defaulting Lender) shall be required to make any such assignment and delegation, and the Company may not repay the Obligations of such Lender or terminate its Commitments or Additional Commitments, if, prior thereto, as a result of a waiver by such Lender or otherwise, the circumstances entitling the Company to require such assignment and delegation cease to apply. Each Lender agrees that if it is replaced pursuant to this Section 2.19, it shall execute and deliver to the Administrative Agent an Assignment and Assumption to evidence such sale and purchase and shall deliver to the Administrative Agent any Promissory Note (if the assigning Lender’s Loans are evidenced by one or more Promissory Notes) subject to such Assignment and Assumption (provided that the failure of any Lender replaced pursuant to this Section 2.19 to execute an Assignment and Assumption or deliver any such Promissory Note shall not render such sale and purchase (and the corresponding assignment) invalid), such assignment shall be recorded in the Register and any such Promissory Note shall be deemed cancelled. Each Lender hereby irrevocably appoints the Administrative Agent (such appointment being coupled with an interest) as such Lender’s attorney-in-fact, with full authority in the place and stead of such Lender and in the name of such Lender, from time to time in the Administrative Agent’s discretion, with prior written notice to such Lender, to take any action and to execute any such Assignment and Assumption or other instrument that the Administrative Agent may deem reasonably necessary to carry out the provisions of this clause (b). To the extent that any Lender is replaced pursuant to Section 2.19(b)(iv) in connection with a Repricing Transaction requiring payment of a fee pursuant to Section 2.12(f), the Company shall pay to each Lender being replaced as a result of such Repricing Transaction the fee set forth in Section 2.12(f).

SECTION 2.20. Illegality. If any Lender reasonably determines that any Change in Law has made it unlawful, or that any Governmental Authority has asserted after the Closing Date that it is unlawful, for such Lender or its applicable lending office to make, maintain or fund Loans whose interest is determined by reference to the LIBO Rate, or to determine or charge interest rates based upon the LIBO Rate, or any Governmental Authority has imposed material restrictions on the authority of such Lender to purchase or sell, or to take deposits of, Dollars in the applicable interbank market, then, on notice thereof by such Lender to the Company through the Administrative Agent, (a) any obligation of such Lender to make or continue LIBO Rate Loans in Dollars or to convert ABR Loans to LIBO Rate Loans shall be suspended and (b) if such notice asserts the illegality of such Lender making or maintaining ABR Loans the interest rate on which is determined by reference to the LIBO Rate component of the Alternate Base Rate, the interest rate on which ABR Loans of such Lender, shall, if necessary to avoid such illegality, be determined by the Administrative Agent without reference to the LIBO Rate component of the Alternate Base Rate, in each case until such Lender notifies the Administrative Agent and the Company that the circumstances giving rise to such determination no longer exist (which notice such Lender agrees to give promptly). Upon receipt of such notice, (x) the Company shall, upon demand from such Lender (with a copy to the Administrative Agent), prepay or convert all of such Lender's LIBO Rate Loans to ABR Loans (the interest rate on which ABR Loans of such Lender shall, if necessary to avoid such illegality, be determined by the Administrative Agent without reference to the LIBO Rate component of the Alternate Base Rate) either on the last day of the Interest Period therefor, if such Lender may lawfully continue to maintain such LIBO Rate Loans to such day, or immediately, if such Lender may not lawfully continue to maintain such LIBO Rate Loans (in which case the Company shall not be required to make payments pursuant to Section 2.16 in connection with such payment) and (y) if such notice asserts the illegality of such Lender determining or charging interest rates based upon the LIBO Rate, the Administrative Agent shall during the period of such suspension compute the Alternate Base Rate applicable to such Lender without reference to the LIBO Rate component thereof until the Administrative Agent is advised in writing by such Lender that it is no longer illegal for such Lender to determine or charge interest rates based upon the LIBO Rate. Upon any such prepayment or conversion, the Company shall also pay accrued interest on the amount so prepaid or converted. Each Lender agrees to designate a different lending office if such designation will avoid the need for such notice and will not, in the determination of such Lender, otherwise be materially disadvantageous to such Lender.

SECTION 2.21. Defaulting Lenders. Notwithstanding any provision of this Agreement to the contrary, if any Lender becomes a Defaulting Lender, then the following provisions shall apply for so long as such Lender is a Defaulting Lender:

(a) [Reserved].

(b) The Commitments and Loans of such Defaulting Lender shall not be included in determining whether all Lenders, each affected Lender, the Required Lenders, or such other number of Lenders as may be required hereby or under any other Loan Document have taken or may take any action hereunder (including any consent to any waiver, amendment or modification pursuant to Section 9.02); provided that any waiver, amendment or modification requiring the consent of all Lenders or each affected Lender which affects such Defaulting Lender disproportionately and adversely relative to other affected Lenders shall require the consent of such Defaulting Lender.

(c) Any payment of principal, interest, fees or other amounts received by the Administrative Agent for the account of any Defaulting Lender (whether voluntary or mandatory, at maturity, pursuant to [Section 2.11](#), [Section 2.15](#), [Section 2.16](#), [Section 2.17](#), [Section 2.18](#), [Article 7](#), [Section 9.05](#) or otherwise, and including any amounts made available to the Administrative Agent by such Defaulting Lender pursuant to [Section 9.09](#)), shall be applied at such time or times as may be determined by the Administrative Agent and, where relevant, the Company as follows: first, to the payment of any amounts owing by such Defaulting Lender to the Administrative Agent hereunder; second, so long as no Default or Event of Default exists, as the Company may request, to the funding of any Loan in respect of which such Defaulting Lender has failed to fund its portion thereof as required by this Agreement; third, if so determined by the Administrative Agent or the Company, to be held in a deposit account and released in order to satisfy obligations of such Defaulting Lender to fund Loans under this Agreement; fourth, to the payment of any amounts owing to the non-Defaulting Lenders as a result of any judgment of a court of competent jurisdiction obtained by any non-Defaulting Lender against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement; fifth, to the payment of any amounts owing to the Company as a result of any judgment of a court of competent jurisdiction obtained by the Company against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement; and sixth, to such 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 Loan in respect of which such Defaulting Lender has not fully funded its appropriate share and (y) such Loan was made or created, as applicable, at a time when the conditions applicable thereto were satisfied or waived, such payment shall be applied solely to pay the Loans of all non-Defaulting Lenders on a pro rata basis prior to being applied to the payment of any Loans of such Defaulting Lender. Any payments, prepayments or other amounts paid or payable to any Defaulting Lender that are applied (or held) to pay amounts owed by any Defaulting Lender or to post Cash collateral pursuant to this [Section 2.21\(c\)](#) shall be deemed paid to and redirected by such Defaulting Lender, and each Lender irrevocably consents hereto.

SECTION 2.22. Incremental Facilities.

(a) The Company or any Loan Party may, at any time, on one or more occasions pursuant to an Incremental Facility Amendment add one or more new Classes of term facilities and/or increase the principal amount of the Term Loans of any existing Class by requesting new term loan commitments to be added to such Loans (any such new Class or increase, an "**Incremental Term Facility**" or "**Incremental Facility**" and any loans made pursuant to an Incremental Term Facility or Incremental Facility, "**Incremental Term Loans**" or "**Incremental Loans**") in an aggregate outstanding principal amount not to exceed the Incremental Cap; provided that:

(i) no Incremental Commitment may be in an amount that is less than \$5,000,000 (or such lesser amount to which the Administrative Agent may reasonably agree),

(ii) except as separately agreed from time to time between any Loan Party and any Lender, no Lender shall be obligated to provide any Incremental Commitment, and the determination to provide such commitments shall be within the sole and absolute discretion of such Lender (it being agreed that no Loan Party shall be obligated to offer the opportunity to any Lender to participate in any Incremental Facility),

(iii) no Incremental Facility or Incremental Loan (nor the creation, provision or implementation thereof) shall require the approval of any existing Lender other than in its capacity, if any, as a lender providing all or part of any Incremental Commitment or Incremental Loan,

(iv) [Reserved],

(v) the Effective Yield (and the components thereof) applicable to any Incremental Facility may be determined by the Company and the lender or lenders providing such Incremental Facility; provided that, in the case of any broadly syndicated Dollar-denominated term loan “B” Incremental Term Facility that is scheduled to mature prior to the date that is one year after the Initial Term Loan Maturity Date, the Effective Yield applicable thereto may not be more than 0.50% higher than the Effective Yield applicable to the Initial Term Loans unless the Applicable Rate (and/or, as provided in the proviso below, the Alternate Base Rate floor or LIBO Rate floor) with respect to the Initial Term Loans is adjusted such that the Effective Yield on the Initial Term Loans is not more than 0.50% per annum less than the Effective Yield with respect to such Incremental Facility; provided further that any increase in Effective Yield applicable to any Initial Term Loan due to the application or imposition of an Alternate Base Rate floor or LIBO Rate floor on any Incremental Term Loan may, at the election of the Company, be effected through an increase in the Alternate Base Rate floor or LIBO Rate floor applicable to such Initial Term Loans or an increase in the interest rate margin applicable to such Incremental Loans; provided further that the MFN Provision (1) shall not apply to any Incremental Term Facility having an aggregate principal amount not exceeding the greater of \$500.0 million and 50% of Consolidated EBITDA as of the last day of the most recently ended Test Period and (2) shall not apply to any Incremental Term Facility incurred more than twelve months after the Closing Date (this clause (v), the “**MFN Provision**”),

(vi) the final maturity date with respect to any Incremental Term Loans shall be no earlier than the Initial Term Loan Maturity Date at the time of the incurrence thereof; provided, that the foregoing limitation shall not apply to (A) customary bridge loans with a maturity date of not longer than one year; provided, that any loans, notes, securities or other Indebtedness which are exchanged for or otherwise replace such bridge loans shall be subject to the requirements of this clause (vi), (B) [reserved] or (C) Incremental Term Facilities having an aggregate principal amount outstanding not exceeding the greater of \$500.0 million and 50% of Consolidated EBITDA as of the last day of the most recently ended Test Period (as selected by the Company),

(vii) the Weighted Average Life to Maturity of any Incremental Term Facility shall be no shorter than the remaining Weighted Average Life to Maturity of the Initial Term Loans; provided, that the foregoing limitation shall not apply to (A) customary bridge loans with a maturity date of not longer than one year; provided, that any loans, notes, securities or other Indebtedness which are exchanged for or otherwise replace such bridge loans shall be subject to the requirements of this clause (vii), (B) [reserved] or (C) Incremental Term Facilities having an aggregate principal amount outstanding not exceeding the greater of \$500.0 million and 50% of Consolidated EBITDA as of the last day of the most recently ended Test Period (as selected by the Company),

(viii) subject to clauses (vi) and (vii) above, any Incremental Term Facility may otherwise have an amortization schedule as determined by the Company and the lenders providing such Incremental Term Facility,

(ix) subject to clause (v) above, to the extent applicable, any fees payable in connection with any Incremental Facility shall be determined by the Company and the arrangers and/or lenders providing such Incremental Facility,

(x) (A) each Incremental Facility shall rank *pari passu* with the Initial Term Loans in right of payment and security and (B) no Incremental Facility may be (x) guaranteed by any Person which is not a Loan Party or (y) secured by Liens on any assets other than the Collateral,

(xi) any Incremental Term Facility may provide for the ability to participate (A) on a pro rata basis or non-pro rata basis in any voluntary prepayment of Term Loans made pursuant to Section 2.11(a) and (B) on a pro rata or less than pro rata basis (but not on a greater than pro rata basis, other than in the case of prepayment with proceeds of Indebtedness refinancing such Incremental Term Loans) in any mandatory prepayment of Term Loans required pursuant to Section 2.11(b),

(xii) no Specified Event of Default shall exist immediately prior to or after giving effect to the effectiveness of such Incremental Facility (except in connection with any acquisition or other Investment or irrevocable repayment or redemption of Indebtedness, where no such Specified Event of Default shall exist at the time as elected by the Company pursuant to Section 1.04(e)),

(xiii) except as otherwise set forth above or below, all other terms of any such Incremental Term Facility, shall (x) be substantially identical to the terms of any then-existing Term Facility, (y) reflect market terms and conditions (as determined by the Company in good faith) at the time of incurrence or issuance or (z) be reasonably satisfactory to the Administrative Agent,

(xiv) the proceeds of any Incremental Facility may be used for working capital, Capital Expenditures and other general corporate purposes of the Company and its subsidiaries (including permitted Restricted Payment Transactions and any other purpose not prohibited by the terms of the Loan Documents), and

(xv) on the date of the making of any Incremental Term Loans that will be added to any Class of Initial Term Loans or Additional Term Loans, and notwithstanding anything to the contrary set forth in Sections 2.08 or 2.13, such Incremental Term Loans shall be added to (and constitute a part of) each borrowing of outstanding Initial Term Loans or Additional Term Loans, as applicable, of the same type with the same Interest Period of the respective Class on a *pro rata* basis (based on the relative sizes of the various outstanding Borrowings), so that each Term Lender will participate proportionately in each then outstanding borrowing of Initial Term Loans or Additional Term Loans, as applicable, of the same type with the same Interest Period of the respective Class.

(b) Incremental Commitments may be provided by any existing Lender or by any other Eligible Assignee (any such other Eligible Assignee being called an “**Additional Lender**”); provided that the Administrative Agent shall have consented (such consent not to be unreasonably withheld, conditioned or delayed) to the relevant Additional Lender’s provision of Incremental Commitments if such consent would be required under Section 9.05(b) for an assignment of Loans to such Additional Lender.

(c) Each Lender or Additional Lender providing a portion of any Incremental Commitment shall execute and deliver to the Administrative Agent and the Company all such documentation (including the relevant Incremental Facility Amendment) as may be reasonably required by the Administrative Agent to evidence and effectuate such Incremental Commitment. On the effective date of such Incremental Commitment, each Additional Lender shall become a Lender for all purposes in connection with this Agreement.

(d) As a condition precedent to the effectiveness of any Incremental Facility or the making of any Incremental Loans, (i) upon its request, the Administrative Agent shall have received customary written opinions of counsel, as well as such reaffirmation agreements, supplements and/or amendments as it shall reasonably require, (ii) the Administrative Agent shall have received, from each Additional Lender, an administrative questionnaire, in the form provided to such Additional Lender by the Administrative Agent (the “**Administrative Questionnaire**”) and such other documents as it shall reasonably require from such Additional Lender, (iii) the Administrative Agent and applicable Additional Lenders shall have received all fees required to be paid in respect of such Incremental Facility or Incremental Loans and (iv) upon its request, the Administrative Agent shall have received a certificate of the applicable Borrower, signed by a Responsible Officer thereof:

(A) certifying and attaching a copy of the resolutions adopted by the governing body of the applicable Borrower approving or consenting to such Incremental Facility or Incremental Loans, and

(B) to the extent applicable, certifying that the condition set forth in clause (a)(xii) above has been satisfied.

(e) The Lenders hereby irrevocably authorize the Administrative Agent to enter into any Incremental Facility Amendment and/or any amendment to any other Loan Documents as may be necessary in order to establish any new or any increase in any Classes or sub-Classes in respect of Loans or commitments pursuant to this Section 2.22 and such technical amendments as may be necessary or appropriate in the reasonable opinion of the Administrative Agent and the Company in connection with the establishment or increase, as applicable, of such Classes or sub-Classes, in each case on terms consistent with this Section 2.22.

(f) To the extent the provisions of clause (a)(xv) above require that Term Lenders making new Incremental Term Loans add such Incremental Term Loans to the then outstanding borrowings of LIBO Rate Loans of the respective Class of Initial Term Loans or Additional Term Loans, as applicable, it is acknowledged that the effect thereof may result in such new Incremental Term Loans having short Interest Periods (i.e., an Interest Period that began during an Interest Period then applicable to outstanding LIBO Rate Loans of the respective Class and which will end on the last day of such Interest Period).

(g) This Section 2.22 shall supersede any provision in Section 2.18 or 9.02 to the contrary.

SECTION 2.23. Extensions of Loans.

(a) Notwithstanding anything to the contrary in this Agreement, pursuant to one or more offers (each, an “**Extension Offer**”) made from time to time by the Company to all Lenders holding Loans of any Class or Commitments of any Class, in each case on a pro rata basis (based on the aggregate outstanding principal amount of the respective Loans or Commitments of such Class) and on the same terms to each such Lender, the Company is hereby permitted from time to time to consummate transactions with any individual Lender who accepts the terms contained in the relevant Extension Offer to extend the Maturity Date of all or a portion of such Lender’s Loans and/or Commitments of such Class and otherwise modify the terms of all or a portion of such Loans and/or Commitments pursuant to the terms of the relevant Extension Offer (including by increasing the interest rate or fees payable in respect of such Loans and/or Commitments (and related outstandings) and/or modifying the amortization schedule, if any, in respect of such Loans) (each, an “**Extension**”); it being understood that any Extended Term Loans shall constitute a separate Class of Loans from the Class of Loans from which they were converted:

(i) [Reserved];

(ii) except as to (x) interest rates, fees, amortization, final maturity date, premiums, required prepayment dates and participation in prepayments (which shall, subject to immediately succeeding clauses (iii), (iv) and (v), be determined by the Company and set forth in the relevant Extension Offer), (y) terms applicable to such Extended Term Loans that are more favorable to the lenders or the agent of such Extended Term Loans than those contained in the Loan Documents and are then conformed (or added) to the Loan Documents on or prior to the effectiveness of such Extension for the benefit of the Term Lenders or, as applicable, the Administrative Agent pursuant to the applicable Extension Amendment and (z) any covenants or other provisions applicable only to periods after the Latest Maturity Date (in each case, as of the date of such Extension), the Term Loans of any Lender extended pursuant to any Extension (any such extended Term Loans, the “**Extended Term Loans**”) shall have substantially consistent terms (or terms not less favorable to existing Lenders) as the tranche of Term Loans subject to the relevant Extension Offer;

- (iii) the final maturity date of any Extended Term Loans shall be no earlier than the then applicable Latest Maturity Date at the time of extension;
- (iv) the Weighted Average Life to Maturity of any Extended Term Loans shall be no shorter than the remaining Weighted Average Life to Maturity of the Term Loans or any other Extended Term Loans extended thereby;
- (v) subject to clauses (iii) and (iv) above, any Extended Term Loans may otherwise have an amortization schedule as determined by the Company and the Lenders providing such Extended Term Loans;
- (vi) any Extended Term Loans may provide for the ability to participate (A) on a pro rata basis or non-pro rata basis in any voluntary prepayment of Term Loans made pursuant to Section 2.11(a) and (B) on a pro rata or less than pro rata basis (but not on a greater than pro rata basis other than in the case of prepayment with proceeds of Indebtedness refinancing such Extended Term Loans) in any mandatory prepayment of Term Loans required pursuant to Section 2.11(b);
- (vii) if the aggregate principal amount of Loans or commitments, as the case may be, in respect of which Lenders shall have accepted the relevant Extension Offer exceeds the maximum aggregate principal amount of Loans or commitments, as the case may be, offered to be extended by the Company pursuant to such Extension Offer, then the Loans or commitments, as the case may be, of such Lenders shall be extended ratably up to such maximum amount based on the respective principal amounts (but not to exceed actual holdings of record) held by Lenders that have accepted such Extension Offer;
- (viii) unless the Administrative Agent otherwise agrees, each Extension shall be in a minimum amount of \$5,000,000;
- (ix) any applicable Minimum Extension Condition shall be satisfied or waived by the Company; and
- (x) all documentation in respect of such Extension shall be consistent with the foregoing.

(b) With respect to any Extension consummated pursuant to this Section 2.23, (i) no such Extension shall constitute a voluntary or mandatory prepayment for purposes of Section 2.11, (ii) the scheduled amortization payments (in so far as such schedule affects payments due to Lenders participating in the relevant Class) set forth in Section 2.10 shall be adjusted to give effect to such Extension of the relevant Class and (iii) except as set forth in clause (a)(viii) above, no Extension Offer is required to be in any minimum amount or any minimum increment; provided that the Company may, at its election, specify as a condition (a “**Minimum Extension Condition**”) to consummating such Extension that a minimum amount (to be determined and specified in the relevant Extension Offer in the Company’s sole discretion and which may be waived by the Company in its sole discretion) of Loans or commitments (as applicable) of any or all applicable Classes be tendered. The Administrative Agent and the Lenders hereby consent to the transactions contemplated by this Section 2.23 (including, for the avoidance of doubt, any payment of any interest, fees or premium in respect of any tranche of Extended Term Loans on such terms as may be set forth in the relevant Extension Offer) and hereby waive the requirements of any provision of this Agreement (including Sections 2.10, 2.11 or 2.18) or any other Loan Document that may otherwise prohibit any Extension or any other transaction contemplated by this Section.

(c) No consent of any Lender or the Administrative Agent shall be required to effectuate any Extension, other than the consent of each Lender agreeing to such Extension with respect to one or more of its Loans and/or commitments under any Class (or a portion thereof). All Extended Term Loans and all obligations in respect thereof shall constitute Secured Obligations under this Agreement and the other Loan Documents that are secured by the Collateral and guaranteed on a *pari passu* basis with all other Secured Obligations under this Agreement and the other Loan Documents. The Lenders hereby irrevocably authorize the Administrative Agent to enter into any Extension Amendment and such other amendments to this Agreement and the other Loan Documents as may be necessary in order to establish new Classes or sub-Classes in respect of Loans or commitments so extended and such technical amendments as may be necessary or appropriate in the reasonable opinion of the Administrative Agent and the Company in connection with the establishment of such new Classes or sub-Classes, in each case on terms consistent with this Section 2.23.

(d) In connection with any Extension, the Company shall provide the Administrative Agent at least five Business Days' (or such shorter period as may be agreed by the Administrative Agent) prior written notice thereof, and shall agree to such procedures (including regarding timing, rounding and other adjustments and to ensure reasonable administrative management of the credit facilities hereunder after such Extension), if any, as may be established by, or acceptable to, the Administrative Agent, in each case acting reasonably to accomplish the purposes of this Section 2.23.

ARTICLE 3 REPRESENTATIONS AND WARRANTIES

The Company represents and warrants to the Lenders that:

SECTION 3.01. Corporate Existence and Power. Each Loan Party is duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization and has all corporate or other organizational power and authority required to carry on its business as now conducted.

SECTION 3.02. Corporate and Governmental Authorization; No Contravention. The Transactions to be entered into by each Loan Party are within such Loan Party's corporate or other organizational power, have been duly authorized by all necessary corporate or other organizational action, require no action by or in respect of, or filing with, any governmental body, agency or official (other than the filing of reports with the Securities and Exchange Commission and filings necessary to satisfy the Collateral and Guarantee Requirement) and do not contravene, or constitute a default under, any provision of applicable law or regulation or of the certificate of incorporation, bylaws or other organizational documents of such Loan Party or of any agreement, judgment, injunction, order, decree or other instrument binding upon such Loan Party, in each case where the failure to take such action, make such filing or such contravention or default would reasonably be expected to have a Material Adverse Effect.

SECTION 3.03. Binding Effect. This Agreement has been duly executed and delivered by the Company and constitutes, and each Collateral Agreement (at such times as the Collateral and Guarantee Requirement is required to be satisfied) has been duly executed and delivered by the Company and each Material Subsidiary party thereto and constitutes, a valid and binding obligation of the Company (or such Material Subsidiary, if applicable), enforceable in accordance with its terms, subject to applicable bankruptcy, insolvency and other similar laws affecting creditors' rights generally, concepts of reasonableness and general principles of equity, regardless of whether considered in a proceeding in equity or at law.

SECTION 3.04. Financial Information.

(a) The consolidated balance sheet of the Company and the Subsidiaries and the related consolidated statements of income, shareholders' equity and cash flows as of and for (i) the fiscal year of the Company ended January 30, 2021, reported on by Ernst & Young LLP and set forth in the Registration Statement and (ii) the fiscal quarter of the Company ended May 1, 2021, certified by a Responsible Officer of the Company, in each case fairly present, in conformity with GAAP, the consolidated financial position of the Company and the Subsidiaries as of such date and their consolidated results of operations and cash flows for such fiscal year of the Company or portion of such fiscal year, as applicable (in the case of clause (ii), subject to changes resulting from audit and normal year-end adjustments and the absence of footnotes).

(b) From January 30, 2021 to the date hereof, there has been no material adverse change in the business, financial position or results of operations of the Company and the Restricted Subsidiaries, considered as a whole.

SECTION 3.05. Litigation and Environmental Matters.

(a) Except for the Disclosed Matters, there is no action, suit or proceeding pending against, or to the knowledge of the Company threatened against or affecting, the Company or any Restricted Subsidiary before any court or arbitrator or any governmental body, agency or official in which there is, in the good faith judgment of the Company (which shall be conclusive), a reasonable possibility of an adverse decision and, which would reasonably be expected to have a Material Adverse Effect.

(b) Except with respect to any matters that, individually or in the aggregate, are not reasonably expected in the good faith judgment of the Company (which shall be conclusive) to have a Material Adverse Effect, neither the Company nor any of the Restricted Subsidiaries (i) has failed to comply with any Environmental Law or to obtain, maintain or comply with any permit, license or other approval required under any Environmental Law, (ii) has become subject to any Environmental Liability, (iii) has received notice of any claim with respect to any Environmental Liability or (iv) knows of any basis for any Environmental Liability.

(c) Since January 30, 2021, there has been no change in the status of the Disclosed Matters that, individually or in the aggregate in the good faith judgment of the Company (which shall be conclusive), has resulted in a Material Adverse Effect.

SECTION 3.06. Anti-Corruption Laws and Sanctions. The Company has implemented and maintains in effect policies and procedures designed to promote compliance by the Company, its Restricted Subsidiaries and their respective directors, officers, employees and agents (acting in their capacity as such) with the FCPA, the U.K. Bribery Act 2010 and applicable Sanctions, and the Company and each of its Restricted Subsidiaries, to the knowledge of the Company, is in compliance with all Anti-Corruption Laws, applicable Sanctions, and, to the extent applicable, the USA Patriot Act, in all material respects. None of the Company or any Restricted Subsidiary, or, to the knowledge of the Company, any director, officer, employee or agent with respect to the facility of the Company or any Restricted Subsidiary, is a Sanctioned Person. This Section applies, other than to the extent that such representation and warranty would result in a violation of Council Regulation (EC) No 2271/96, as amended (or any implementing law or regulation in any member state of the European Union or the United Kingdom).

SECTION 3.07. Subsidiaries.

(a) Each of the Restricted Subsidiaries is a corporation, limited liability company or partnership duly organized, validly existing and, to the extent applicable, in good standing under the laws of its jurisdiction of organization, and has all requisite power and authority required to carry on its business as now conducted except to the extent that the failure of any such Restricted Subsidiary to be so organized, existing or in good standing or to have such power and authority is not reasonably expected by the Company to have a Material Adverse Effect.

(b) Schedule 3.07 hereto completely and accurately sets forth the names and jurisdictions of organization of each Restricted Subsidiary that is a Domestic Subsidiary as of the Closing Date, indicating for each such Subsidiary whether it is a Material Subsidiary as of the Closing Date.

SECTION 3.08. Not an Investment Company. None of the Company or the Subsidiary Loan Parties is required to register as an “investment company” under (and within the meaning of) the Investment Company Act of 1940, as amended.

SECTION 3.09. ERISA. The Company and its ERISA Affiliates (i) have fulfilled their material obligations, whether or not waived, under the minimum funding standards of Section 302 of ERISA and Section 412 of the Code with respect to each Plan, (ii) are in compliance in all material respects with the presently applicable provisions of ERISA and the Code and (iii) have not incurred any liability in excess of \$300,000,000 to the PBGC or a Plan under Title IV of ERISA other than a liability to the PBGC for premiums under Section 4007 of ERISA; provided, that this sentence shall not apply to (x) any ERISA Affiliate as described in Section 414(m) of the Code (other than the Company or a Subsidiary) or any Plan maintained by such an ERISA Affiliate or (y) any Multiemployer Plan. The Company and its Subsidiaries have made all material payments to Multiemployer Plans which they have been required to make under the related collective bargaining agreement or applicable law. As of the Closing Date, the Company and its Subsidiaries do not contribute to or have an obligation to contribute to a Multiemployer Plan, nor have they contributed or had an obligation to contribute to a Multiemployer Plan in the preceding six years.

SECTION 3.10. Taxes. The Company and its Restricted Subsidiaries have filed all United States federal income tax returns and all other material tax returns which, in the opinion of the Company, are required to be filed by them and have paid all taxes due pursuant to such returns or pursuant to any assessment received by the Company or any Restricted Subsidiary, except for assessments which are being contested in good faith by appropriate proceedings or where the failure to do any of the foregoing would not reasonably be expected to have a Material Adverse Effect. The charges, accruals and reserves on the books of the Company and its Restricted Subsidiaries in respect of taxes or other governmental charges are, in the opinion of the Company, adequate.

ARTICLE 4 CONDITIONS

SECTION 4.01. Closing Date. The obligations of each Lender to make Loans shall not become effective until the date on which each of the following conditions is satisfied (or waived in accordance with Section 9.02):

(a) Credit Agreement and Loan Documents. The Administrative Agent (or its counsel) shall have received from each Loan Party party thereto (i) a counterpart signed by each such Loan Party (or written evidence reasonably satisfactory to the Administrative Agent (which may include a copy transmitted by facsimile or other electronic method) that such party has signed a counterpart) of (A) this Agreement, (B) the Collateral Agreement and the ABL Intercreditor Agreement, (C) [reserved] and (D) any Promissory Note requested by a Lender at least three Business Days prior to the Closing Date and (ii) a Borrowing Request as required by Section 2.03.

(b) Legal Opinions. The Administrative Agent (or its counsel) shall have received, on behalf of itself and the Lenders on the Closing Date, a customary written opinion of (i) Davis Polk & Wardwell LLP, in its capacity as special New York counsel to the Loan Parties and (ii) Morris, Nichols, Arsht & Tunnell LLP, in its capacity as special Delaware counsel to the Loan Parties, in each case, dated the Closing Date and addressed to the Administrative Agent and the Lenders.

(c) [Reserved].

(d) Organization; Existence etc.; Closing Certificates. The Administrative Agent shall have received (i) such documents and certificates as the Administrative Agent or its counsel may reasonably request relating to the organization, existence and good standing of the Loan Parties, the authorization by the Loan Parties of the transactions contemplated hereby and any other legal matters relating to the Loan Parties or the transactions contemplated hereby, all in form and substance reasonably satisfactory to the Administrative Agent and its counsel) and (ii) a certificate of the Company, dated the Closing Date and executed by a secretary, assistant secretary or other senior officer (as the case may be) thereof, confirming (A) the representations and warranties set forth in Article 3 of this Agreement and (B) no Default has occurred and is continuing.

(e) [Reserved].

(f) Fees. Prior to or substantially concurrently with the funding of the Initial Term Loans hereunder, the Administrative Agent shall have received (i) all fees required to be paid by the Company on the Closing Date pursuant to the Fee Letter and any separate letter agreement with respect to fees payable to the Administrative Agent and (ii) all expenses required to be paid by the Company for which invoices have been presented at least three Business Days prior to the Closing Date (including the reasonable and documented fees and expenses of a single legal counsel for the Administrative Agent), in each case on or before the Closing Date, which amounts, in the Company's sole discretion, may be offset against the proceeds of the Loans or may be paid from the proceeds of the Initial Term Loans.

(g) [Reserved].

(h) [Reserved].

(i) [Reserved].

(j) Solvency. The Administrative Agent shall have received a certificate dated as of the Closing Date in substantially the form of Exhibit K from the chief financial officer (or other officer with reasonably equivalent responsibilities) of the Company certifying as to the matters set forth therein (or, at the option of the Company, a third party opinion as to the solvency of the Company and its Subsidiaries on a consolidated basis issued by a nationally recognized firm).

(k) Perfection Certificate. The Administrative Agent shall have received a completed Perfection Certificate dated the Closing Date and signed by a Responsible Officer of each Loan Party (or by the Company on behalf of each Loan Party), together with all attachments contemplated thereby.

(l) Pledged Stock; Stock Powers; Pledged Notes. To the extent delivery thereof is required under the Collateral Agreement, the Administrative Agent (or its bailee) shall have received (i) the certificates representing the Capital Stock required to be pledged pursuant to the Collateral Agreement, together with an undated stock or similar power for each such certificate executed in blank by a duly authorized officer of the pledgor thereof and (ii) each Material Debt Instrument (if any) required to be pledged pursuant to the Collateral Agreement endorsed (without recourse) in blank (or accompanied by an executed transfer form in blank) by the pledgor thereof.

(m) Filings Registrations and Recordings. Each document (including any UCC financing statement) required by any Collateral Document or under law, to be filed, registered or recorded in order to create in favor of the Collateral Agent, for the benefit of the Secured Parties, a perfected lien on the Collateral described therein, prior and superior in right to any other person (other than as permitted or contemplated by this Agreement and any Collateral Document), shall have been so filed, registered or recorded (or shall be provided for to the reasonable satisfaction of the Administrative Agent).

(n) Separation. (x) The Pre-Closing Reorganization Transactions shall have occurred or shall occur substantially simultaneously with the initial funding of the Initial Term Loans and (y) the Form 10 shall have been declared effective by the Securities Exchange Commission.

(o) [Reserved].

(p) USA PATRIOT Act. No later than three Business Days in advance of the Closing Date, the Administrative Agent shall have received all documentation and other information reasonably requested in writing by the Administrative Agent with respect to any Loan Party at least ten Business Days in advance of the Closing Date, which documentation or other information is required by U.S. regulatory authorities under applicable “know your customer” and anti-money laundering rules and regulations, including the USA PATRIOT Act (including if the Company qualifies as a “legal entity customer” under the Beneficial Ownership Regulation, a Beneficial Ownership Certification in relation to the Company).

For purposes of determining whether the conditions specified in this Section 4.01 have been satisfied on the Closing Date, by funding the Loans hereunder, the Administrative Agent and each Lender that has executed this Agreement (or an Assignment and Assumption on the Closing Date) shall be deemed to have consented to, approved or accepted, or to be satisfied with, each document or other matter required hereunder to be consented to or approved by or acceptable or satisfactory to the Administrative Agent or such Lender, as the case may be.

SECTION 4.02. [Reserved].

ARTICLE 5 AFFIRMATIVE COVENANTS

From the Closing Date until the date on which all Commitments have expired or terminated and the principal of and interest on each Loan and all fees, expenses and other amounts payable under any Loan Document (other than contingent indemnification and expense reimbursement obligations for which no claim or demand has been made) have been paid in full in Cash (such date, the “**Termination Date**”), the Company hereby covenants and agrees that:

SECTION 5.01. Information.

(a) The Company will deliver to the Administrative Agent (for delivery by the Administrative Agent to each of the Lenders):

(i) as soon as available and in any event within 90 days after the end of each fiscal year of the Company, the Annual Report of the Company on Form 10-K for such fiscal year, containing financial statements reported on in a manner acceptable to the Securities and Exchange Commission by Ernst & Young LLP or other independent public accountants of nationally recognized standing selected by the Company (without a “going concern” or like qualification, exception or statement and without any qualification or exception as to the scope of such audit (except for any such qualification, exception or statement pertaining to, or disclosure of an exception, statement or qualification resulting from, (x) the maturity (or impending maturity) of any Indebtedness, (y) any breach or anticipated breach of any financial covenant or (z) the activities, operations, financial results, assets or liabilities of any Unrestricted Subsidiary) and except that such report may include a “going concern” or “emphasis of matter” explanatory paragraph or other statement);

(ii) as soon as available and in any event within 45 days after the end of each of the first three quarters of each fiscal year of the Company, a copy of the Company’s report on Form 10-Q for such quarter with the financial statements therein contained to be certified (subject to normal year-end adjustments) as to fairness of presentation, generally accepted accounting principles (except footnotes) and consistency, by a Financial Officer;

(iii) within five Business Days after the delivery of financial statements pursuant to Section 5.01(a)(i), (A) if such adjustments are material, a summary (which may be in footnote form) of any pro forma adjustments necessary to eliminate the accounts of Unrestricted Subsidiaries (if any) from such financial statements and (B) a list identifying each subsidiary of the Company as a Restricted Subsidiary or an Unrestricted Subsidiary as of the date of delivery of such financial statements or confirming that there is no change in such information since the later of the Closing Date and the most recent prior delivery of such information;

(iv) simultaneously with the delivery of each set of financial statements referred to in clauses (i) and (ii) above, a certificate of a Financial Officer (A) [reserved], (B) stating whether, to the best knowledge of such Financial Officer, any Default exists on the date of such certificate and, if any Default then exists, setting forth the details thereof and the action which the Company is taking or proposes to take with respect thereto and (C) stating that, to the best knowledge of such Financial Officer, the Collateral and Guarantee Requirement is satisfied;

(v) [reserved];

(vi) promptly upon the mailing thereof to the stockholders of the Company generally, copies of all financial statements and material reports and proxy statements so mailed;

(vii) promptly upon the filing thereof, copies of all registration statements (other than the exhibits thereto and any registration statements on Form S-8 or its equivalent) and reports on Forms 10-K, 10-Q and 8-K (or their equivalents) which the Company shall have filed with the Securities and Exchange Commission;

(viii) promptly following a request therefor, any documentation or other information that a Lender reasonably requests (such request to be made through the Administrative Agent) in order to comply with its ongoing obligations under applicable “know your customer” and anti-money laundering rules and regulations, including the Patriot Act and the Beneficial Ownership Regulation;

(ix) within four Business Days of any executive officer of the Company or any Financial Officer obtaining knowledge of any condition or event recognized by such officer to be a Default, a certificate of a Financial Officer setting forth the details thereof and the action which the Company is taking or proposes to take with respect thereto;

(x) if and when any executive officer of the Company or any Financial Officer obtains knowledge that any ERISA Affiliate (x) has given or is required to give notice to the PBGC of any “reportable event” (as defined in Section 4043 of ERISA) with respect to any Plan which would reasonably be expected to constitute grounds for a termination of such Plan under Title IV of ERISA, or knows that the plan administrator of any Plan has given or is required to give notice of any such reportable event, a copy of the notice of such reportable event given or required to be given to the PBGC, (y) has received notice of complete or partial Withdrawal Liability, a copy of such notice or (z) has received notice from the PBGC under Title IV of ERISA of an intent to terminate or appoint a trustee to administer any Plan, a copy of such notice; and

(xi) from time to time such additional information regarding the financial position or business of the Company and Subsidiaries as the Administrative Agent, at the request of any Lender, may reasonably request.

(b) Certificates delivered pursuant to this Section shall be signed manually or shall be copies of a manually signed certificate.

(c) The Company may provide for electronic delivery of the financial statements, certificates, reports and registration statements described in clauses (i), (ii), (iii), (iv), (v), (vi) and (vii) of paragraph (a) of this Section by posting such financial statements, certificates, reports and registration statements on Intralinks or any similar service approved by the Administrative Agent, or delivering such financial statements, certificates, reports and registration statements to the Administrative Agent for posting on Intralinks (or any such similar service). Furthermore, any items required to be furnished pursuant to Sections 5.01(a)(i), (ii), (vi) or (vii) shall be deemed to have been delivered on the date on which the Administrative Agent receives notice that the Company has filed such item with the Securities and Exchange Commission and is available on the EDGAR website on the Internet at www.sec.gov or any successor government website that is freely and readily available to the Administrative Agent without charge; provided that the Company shall give notice of any such filing to the Administrative Agent (who shall then give notice of any such filing to the Lenders). Notwithstanding the foregoing, the Company shall deliver paper or electronic copies of any such financial statement to the Administrative Agent if the Administrative Agent requests the Company to furnish such paper or electronic copies until written notice to cease delivering such paper or electronic copies is given by the Administrative Agent.

SECTION 5.02. Maintenance of Properties. The Company will, and will cause each Restricted Subsidiary to, maintain and keep in good condition, repair and working order all properties used or useful in the conduct of its business and supply such properties with all necessary equipment and make all necessary repairs, renewals, replacements, betterments and improvements thereof, all as in the judgment of the Company may be necessary so that the business carried on in connection therewith may be properly and advantageously conducted at all times, in each case where the failure to do so would reasonably be expected to have a Material Adverse Effect; provided that nothing in this Section shall prevent the Company or any Restricted Subsidiary from discontinuing the operation and maintenance of any of such properties if such discontinuance is, in the judgment of the Company, desirable in the conduct of the business of the Company or such Restricted Subsidiary, as the case may be, and not disadvantageous in any material respect to the Lenders.

SECTION 5.03. Maintenance of Insurance. The Company will, and will cause each Restricted Subsidiary to, insure and keep insured, with reputable insurance companies, so much of its properties and such of its liabilities for bodily injury or property damage, to such an extent and against such risks (including fire), as companies engaged in similar businesses customarily insure properties and liabilities of a similar character; or, in lieu thereof, the Company will maintain, or cause each Restricted Subsidiary to maintain, a system or systems of self-insurance which will be in accord with the customary practices of companies engaged in similar businesses in maintaining such systems, in each case where the failure to do so would reasonably be expected to have a Material Adverse Effect. Each such policy of insurance shall (i) name the Administrative Agent on behalf of the Lenders as a loss payee or an additional insured, as applicable, thereunder as its interests may appear and (ii) to the extent available from the relevant insurance carrier, in the case of each casualty insurance policy (excluding any business interruption insurance policy), contain a loss payable clause or endorsement that names the Administrative Agent, on behalf of the Lenders, as the loss payee thereunder and, to the extent available, provide for at least 30 days' prior written notice to the Administrative Agent of any modification or cancellation of such policy (or 10 days' prior written notice in the case of the failure to pay any premiums thereunder); provided that the Company shall have until the date that is 60 days after the Closing Date (or such later date as agreed by the Administrative Agent) to comply with the requirements of the foregoing clauses (i) and (ii) with respect to policies in effect on the Closing Date.

SECTION 5.04. Preservation of Corporate Existence. Except pursuant to a transaction not prohibited by Section 6.04 or 6.08, each Loan Party shall preserve and maintain its corporate existence, rights, franchises and privileges in any State of the United States which it shall select as its jurisdiction of incorporation or organization, and qualify and remain qualified as a foreign corporation or foreign organization in each jurisdiction in which such qualification is necessary, except such jurisdictions, if any, where the failure to preserve and maintain its corporate or other organizational existence, rights, franchises and privileges, or qualify or remain qualified will not have a Material Adverse Effect on the business or property of such Loan Party.

SECTION 5.05. Inspections. The Company will, and will cause each of its Restricted Subsidiaries to, permit any authorized representative designated by the Administrative Agent to visit and inspect any of the properties of the Company and any of its Restricted Subsidiaries at which the principal financial records and executive officers of the applicable Person are located, to inspect, copy and take extracts from its and their respective financial and accounting records, and to discuss its and their respective affairs, finances and accounts with its and their Responsible Officers and independent public accountants (subject to such accountants' customary policies and procedures) (provided that the Company (or any of its subsidiaries) may, if it so chooses, have one or more employees or representatives be present at or participate in any such discussion), all upon reasonable notice and at reasonable times during normal business hours; provided that (x) only the Administrative Agent on behalf of the Lenders may exercise the rights of the Administrative Agent and the Lenders under this Section 5.05, (y) the Administrative Agent shall not exercise such rights more often than one time during any calendar year and (z) only one such time per calendar year shall be at the expense of the Company; provided, further, that when an Event of Default exists, the Administrative Agent (or any of its representatives or independent contractors) may do any of the foregoing at the expense of the Company at any time during normal business hours and upon reasonable advance notice; provided, further that notwithstanding anything to the contrary herein, neither the Company nor any Restricted Subsidiary shall be required to disclose, permit the inspection, examination or making of copies of or taking abstracts from, or discuss any document, information or other matter (i) that constitutes non-financial trade secrets or non-financial proprietary information of the Company and its subsidiaries and/or any of its customers and/or suppliers, (ii) in respect of which disclosure to the Administrative Agent or any Lender (or any of their respective representatives or contractors) is prohibited by applicable law, (iii) that is subject to attorney-client or similar privilege or constitutes attorney work product or (iv) in respect of which the Company or any Restricted Subsidiary owes confidentiality obligations to any third party (provided such confidentiality obligations were not entered into solely in contemplation of the requirements of this Section 5.05); provided, further, that in the event any of the circumstances described in the preceding proviso exist, the Company shall provide notice to the Administrative Agent thereof and shall use commercially reasonable efforts to describe, to the extent both feasible and permitted under applicable Requirements of Law or confidentiality obligations, or without waiving such privilege, as applicable, the applicable document, information or other matter.

SECTION 5.06. [Reserved]

SECTION 5.07. Compliance with Laws. The Company will, and will cause each Restricted Subsidiary to, comply in all material respects with all applicable laws, ordinances, rules, regulations and requirements of governmental authorities (including ERISA and the rules and regulations thereunder), except to the extent that (a) the necessity of compliance therewith is contested in good faith by appropriate proceedings or (b) the failure to so comply would not result in any Material Adverse Effect.

SECTION 5.08. Use of Proceeds. The Company will use the proceeds of the Initial Term Loans to make the Closing Date Payment, to pay Transaction Costs and for other general corporate purposes (including, without limitation, repurchases of, and dividends on, its equity securities). None of the Company, any Subsidiary or director, officer, employee or agent of the Company or any Subsidiary will directly or knowingly indirectly use the proceeds of the Loans or lend, contribute or otherwise make available such proceeds to any subsidiary, joint venture partner or other Person for the purpose of (a) financing any payments to any governmental official or employee, political party, official of a political party, candidate for political office, or anyone else acting in an official governmental capacity in material violation of any Anti-Corruption Laws or (b) financing the activities of or any transactions with any Sanctioned Person or in any Sanctioned Country, except to the extent licensed or otherwise authorized under U.S. law. This Section applies, other than to the extent that such covenant would result in a violation of Council Regulation (EC) No 2271/96, as amended (or any implementing law or regulation in any member state of the European Union or the United Kingdom).

SECTION 5.09. Information Regarding Collateral. The Company will furnish to the Collateral Agent prompt written notice of any change in (i) the legal name of any Loan Party, as set forth in its organizational documents, (ii) the jurisdiction of organization or the form of organization of any Loan Party (including as a result of any merger, amalgamation or consolidation), (iii) the location of the chief executive office of any Loan Party or (iv) the organizational identification number, if any, or, with respect to any Loan Party organized under the laws of a jurisdiction that requires such information to be set forth on the face of a UCC financing statement, the Federal Taxpayer Identification Number of such Loan Party. The Company agrees not to effect or permit any change referred to in the preceding sentence unless all filings have been made under the UCC or otherwise that are required in order for the Collateral Agent to continue at all times following such change to have a valid, legal and perfected security interest in all the Collateral.

SECTION 5.10. Collateral and Guarantee Requirement .

(a) If (i) any Restricted Subsidiary (other than an Excluded Subsidiary) is formed or acquired after the Closing Date or (ii) any Subsidiary (other than an Excluded Subsidiary) shall become a Restricted Subsidiary after the Closing Date, then the Company will promptly, but in no event later than 15 days after such formation or acquisition (in the case of clause (i)) or 15 days after any executive officer or Financial Officer of the Company obtains knowledge thereof (in the case of clause (ii)) (or in each case such later date as is acceptable to the Administrative Agent), notify the Administrative Agent thereof and cause the Collateral and Guarantee Requirement to be satisfied with respect to such Restricted Subsidiary.

(b) The Company will, and the Company will cause each of the Material Subsidiaries to, execute any and all further documents, financing statements, agreements and instruments, and take all such further actions (including the filing and recording of financing statements), that may be required under any applicable law, or that the Collateral Agent or the Required Lenders may reasonably request, to cause the Collateral and Guarantee Requirement to be and remain satisfied, all at the expense of the Company.

SECTION 5.11. Credit Ratings. The Company will use commercially reasonable efforts to maintain Credit Ratings from each of S&P and Moody's at all times (but not any specific ratings).

ARTICLE 6 NEGATIVE COVENANTS

From the Closing Date and until the Termination Date has occurred, the Company and each other Borrower covenant and agree with the Lenders that:

SECTION 6.01. Limitation on Indebtedness.

(a) The Company will not, and will not permit any Restricted Subsidiary to, Incur any Indebtedness; provided, however, that the Company or any Restricted Subsidiary may Incur Indebtedness if on the date of the Incurrence of such Indebtedness, after giving effect to the Incurrence thereof, the Consolidated Coverage Ratio would be equal to or greater than 2.00:1.00.

(b) Notwithstanding the foregoing **Section** 6.01(a), the Company and its Restricted Subsidiaries may Incur the following Indebtedness:

(i) (A) Indebtedness (I) Incurred (including but not limited to in respect of letters of credit or bankers' acceptances issued or created thereunder) and (without limiting the foregoing), in each case, any Refinancing Indebtedness in respect thereof, in a maximum principal amount at any time outstanding not exceeding in the aggregate the amount equal to the greater of (x) \$750.0 million and (y) an amount equal to the Borrowing Base (plus, in the event of any refinancing of any such Indebtedness, the aggregate amount of fees, underwriting discounts, premiums and other costs and expenses (including accrued and unpaid interest) Incurred or payable in connection with such refinancing) plus (II) in an unlimited amount, if on the date of the Incurrence of such Indebtedness (other than any such Refinancing Indebtedness), after giving effect to such Incurrence (or, at the Company's option, on the date of the initial borrowing of such Indebtedness or entry into the definitive agreement providing the commitment to fund such Indebtedness after giving pro forma effect to the Incurrence of the entire committed amount of such Indebtedness (such committed amount, a "Ratio Tested Committed Amount"), in which case such Ratio Tested Committed Amount may thereafter be borrowed and reborrowed, in whole or in part, from time to time, without further compliance with this clause) the Consolidated First Lien Leverage Ratio would be equal to or less than 1.50:1.00; and (in the case of this subclause (II)) any Refinancing Indebtedness with respect to any such Indebtedness (or Ratio Tested Committed Amount), (B) Incremental Equivalent Debt and any Refinancing Indebtedness in respect thereof and (C) the Obligations hereunder (including any Additional Term Loans) and any Refinancing Indebtedness in respect thereof;

(ii) Indebtedness (A) of any Restricted Subsidiary to the Company, or (B) of the Company or any Restricted Subsidiary to any Restricted Subsidiary; provided that, in the case of this **Section** 6.01(b)(ii), any subsequent issuance or transfer of any Capital Stock of such Restricted Subsidiary to which such Indebtedness is owed, or other event, that results in such Restricted Subsidiary ceasing to be a Restricted Subsidiary or any other subsequent transfer of such Indebtedness (except to the Company or a Restricted Subsidiary) will be deemed, in each case, an Incurrence of such Indebtedness by the issuer thereof not permitted by this Section 6.01(b)(ii);

(iii) Indebtedness represented by the Senior Notes, any Indebtedness (other than the Indebtedness under any ABL Facility described in Section 6.01(b)(i)(A)(I) above) outstanding (or Incurred pursuant to any commitment outstanding) on the Closing Date and any Refinancing Indebtedness Incurred in respect of any Indebtedness (or unutilized commitments) described in this Section 6.01(b)(iii) or Section 6.01(a) above;

(iv) Purchase Money Obligations and Finance Lease Obligations, and in each case any Refinancing Indebtedness with respect thereto, (A) outstanding on the Closing Date and (B) in an additional aggregate principal amount at any time outstanding not exceeding an amount equal to the greater of \$140.0 million and 3.5% of Consolidated Tangible Assets;

(v) Indebtedness (A) supported by a letter of credit issued pursuant to any Credit Facility in a principal amount not exceeding the face amount of such letter of credit or (B) consisting of accommodation guarantees for the benefit of trade creditors of the Company or any of its Restricted Subsidiaries;

(vi) (A) Guarantees by the Company or any Restricted Subsidiary of Indebtedness or any other obligation or liability of the Company or any Restricted Subsidiary (other than any Indebtedness Incurred by the Company or such Restricted Subsidiary, as the case may be, in violation of this **Section 6.01**), or (B) without limiting Section 6.06, Indebtedness of the Company or any Restricted Subsidiary arising by reason of any Lien granted by or applicable to such Person securing Indebtedness of the Company or any Restricted Subsidiary (other than any Indebtedness Incurred by the Company or such Restricted Subsidiary, as the case may be, in violation of this Section 6.01);

(vii) Indebtedness of the Company or any Restricted Subsidiary (A) arising from the honoring of a check, draft or similar instrument of such Person drawn against insufficient funds in the ordinary course of business, or (B) consisting of guarantees, indemnities, obligations in respect of earnouts or other purchase price adjustments, or similar obligations, Incurred in connection with the acquisition or disposition of any business, assets or Person;

(viii) Indebtedness of the Company or any Restricted Subsidiary in respect of (A) letters of credit, bankers' acceptances or other similar instruments or obligations issued, or relating to liabilities or obligations incurred, in the ordinary course of business (including those issued to governmental entities in connection with self-insurance under applicable workers' compensation statutes), (B) completion guarantees, surety, judgment, appeal or performance bonds, or other similar bonds, instruments or obligations, provided, or relating to liabilities or obligations incurred, in the ordinary course of business, including in respect of liabilities or obligations of franchisees, (C) Hedging Obligations, (D) Management Guarantees or Management Indebtedness, (E) the financing of insurance premiums in the ordinary course of business, (F) take-or-pay obligations under supply arrangements incurred in the ordinary course of business, (G) netting, overdraft protection and other arrangements arising under standard business terms of any bank at which the Company or any Restricted Subsidiary maintains an overdraft, cash pooling or other similar facility or arrangement, (H) Junior Capital, (I) Bank Products Obligations or (J) Open Account Obligations;

(ix) Indebtedness (A) of a Receivables Subsidiary secured by a Lien on all or part of the assets disposed of in, or otherwise Incurred in connection with, a Financing Disposition or (B) otherwise Incurred in connection with a Specified Receivables Facility in an aggregate principal amount at any time outstanding under this **Section 6.01(b)(ix)** not exceeding an amount equal to the greater of \$120.0 million and 60.0% of the aggregate accounts excluded from the definition of "Eligible Accounts" under the ABL Facility as such definition is in effect on the Closing Date; provided that (1) such Indebtedness is not recourse to the Company or any Restricted Subsidiary that is not a Receivables Subsidiary (other than with respect to Standard Receivables Undertakings); (2) in the event such Indebtedness shall become recourse to the Company or any Restricted Subsidiary that is not a Receivables Subsidiary (other than with respect to Standard Receivables Undertakings), such Indebtedness will be deemed to be, and must be classified by the Company as, Incurred at such time (or at the time initially Incurred) under one or more of the other provisions of this **Section 6.01** for so long as such Indebtedness shall be so recourse; and (3) in the event that at any time thereafter such Indebtedness shall comply with the provisions of the preceding subclause (1), the Company may classify such Indebtedness in whole or in part as Incurred under this **Section 6.01(b)(ix)**;

(x) Contribution Indebtedness and any Refinancing Indebtedness with respect thereto;

(xi) Indebtedness of (A) the Company or any Restricted Subsidiary Incurred to finance or refinance, or otherwise Incurred in connection with, any acquisition of assets (including Capital Stock), business or Person, or any merger or consolidation of any Person with or into the Company or any Restricted Subsidiary, or (B) any Person that is acquired by or merged or consolidated with or into the Company or any Restricted Subsidiary (including Indebtedness thereof Incurred in connection with any such acquisition, merger or consolidation); provided that on the date of such acquisition, merger or consolidation, after giving effect thereto, (x) in the case of any such Indebtedness that is secured by Parity Priority Liens on the Collateral, either (1) the Consolidated First Lien Leverage Ratio would be equal to or less than 1.50:1.00 or (2) the Consolidated First Lien Leverage Ratio would be equal to or be less than the Consolidated First Lien Leverage Ratio immediately prior to giving effect thereto, or (y) in the case of any other such Indebtedness Incurred pursuant to this **Section 6.01(b)(xi)**, either (1) the Consolidated Coverage Ratio would be equal to or greater than 2.00:1.00 or (2) the Consolidated Coverage Ratio would be equal to or be greater than the Consolidated Coverage Ratio immediately prior to giving effect thereto; and any Refinancing Indebtedness with respect to any such Indebtedness;

(xii) Indebtedness of the Company or any Restricted Subsidiary in an aggregate principal amount at any time outstanding not exceeding an amount equal to the greater of \$240.0 million and 6.0% of Consolidated Tangible Assets;

(xiii) Indebtedness of the Company or any Restricted Subsidiary Incurred as consideration in connection with any acquisition of assets (including Capital Stock), business or Person, or any merger or consolidation of any Person with or into the Company or any Restricted Subsidiary, and any Refinancing Indebtedness with respect thereto, in an aggregate principal amount at any time outstanding not exceeding an amount equal to the greater of \$100.0 million and 2.5% of Consolidated Tangible Assets;

(xiv) Indebtedness issuable upon the conversion or exchange of shares of Disqualified Stock issued in accordance with **Section 6.01(a)**, and any Refinancing Indebtedness with respect thereto;

(xv) Indebtedness of any Foreign Subsidiary in an aggregate principal amount at any time outstanding not exceeding an amount equal to the greater of \$200.0 million and 5.0% of Consolidated Tangible Assets;

(xvi) Indebtedness of any Restricted Subsidiary that is not a Guarantor in an aggregate principal amount at any time outstanding not exceeding an amount equal to the greater of \$200.0 million and 5.0% of Consolidated Tangible Assets; and

(xvii) Indebtedness existing on the Closing Date.

(c) For purposes of determining compliance with, and the outstanding principal amount of any particular Indebtedness Incurred pursuant to and in compliance with, this **Section 6.01**, (i) any other obligation of the obligor on such Indebtedness (or of any other Person who could have Incurred such Indebtedness under this **Section 6.01**) arising under any Guarantee, Lien or letter of credit, bankers' acceptance or other similar instrument or obligation supporting such Indebtedness shall be disregarded to the extent that such Guarantee, Lien or letter of credit, bankers' acceptance or other similar instrument or obligation secures the principal amount of such Indebtedness; (ii) in the event that Indebtedness meets the criteria of more than one of the types of Indebtedness described in **Section 6.01(a)** or **(b)** above, the Company, in its sole discretion, shall classify or reclassify such item of Indebtedness and may include the amount and type of such Indebtedness in **Section 6.01(a)** or one or more of the clauses or subclauses of **Section 6.01(b)** above (including in part under one such clause or subclause and in part under another such clause or subclause); provided that (if the Company shall so determine) any Indebtedness Incurred pursuant to **Section 6.01(b)(iv)**, **(b)(ix)**, **(b)(xii)**, **(b)(xiii)**, **(b)(xv)**, **(b)(xvi)** or **(b)(xvii)** shall cease to be deemed Incurred or outstanding for purposes of such clause but shall be deemed Incurred for the purposes of **Section 6.01(a)** or **Section 6.01(b)(i)(A)(II)** from and after the first date on which the Company or any Restricted Subsidiary could have Incurred such Indebtedness under **Section 6.01(a)** or **Section 6.01(b)(i)(A)(II)**, as applicable, without reliance on such clause; (iii) the amount of Indebtedness issued at a price that is less than the principal amount thereof shall be equal to the amount of the liability in respect thereof determined in accordance with GAAP; (iv) the principal amount of Indebtedness outstanding under any clause of **Section 6.01(b)** above shall be determined after giving effect to the application of proceeds of any such Indebtedness to refinance any such other Indebtedness; (v) if any Indebtedness is Incurred to refinance Indebtedness initially Incurred (or, Indebtedness Incurred to refinance Indebtedness initially Incurred) in reliance on any provision of **Section 6.01(b)** above measured by a percentage of Consolidated Tangible Assets at the time of Incurrence, and such refinancing would cause such percentage of Consolidated Tangible Assets to be exceeded if calculated based on the Consolidated Tangible Assets on the date of such refinancing, such percentage of Consolidated Tangible Assets shall not be deemed to be exceeded (and such refinancing Indebtedness shall be deemed permitted) so long as the principal amount of such refinancing Indebtedness does not exceed an amount equal to the principal amount of such Indebtedness being refinanced, plus the aggregate amount of fees, underwriting discounts, premiums and other costs and expenses (including accrued and unpaid interest) Incurred or payable in connection with such refinancing; and (vi) if any Indebtedness is Incurred to refinance Indebtedness initially Incurred (or, Indebtedness Incurred to refinance Indebtedness initially Incurred) in reliance on any provision of **Section 6.01(b)** above measured by a dollar amount, such dollar amount shall not be deemed to be exceeded (and such refinancing Indebtedness shall be deemed permitted) to the extent the principal amount of such newly Incurred Indebtedness does not exceed the principal amount of such Indebtedness being refinanced, plus the aggregate amount of fees, underwriting discounts, premiums and other costs and expenses (including accrued and unpaid interest) Incurred or payable in connection with such refinancing. Notwithstanding anything herein to the contrary, Indebtedness outstanding on the Closing Date under the ABL Facility shall be classified as Incurred under **Section 6.01(b)(i)(A)(I)**, and may not later be reclassified.

(d) For purposes of determining compliance with any provision of Section 6.01(b) (or any category of Permitted Liens described in the definition thereof) measured by a dollar amount or by reference to a percentage of Consolidated Tangible Assets, in each case, for the Incurrence of Indebtedness or Liens securing Indebtedness denominated in a foreign currency, the dollar equivalent principal amount of such Indebtedness Incurred pursuant thereto shall be calculated based on the relevant currency exchange rate in effect on the date that such Indebtedness was Incurred, in the case of term Indebtedness, or first committed, in the case of revolving or deferred draw Indebtedness; provided that (x) the dollar equivalent principal amount of any such Indebtedness outstanding on the Closing Date shall be calculated based on the relevant currency exchange rate in effect on the Closing Date, (y) if such Indebtedness is Incurred to refinance other Indebtedness denominated in a foreign currency (or in a different currency from such Indebtedness so being Incurred), and such refinancing would cause the applicable provision of Section 6.01(b) (or category of Permitted Liens) measured by a dollar amount or by reference to a percentage of Consolidated Tangible Assets, as applicable, to be exceeded if calculated at the relevant currency exchange rate in effect on the date of such refinancing, such provision of Section 6.01(b) (or category of Permitted Liens) measured by a dollar amount or by reference to a percentage of Consolidated Tangible Assets, as applicable, shall be deemed not to have been exceeded so long as the principal amount of such Refinancing Indebtedness does not exceed (i) the outstanding or committed principal amount (whichever is higher) of such Indebtedness being refinanced plus (ii) the aggregate amount of fees, underwriting discounts, premiums and other costs and expenses (including accrued and unpaid interest) Incurred or payable in connection with such refinancing and (z) the dollar equivalent principal amount of Indebtedness denominated in a foreign currency and Incurred pursuant to the ABL Facility shall be calculated based on the relevant currency exchange rate in effect on, at the Company's option, (A) the Closing Date, (B) any date on which any of the respective commitments under the ABL Facility shall be reallocated between or among facilities or subfacilities thereunder, or on which such rate is otherwise calculated for any purpose thereunder, or (C) the date of such Incurrence. The principal amount of any Indebtedness Incurred to refinance other Indebtedness, if Incurred in a different currency from the Indebtedness being refinanced, shall be calculated based on the currency exchange rate applicable to the currencies in which such respective Indebtedness is denominated that is in effect on the date of such refinancing.

SECTION 6.02. Limitation on Restricted Payments.

(a) The Company shall not, and shall not permit any Restricted Subsidiary to, directly or indirectly, (i) declare or pay any dividend or make any distribution on or in respect of its Capital Stock (including any such payment in connection with any merger or consolidation to which the Company is a party) except (x) dividends or distributions payable solely in its Capital Stock (other than Disqualified Stock) and (y) dividends or distributions payable to the Company or any Restricted Subsidiary (and, in the case of any such Restricted Subsidiary making such dividend or distribution, to holders of its Capital Stock on no more than a pro rata basis, measured by the number of shares owned of the applicable class), (ii) purchase, redeem, retire or otherwise acquire for value any Capital Stock of the Company held by Persons other than the Company or a Restricted Subsidiary (other than any acquisition of Capital Stock deemed to occur upon the exercise of options if such Capital Stock represents a portion of the exercise price thereof), (iii) voluntarily purchase, repurchase, redeem, defease or otherwise voluntarily acquire or retire for value, prior to scheduled maturity, scheduled repayment or scheduled sinking fund payment, any Subordinated Obligations (other than a purchase, repurchase, redemption, defeasance or other acquisition or retirement for value in anticipation of satisfying a sinking fund obligation, principal installment or final maturity, in each case due within one year of the date of such purchase, repurchase, redemption, defeasance or other acquisition or retirement) or (iv) make any Investment (other than a Permitted Investment) in any Person (any such dividend, distribution, purchase, repurchase, redemption, defeasance, other acquisition or retirement or Investment being herein referred to as a "**Restricted Payment**"), if at the time the Company or such Restricted Subsidiary makes such Restricted Payment after giving effect thereto:

- (1) an Event of Default shall have occurred and be continuing (or would result therefrom);
- (2) the Company could not Incur at least an additional \$1.00 of Indebtedness pursuant to **Section 6.01(a)**; or
- (3) the aggregate amount of such Restricted Payment and all other Restricted Payments (the amount so expended, if other than in cash, to be as determined in good faith by the Board of Directors, whose determination shall be conclusive and evidenced by a resolution of the Board of Directors) declared or made subsequent to the Closing Date and then outstanding would exceed, without duplication, the sum of:

(A) 50.0% of the Consolidated Net Income accrued during the period (treated as one accounting period) beginning on August 2, 2021 to the end of the most recent fiscal quarter ending prior to the date of such Restricted Payment for which consolidated financial statements of the Company are available (or, in case such Consolidated Net Income shall be a negative number, zero);

(B) the aggregate Net Cash Proceeds and the fair value (as determined in good faith by the Company) of property or assets received (x) by the Company as capital contributions to the Company after the Closing Date or from the issuance or sale (other than to a Restricted Subsidiary) of its Capital Stock (other than Disqualified Stock) after the Closing Date (other than Excluded Contributions and Contribution Amounts) or (y) by the Company or any Restricted Subsidiary from the Incurrence by the Company or any Restricted Subsidiary after the Closing Date of Indebtedness that shall have been converted into or exchanged for Capital Stock of the Company (other than Disqualified Stock) or Capital Stock of any Parent Entity, plus the amount of any cash and the fair value (as determined in good faith by the Company) of any property or assets, received by the Company or any Restricted Subsidiary upon such conversion or exchange;

(C) (1) the aggregate amount of cash and the fair value (as determined in good faith by the Company) of any property or assets received from dividends, distributions, interest payments, return of capital, repayments of Investments or other transfers of assets to the Company or any Restricted Subsidiary from any Unrestricted Subsidiary, including dividends or other distributions related to dividends or other distributions made pursuant to Section 6.02(b)(x), plus (2) the aggregate amount resulting from the redesignation of any Unrestricted Subsidiary as a Restricted Subsidiary (valued in each case as provided in the definition of “Investment”); and

(D) in the case of any disposition or repayment of any Investment constituting a Restricted Payment (without duplication of any amount deducted in calculating the amount of Investments at any time outstanding included in the amount of Restricted Payments), the aggregate amount of cash and the fair value (as determined in good faith by the Company) of any property or assets received by the Company or a Restricted Subsidiary with respect to all such dispositions and repayments.

(b) The provisions of Section 6.02(a) do not prohibit any of the following (each, a “**Permitted Payment**”):

(i) (x) any purchase, redemption, repurchase, defeasance or other acquisition or retirement of Capital Stock of the Company (“**Treasury Capital Stock**”) or Subordinated Obligations made by exchange (including any such exchange pursuant to the exercise of a conversion right or privilege in connection with which cash is paid in lieu of the issuance of fractional shares) for, or out of the proceeds of the issuance or sale of, Capital Stock of the Company (other than Disqualified Stock and other than Capital Stock issued or sold to a Subsidiary) (“**Refunding Capital Stock**”) or a capital contribution to the Company, in each case other than Excluded Contributions and Contribution Amounts; provided that the Net Cash Proceeds from such issuance, sale or capital contribution shall be excluded in subsequent calculations under Section 6.02(a)(3)(B) and (y) if immediately prior to such acquisition or retirement of such Treasury Capital Stock, dividends thereon were permitted pursuant to Section 6.02(b)(xi), dividends on such Refunding Capital Stock in an aggregate amount per annum not exceeding the aggregate amount per annum of dividends so permitted on such Treasury Capital Stock;

(ii) any purchase, redemption, repurchase, defeasance or other acquisition or retirement of Subordinated Obligations (w) made by exchange for, or out of the proceeds of the Incurrence of, Indebtedness of the Company or any of its Restricted Subsidiaries or Refinancing Indebtedness Incurred in compliance with **Section 6.01**, (x) from Net Available Cash or an equivalent amount to the extent permitted by **Section 6.04**, (y) [reserved] or (z) constituting Acquired Indebtedness;

(iii) any dividend paid or redemption made within 60 days after the date of declaration thereof or of the giving of notice thereof, as applicable, if at such date of declaration or the giving of such notice, such dividend or redemption would have complied with this **Section 6.02**;

(iv) Investments or other Restricted Payments in an aggregate amount outstanding at any time not to exceed the amount of Excluded Contributions;

(v) loans, advances, dividends or distributions by the Company to any Parent Entity to permit any Parent Entity to repurchase or otherwise acquire its Capital Stock (including any options, warrants or other rights in respect thereof), or payments by the Company to repurchase or otherwise acquire Capital Stock of the Company (including any options, warrants or other rights in respect thereof), in each case from current or former Management Investors or repurchases of equity from others to offset dilution from issuances of equity to such persons (including any repurchase or acquisition by reason of the Company retaining any Capital Stock, option, warrant or other right in respect of tax withholding obligations, and any related payment in respect of any such obligation), such payments, loans, advances, dividends or distributions not to exceed an amount (net of repayments of any such loans or advances) equal to (w) (1) \$50.0 million, plus (2) \$25.0 million multiplied by the number of calendar years that have commenced since the Closing Date, plus (x) the Net Cash Proceeds received by the Company since the Closing Date from, or as a capital contribution from, the issuance or sale to Management Investors of Capital Stock (including any options, warrants or other rights in respect thereof), to the extent such Net Cash Proceeds are not included in any calculation under **Section 6.02(a)(3)(B)(x)**, plus (y) the cash proceeds of key man life insurance policies received by the Company or any Restricted Subsidiary since the Closing Date to the extent such cash proceeds are not included in any calculation under **Section 6.02(a)(3)(A)**; **provided** that any cancellation of Indebtedness owing to the Company or any Restricted Subsidiary by any current or former Management Investor in connection with any repurchase or other acquisition of Capital Stock (including any options, warrants or other rights in respect thereof) from any Management Investor shall not constitute a Restricted Payment for purposes of this covenant or any other provision of this Agreement;

(vi) any Restricted Payments in an amount not to exceed in any fiscal year of the Company the greater of (x) \$280.0 million and (y) 6.0% of Market Capitalization;

(vii) Restricted Payments (including loans or advances) in an aggregate amount outstanding at any time not to exceed an amount (net of repayments of any such loans or advances) equal to the greater of \$120.0 million and 3.0% of Consolidated Tangible Assets;

(viii) loans, advances, dividends or distributions to any Parent Entity or other payments by the Company or any Restricted Subsidiary (A) to satisfy or permit any Parent Entity to satisfy obligations under any management agreements, (B) pursuant to any tax sharing agreement or (C) to pay or permit any Parent Entity to pay (but without duplication) any Parent Entity Expenses or any related taxes;

(ix) payments by the Company, or loans, advances, dividends or distributions by the Company to any Parent Entity to make payments, to holders of Capital Stock of the Company in lieu of issuance of fractional shares of such Capital Stock;

(x) dividends or other distributions of, or Investments paid for or made with, Capital Stock, Indebtedness or other securities of Unrestricted Subsidiaries;

(xi) (A) dividends on any Designated Preferred Stock of the Company issued after the Closing Date; provided that at the time of such issuance and after giving effect thereto on a pro forma basis, the Consolidated Coverage Ratio would be equal to or greater than 2.00:1.00, (B) loans, advances, dividends or distributions to any Parent Entity to permit dividends on any Designated Preferred Stock of any Parent Entity issued on or after the Closing Date if the net proceeds of the issuance of such Designated Preferred Stock have been contributed to the Company or any of its Restricted Subsidiaries; provided that the aggregate amount of all loans, advances, dividends or distributions paid pursuant to this subclause (B) shall not exceed the net proceeds of such issuance of Designated Preferred Stock received by or contributed to the Company or any of its Restricted Subsidiaries or (C) any dividend on Refunding Capital Stock that is Preferred Stock; provided that at the time of the declaration of such dividend and after giving effect thereto on a pro forma basis, the Consolidated Coverage Ratio would be at least 2.00:1.00;

(xii) Investments in Unrestricted Subsidiaries or joint ventures in an aggregate amount outstanding at any time not exceeding an amount equal to the greater of \$100.0 million and 2.5% of Consolidated Tangible Assets;

(xiii) distributions or payments of Special Purpose Financing Fees;

(xiv) the declaration and payment of dividends to holders of any class or series of Disqualified Stock, or of any Preferred Stock of a Restricted Subsidiary, Incurred in accordance with the terms of **Section 6.01**;

(xv) Investments or other Restricted Payments in an aggregate amount outstanding at any time not to exceed an amount equal to Declined Proceeds, plus the amount of Excluded Proceeds;

(xvi) any Restricted Payment; provided that on a pro forma basis after giving effect to such Restricted Payment the Consolidated Total Leverage Ratio would be equal to or less than 4.00:1.00;

(xvii) [reserved];

(xviii) the Closing Date Payment, the Closing Date Distribution and any distribution, as a dividend, cash payment or otherwise, of all or any portion of the equity interests of the Spin Business (as defined in the Separation Agreement) or any of the assets thereof;

(xix) the distribution, as a dividend or otherwise, of shares of Capital Stock of, or Indebtedness owed to the Company or a Restricted Subsidiary by, Unrestricted Subsidiaries; and

(xx) payments or distributions to dissenting stockholders pursuant to applicable law, pursuant to or in connection with a consolidation, amalgamation, merger or transfer of all or substantially all of the assets of the Company and the Restricted Subsidiaries, taken as a whole, that complies with the covenant described under Section 6.08;

provided that (A) in the case of clause (iii) of this Section 6.02(b), the net amount of any such Permitted Payment shall be included in subsequent calculations of the amount of Restricted Payments, (B) in all cases other than pursuant to clause (A) immediately above, the net amount of any such Permitted Payment shall be excluded in subsequent calculations of the amount of Restricted Payments, and (C) solely with respect to clauses (vi) and (xvi) of this Section 6.02(b), no Default or Event of Default shall have occurred and be continuing at the time of any such Permitted Payment after giving effect thereto. The Company, in its sole discretion, may classify any Investment or other Restricted Payment as being made in part under one of the clauses or subclauses of this Section 6.02, (or, in the case of any Investment, the clauses or subclauses of Permitted Investments) and in part under one or more other such clauses or subclauses (or, as applicable, clauses or subclauses).

Notwithstanding any other provision of this Agreement, this Agreement does not restrict any redemption or other payment by the Company or any Restricted Subsidiary made as a mandatory principal redemption or other payment in respect of Subordinated Obligations pursuant to an “AHYDO saver” provision of any agreement or instrument in respect of Subordinated Obligations, and the Company’s determination in good faith of the amount of any such “AHYDO saver” mandatory principal redemption or other payment shall be conclusive and binding for all purposes under this Agreement.

SECTION 6.03. Limitation on Restrictions on Distributions from Restricted Subsidiaries . The Company will not, and will not permit any Restricted Subsidiary to, create or otherwise cause to exist or become effective any consensual encumbrance or restriction on the ability of any Restricted Subsidiary to (a) pay dividends or make any other distributions on its Capital Stock or pay any Indebtedness or other obligations owed to the Company, (b) make any loans or advances to the Company or (c) transfer any of its property or assets to the Company (provided that dividend or liquidation priority between classes of Capital Stock, or subordination of any obligation (including the application of any remedy bars thereto) to any other obligation, will not be deemed to constitute such an encumbrance or restriction), except any encumbrance or restriction:

(i) pursuant to an agreement or instrument in effect at or entered into on the Closing Date, any Credit Facility, this Agreement, any Incremental Equivalent Debt, any Additional Non-ABL Secured Debt Obligations, the Senior Notes or the indenture with respect thereto;

(ii) pursuant to any agreement or instrument of a Person, or relating to Indebtedness or Capital Stock of a Person, which Person is acquired by or merged or consolidated with or into the Company or any Restricted Subsidiary, or which agreement or instrument is assumed by the Company or any Restricted Subsidiary in connection with an acquisition of assets from such Person, or any other transaction entered into in connection with any such acquisition, merger or consolidation, as in effect at the time of such acquisition, merger, consolidation or transaction (except to the extent that such Indebtedness was incurred to finance, or otherwise in connection with, such acquisition, merger, consolidation or transaction); provided that for purposes of this clause (ii), if a Person other than the Company is the Successor Company with respect thereto, any Subsidiary thereof or agreement or instrument of such Person or any such Subsidiary shall be deemed acquired or assumed, as the case may be, by the Company or a Restricted Subsidiary, as the case may be, when such Person becomes such Successor Company;

(iii) pursuant to an agreement or instrument (a “**Refinancing Agreement**”) effecting a refinancing of Indebtedness Incurred or outstanding pursuant or relating to, or that otherwise extends, renews, refunds, refinances or replaces, any agreement or instrument referred to in clause (i) or (ii) of this Section 6.03 or this clause (iii) (an “**Initial Agreement**”) or that is, or is contained in, any amendment, supplement or other modification to an Initial Agreement or Refinancing Agreement (an “**Amendment**”); provided, however, that the encumbrances and restrictions contained in any such Refinancing Agreement or Amendment taken as a whole are not materially less favorable to the Lenders than encumbrances and restrictions contained in the Initial Agreement or Initial Agreements to which such Refinancing Agreement or Amendment relates (as determined in good faith by the Company);

(iv) pursuant to customary provisions in joint venture agreements and other similar agreements entered into in the ordinary course of business;

(v) (A) pursuant to any agreement or instrument that restricts in a customary manner the assignment or transfer thereof, or the subletting, assignment or transfer of any property or asset subject thereto, (B) by virtue of any transfer of, agreement to transfer, option or right with respect to, or Lien on, any property or assets of the Company or any Restricted Subsidiary (including IP Rights) not otherwise prohibited by this Agreement, (C) contained in mortgages, pledges or other security agreements securing Indebtedness or other obligations of the Company or a Restricted Subsidiary to the extent restricting the transfer of the property or assets subject thereto, (D) pursuant to customary provisions restricting dispositions of real property interests set forth in any reciprocal easement agreements of the Company or any Restricted Subsidiary, (E) pursuant to Purchase Money Obligations that impose encumbrances or restrictions on the property or assets so acquired, (F) on cash or other deposits, net worth or inventory imposed by customers or suppliers under agreements entered into in the ordinary course of business, (G) pursuant to customary provisions contained in agreements and instruments entered into in the ordinary course of business (including but not limited to leases, licenses and sublicenses) or in joint venture and other similar agreements or in shareholder, partnership, limited liability company and other similar agreements in respect of non-wholly owned Restricted Subsidiaries, (H) that arises or is agreed to in the ordinary course of business and does not detract from the value of property or assets of the Company or any Restricted Subsidiary in any manner material to the Company or such Restricted Subsidiary, or (I) pursuant to Hedging Obligations, Bank Products Obligations or Open Account Obligations;

(vi) with respect to any agreement for the direct or indirect disposition of Capital Stock, property or assets of any Person, property or assets, imposing restrictions with respect to such Person, Capital Stock, property or assets pending the closing of such sale or disposition;

(vii) by reason of any applicable law, rule, regulation or order, or required by any regulatory authority having jurisdiction over the Company or any Restricted Subsidiary or any of their businesses, including any such law, rule, regulation, order or requirement applicable in connection with such Restricted Subsidiary's status (or the status of any Subsidiary of such Restricted Subsidiary) as a Captive Insurance Subsidiary; or

(viii) pursuant to an agreement or instrument (A) relating to any Indebtedness permitted to be Incurred subsequent to the Closing Date pursuant to Section 6.01 (1) if the encumbrances and restrictions contained in any such agreement or instrument taken as a whole are not materially less favorable to the Lenders than the encumbrances and restrictions contained in the Initial Agreements (as determined in good faith by the Company) or (2) if such encumbrance or restriction is not materially more disadvantageous to the Lenders than is customary in comparable financings (as determined in good faith by the Company) and either (x) the Company determines in good faith that such encumbrance or restriction will not materially affect the Company's ability to make principal or interest payments on the Loans or (y) such encumbrance or restriction applies only if a default occurs in respect of a payment or financial covenant relating to such Indebtedness, (B) relating to any sale of receivables by or Indebtedness of a Foreign Subsidiary or (C) relating to Indebtedness of or a Financing Disposition by or to or in favor of any Receivables Subsidiary.

SECTION 6.04. Limitation on Sales of Assets and Subsidiary Stock .

(a) The Company will not, and will not permit any Restricted Subsidiary to, make any Asset Disposition unless:

(i) the Company or such Restricted Subsidiary receives consideration (including by way of relief from, or by any other Person assuming responsibility for, any liabilities, contingent or otherwise) at the time of such Asset Disposition at least equal to the Fair Market Value of the shares and assets subject to such Asset Disposition, as such Fair Market Value (on the date a legally binding commitment for such Asset Disposition was entered into) may be determined in good faith by the Company, whose determination shall be conclusive (including as to the value of all noncash consideration);

(ii) in the case of any Asset Disposition (or series of related Asset Dispositions) having a Fair Market Value (on the date a legally binding commitment for such Asset Disposition was entered into) of \$50.0 million or more, at least 75.0% of the consideration therefor (excluding, in the case of an Asset Disposition (or series of related Asset Dispositions), any consideration by way of relief from, or by any other Person assuming responsibility for, any liabilities, contingent or otherwise, that are not Indebtedness) for such Asset Disposition, together with all other Asset Dispositions since the Closing Date (on a cumulative basis) received by the Company or such Restricted Subsidiary is in the form of cash; and

(iii) if such Asset Disposition involves the Disposition of Collateral, the Company shall apply the Net Available Cash of such Asset Disposition (or the applicable portion thereof) in accordance with the provisions of Section 2.11(b)(ii).

Notwithstanding the foregoing provision in Section 6.04(a)(iii), to the extent that repatriating any or all of the Net Available Cash from any Asset Disposition by a Foreign Subsidiary (x) would result in material adverse tax consequences to the Company or any of its Subsidiaries or (y) is prohibited or delayed by applicable local law from being repatriated to the United States (in the case of the foregoing clauses (x) and (y), as reasonably determined by the Company in good faith which determination shall be conclusive), the portion of such Net Available Cash so affected will not be required to be applied in compliance with clause (iii) of the first paragraph of this covenant, and such amounts may be retained by the applicable Foreign Subsidiary; provided that, in the case of this clause (y), the Company shall take commercially reasonable efforts to cause the applicable Foreign Subsidiary to take all actions reasonably required by the applicable local law, applicable organizational impediments or other impediment to permit such repatriation, and if such repatriation of any of such affected Net Available Cash can be achieved such repatriation will be promptly effected and such repatriated Net Available Cash will be applied (whether or not repatriation actually occurs) in compliance with clause (iii) of the first paragraph of this covenant. The time periods set forth in this covenant shall not start until such time as the Net Available Cash may be repatriated whether or not such repatriation actually occurs.

Notwithstanding the foregoing provisions of this Section 6.04, the Company and the Restricted Subsidiaries shall not be required to apply any Net Available Cash or equivalent amount in accordance with this Section 6.04 except to the extent that the aggregate Net Available Cash from all Asset Dispositions of Collateral or equivalent amount that is not applied in accordance with this Section 6.04 exceeds \$30.0 million

For the purposes of Section 6.04(a)(ii), the following are deemed to be cash: (1) Temporary Cash Investments and Cash Equivalents; (2) the assumption of Indebtedness of the Company (other than Disqualified Stock of the Company) or any Restricted Subsidiary and the release of the Company or such Restricted Subsidiary from all liability on payment of the principal amount of such Indebtedness in connection with such Asset Disposition; (3) Indebtedness of any Restricted Subsidiary that is no longer a Restricted Subsidiary as a result of such Asset Disposition, to the extent that the Company and each other Restricted Subsidiary are released from any Guarantee of payment of the principal amount of such Indebtedness in connection with such Asset Disposition; (4) securities received by the Company or any Restricted Subsidiary from the transferee that are converted by the Company or such Restricted Subsidiary into cash within 180 days; (5) consideration consisting of Indebtedness of the Company or any Restricted Subsidiary; (6) Additional Assets; and (7) any Designated Noncash Consideration received by the Company or any of its Restricted Subsidiaries in an Asset Disposition having an aggregate Fair Market Value, taken together with all other Designated Noncash Consideration received pursuant to this clause, not to exceed an aggregate amount at any time outstanding equal to the greater of \$50.0 million and 1.25% of Consolidated Tangible Assets (with the Fair Market Value of each item of Designated Noncash Consideration being measured on the date a legally binding commitment for such disposition (or, if later, for the payment of such item) was entered into and without giving effect to subsequent changes in value).

SECTION 6.05. Limitation on Transaction with Affiliates

(a) The Company will not, and will not permit any Restricted Subsidiary to, directly or indirectly, enter into or conduct any transaction or series of related transactions (including the purchase, sale, lease or exchange of any property or the rendering of any service) with any Affiliate of the Company (an “Affiliate Transaction”) involving aggregate consideration in excess of the greater of \$20.0 million and 0.50% of Consolidated Tangible Assets unless (i) the terms of such Affiliate Transaction are not materially less favorable to the Company or such Restricted Subsidiary, as the case may be, than those that could be obtained at the time in a transaction with a Person who is not such an Affiliate and (ii) if such Affiliate Transaction involves aggregate consideration in excess of the greater of \$50.0 million and 1.25% of Consolidated Tangible Assets, the terms of such Affiliate Transaction have been approved by a majority of the Board of Directors. For purposes of this Section 6.05(a), any Affiliate Transaction shall be deemed to have satisfied the requirements set forth in this Section 6.05(a) if (x) such Affiliate Transaction is approved by a majority of the Disinterested Directors or (y) in the event there are no Disinterested Directors, a fairness opinion is provided by a nationally recognized appraisal or investment banking firm with respect to such Affiliate Transaction.

(b) The provisions of Section 6.05(a) will not apply to:

(i) any Restricted Payment Transaction;

(ii) (A) the entering into, maintaining or performance of any employment or consulting contract, collective bargaining agreement, benefit plan, program or arrangement, related trust agreement or any other similar arrangement for or with any current or former management member, employee, officer or director or consultant of or to the Company or any Restricted Subsidiary heretofore or hereafter entered into in the ordinary course of business, including vacation, health, insurance, deferred compensation, severance, retirement, savings or other similar plans, programs or arrangements, (B) payments, compensation, performance of indemnification or contribution obligations, the making or cancellation of loans in the ordinary course of business to any such management members, employees, officers, directors or consultants, (C) any issuance, grant or award of stock, options, other equity related interests or other securities, to any such management members, employees, officers, directors or consultants, (D) the payment of reasonable fees to directors of the Company or any of its Subsidiaries (as determined in good faith by the Company or such Subsidiary), or (E) any transaction with an officer or director of the Company or any of its Subsidiaries in the ordinary course of business, or (F) Management Advances and payments in respect thereof (or in reimbursement of any expenses referred to in the definition of such term);

- (iii) any transaction between or among any of the Company, one or more Restricted Subsidiaries, or one or more Receivables Subsidiaries,
- (iv) any transaction arising out of agreements or instruments in existence on the Closing Date, and any payments made pursuant thereto;
- (v) any transaction in the ordinary course of business on terms that are fair to the Company and its Restricted Subsidiaries in the reasonable determination of the Board of Directors or senior management of the Company, or are not materially less favorable to the Company or the relevant Restricted Subsidiary than those that could be obtained at the time in a transaction with a Person who is not an Affiliate of the Company;
- (vi) any transaction in the ordinary course of business, or approved by a majority of the Board of Directors, between the Company or any Restricted Subsidiary and any Affiliate of the Company controlled by the Company that is a joint venture or similar entity;
- (vii) the Transactions, all transactions in connection therewith (including but not limited to the financing thereof), and all fees and expenses paid or payable in connection with the Transactions;
- (viii) any issuance or sale of Capital Stock (other than Disqualified Stock) of the Company or Junior Capital or any capital contribution to the Company;
- (ix) any investment by any Affiliate of the Company in securities or term loans of the Company or any of its Restricted Subsidiaries (and payment of out-of-pocket expenses incurred by any such Affiliate in connection therewith) so long as such securities or term loans are being offered generally to investors (other than Affiliates of the Company) on the same or more favorable terms; and
- (x) any transactions undertaken in connection with the VS Transaction, the Separation (as defined in the Registration Statement), the Closing Date Payment or the Closing Date Distribution.

SECTION 6.06. Limitation on Liens. The Company shall not, and shall not permit any Restricted Subsidiary to, directly or indirectly, create or permit to exist any Lien (the "**Initial Lien**") on any of its property or assets (including Capital Stock of any other Person), whether owned on the date of this Agreement or thereafter acquired, securing any Indebtedness, other than:

- (i) in the case of any Initial Lien on any Collateral, such Initial Lien if it is a Permitted Lien; and
- (ii) in the case of any Initial Lien on any asset or property not constituting Collateral, such Initial Lien if (A) the Initial Term Loans and the Subsidiary Guarantees are equally and ratably secured with (or on a senior basis to, in the case such Initial Lien secures any Subordinated Obligations) the Obligations secured by such Initial Lien, or (B) such Initial Lien is a Permitted Lien.

Any such Lien thereby created in favor of the Term Loans or any such Subsidiary Guarantee pursuant to clause (ii) of the immediately preceding paragraph will be automatically and unconditionally released and discharged upon (i) the release and discharge of the Initial Lien to which it relates, (ii) in the case of any such Lien in favor of any such Subsidiary Guarantee, upon the termination and discharge of such Subsidiary Guarantee in accordance with the terms of Section 9.22 or (iii) any sale, exchange or transfer (other than a transfer constituting a transfer of all or substantially all of the assets of the Company that is governed by Section 6.08) to any Person not an Affiliate of the Company of the property or assets secured by such Initial Lien, or of all of the Capital Stock held by the Company or any Restricted Subsidiary in, or all or substantially all the assets of, any Restricted Subsidiary creating such Initial Lien.

If, at any time after the Closing Date, the Company or any Subsidiary Guarantor creates any Lien upon any asset or property that is not at such time Collateral in order to secure any other Non-ABL Secured Debt Obligations (any such Lien, a “**New Lien**”), it must within 30 days grant a Lien upon such property or assets as security for the Initial Term Loans or the applicable Subsidiary Guarantee, such that such asset or property subject to such New Lien also becomes subject to a Lien securing the Initial Term Loans or the applicable Subsidiary Guarantee under the Loan Documents with a priority that is equal to the priority of such New Lien (without regard to the exercise of remedies).

SECTION 6.07. Additional Limitations on Intellectual Property Transfers . Neither the Company nor any Restricted Subsidiary will transfer the ownership of any IP Rights that the Company determines in good faith are material to the Company and its Restricted Subsidiaries taken as a whole (“**Material Intellectual Property**”) to an Unrestricted Subsidiary, except to the extent such Material Intellectual Property is related to the anticipated business activities to be conducted by such Unrestricted Subsidiary (as determined by the Company in good faith).

SECTION 6.08. Mergers, Consolidations, Etc.. (a) The Company will not consolidate with or merge with or into, or convey, lease or otherwise transfer all or substantially all its assets to, any Person, unless:

(i) the resulting, surviving or transferee Person (the “**Successor Company**”) will be a Person organized and existing under the laws of the United States, any State thereof or the District of Columbia and the Successor Company (if not the Company) will expressly assume all the obligations of the Company under this Agreement and the Collateral Documents by executing and delivering to the Administrative Agent a joinder or one or more other documents or instruments in form reasonably satisfactory to the Administrative Agent and the Collateral Agent (and the Successor Company (if not the Company) shall cause such amendments, supplements and other instruments to be executed, filed and recorded in such jurisdictions as may be required by applicable law to preserve and protect the Liens on the Collateral owned by or transferred to such Successor Company, together with such financing statement or a similar document under the UCC or other similar statute or regulation of the relevant states or jurisdictions);

(ii) immediately after giving effect to such transaction (and treating any Indebtedness that becomes an obligation of the Successor Company or any Restricted Subsidiary as a result of such transaction as having been Incurred by the Successor Company or such Restricted Subsidiary at the time of such transaction), no Event of Default will have occurred and be continuing;

(iii) immediately after giving effect to such transaction, either (A) the Company (or, if applicable, the Successor Company with respect thereto) could Incur at least \$1.00 of additional Indebtedness pursuant to Section 6.01(a) or (B) the Consolidated Coverage Ratio of the Company (or, if applicable, the Successor Company with respect thereto) would equal or exceed the Consolidated Coverage Ratio of the Company immediately prior to giving effect to such transaction;

(iv) each Subsidiary Guarantor (other than (x) any Subsidiary Guarantor that will be released from its obligations under its Subsidiary Guarantee in connection with such transaction and (y) any party to any such consolidation or merger) shall have delivered a document or instrument in form reasonably satisfactory to the Administrative Agent, confirming its Subsidiary Guarantee (other than any Subsidiary Guarantee that will be discharged or terminated in connection with such transaction and the Liens on the Collateral);

(v) the Company will have delivered to the Administrative Agent an Officer's Certificate to the effect that such consolidation, merger or transfer complies with the provisions described in this Section 6.08(a); and

(vi) to the extent any assets of the Person which is merged or consolidated with or into the Successor Company are assets of the type which would constitute Collateral under the Collateral Documents, the Successor Company will take such action as may be reasonably necessary to cause such property and assets to be made subject to the Lien of the Collateral Documents in the manner and to the extent required in this Agreement or any of the Collateral Documents and shall take all reasonably necessary action so that such Lien is perfected to the extent required by the Collateral Documents.

Any Indebtedness that becomes an obligation of the Company (or, if applicable, the Successor Company with respect thereto) or any Restricted Subsidiary (or that is deemed to be Incurred by any Restricted Subsidiary that becomes a Restricted Subsidiary) as a result of any such transaction undertaken in compliance with this Section 6.08, and any Refinancing Indebtedness with respect thereto, shall be deemed to have been Incurred in compliance with Section 6.01.

(b) Clauses (ii) and (iii) of Section 6.08(a) will not apply to any transaction in which the Company consolidates or merges with or into or transfers all or substantially all its properties and assets to (x) an Affiliate incorporated or organized for the purpose of reincorporating or reorganizing the Company in another jurisdiction or changing its legal structure to a corporation, limited liability company or other entity or (y) a Restricted Subsidiary of the Company so long as all assets of the Company and the Restricted Subsidiaries immediately prior to such transaction (other than Capital Stock of such Restricted Subsidiary) are owned by such Restricted Subsidiary and its Restricted Subsidiaries immediately after the consummation thereof. Section 6.08(a) will not apply to any transaction in which any Restricted Subsidiary consolidates with, merges into or transfers all or part of its assets to the Company.

(c) Upon any transaction involving the Company in accordance with this Section 6.08 in which the Company is not the Successor Company, the Successor Company will succeed to, and be substituted for, and may exercise every right and power of, the Company under the Loan Documents, and thereafter the predecessor Company shall be relieved of all obligations and covenants under the Loan Documents, except that the predecessor Company in the case of a lease of all or substantially all its assets will not be released from the obligation to pay the principal of and interest on the Loans.

(d) This Section 6.08 shall not apply to any VS Transaction.

ARTICLE 7 EVENTS OF DEFAULT

SECTION 7.01. Events of Default. If any of the following events (each, an “**Event of Default**”) shall occur:

(a) Failure To Make Payments When Due. Failure by the Company to pay (i) any installment of principal of any Loan when due, whether at stated maturity, by acceleration, by notice of voluntary prepayment, by mandatory prepayment or otherwise, (ii) within five Business Days after the date due, any interest on any Loan or any fee due hereunder or (iii) any other amount due hereunder within ten Business Days after the applicable due date; provided, that, solely with respect to clauses (ii) and (iii), any such failure to pay caused by administrative or technical error shall not constitute an Event of Default if payment is made within two Business Days of the earlier of (x) the discovery of such error by the Company or the Administrative Agent notifying the Company or such error and (y) a Responsible Officer of the Company obtaining actual knowledge of any such failure to pay; or

(b) Default in Other Agreements. (i) Failure by the Company or any other Loan Party to pay when due any principal of or interest on or any other amount payable in respect of one or more items of Indebtedness (other than Indebtedness referred to in clause (a) above and any ABL Facility unless, in the case of the ABL Facility, such failure to pay results in the acceleration of the obligations and the termination of the commitments thereunder) with an aggregate outstanding principal amount exceeding the Threshold Amount, in each case beyond the applicable notice period and grace period, if any, provided therefor; or (ii) breach or default by the Company or any of its Restricted Subsidiaries (other than any Receivables Subsidiary) with respect to any other term of (A) one or more items of Indebtedness with an aggregate outstanding principal amount exceeding the Threshold Amount or (B) any loan agreement, mortgage, indenture or other agreement relating to such item(s) of Indebtedness, in each case beyond the applicable notice period and grace period, if any, provided therefor, if the effect of such breach or default is to cause, or to permit the holder or holders of such Indebtedness (or a trustee or agent on behalf of such holder or holders) to cause, such Indebtedness to become or be declared due and payable (or redeemable) prior to its stated maturity or the stated maturity of any underlying obligation, as the case may be; provided that (x) clause (ii) of this paragraph (b) shall not apply to secured Indebtedness that becomes due as a result of the voluntary sale or transfer of the property securing such Indebtedness if such sale or transfer is permitted hereunder and (y) clause (ii) of this paragraph (b) shall not apply to termination events or equivalent events occurring under any Hedging Agreement in accordance with the terms thereof (it being understood that the failure to pay any amount due as a result of such termination event shall (to the extent greater than the Threshold Amount) constitute an Event of Default under this paragraph (b)); provided, further, that (x) with respect to (I) any breach or default referred to in clause (ii) above with respect to a financial covenant in any such Indebtedness or (II) any breach or default under any ABL Facility, such breach or default in each case shall only constitute an Event of Default hereunder if such breach or default has resulted in the acceleration of such Indebtedness and the termination of commitments thereunder, (y) any failure, breach or default described under clauses (i) or (ii) above shall only constitute an Event of Default hereunder if such failure, breach or default is unremedied and is not waived by the holders of such Indebtedness prior to any termination of the Commitments or acceleration of the Loans pursuant to this Article 7 and (z) for the avoidance of doubt, any failure, breach or default described under clauses (i) or (ii) above shall not result in a Default or Event of Default while any notice period or grace period, if applicable to such failure, breach or default, remains in effect; or

(c) Breach of Certain Covenants. Failure of any Loan Party, as required by the relevant provision, to perform or comply with any term or condition contained in Section 5.01(a)(ix), Section 5.04 (as it applies to the preservation of the existence of the Company and each other Borrower), or Article 6; or

(d) Breach of Representations, Etc. Any representation, warranty or certification made or deemed made by any Loan Party in any Loan Document or in any certificate required to be delivered in connection herewith or therewith (including, for the avoidance of doubt, any Perfection Certificate), shall be untrue in any material respect as of the date made or deemed made and such untrue representation, warranty or certification shall remain untrue for a period of 30 days after notice from the Administrative Agent to the Company (which notice shall only be given at the direction of the Required Lenders); it being understood and agreed that any breach of representation, warranty or certification resulting from the failure of the Administrative Agent to file any Uniform Commercial Code continuation statement (or other similar statement) shall not result in an Event of Default under this Section 7.01(d) or any other provision of any Loan Document; or

(e) Other Defaults Under Loan Documents. Default by any Loan Party in the performance of or compliance with any term contained herein or in any of the other Loan Documents, other than any such term referred to in any other Section of this **Article 7**, which default has not been remedied or waived within 30 days after receipt by the Company of written notice thereof from the Administrative Agent; or

(f) Involuntary Bankruptcy; Appointment of Receiver, Etc. (i) The entry by a court of competent jurisdiction of a decree or order for relief in respect of the Company or any of its Restricted Subsidiaries (other than any Immaterial Subsidiary) (any such Person, a “**Specified Person**”) in an involuntary case under any Debtor Relief Law now or hereafter in effect, which decree or order is not stayed or dismissed; or any other similar relief shall be granted under any applicable federal, state or local law, which relief is not stayed or dismissed; or (ii) the commencement of an involuntary case against any Specified Person under any Debtor Relief Law; the entry by a court having jurisdiction in the premises of a decree or order for the appointment of a receiver, receiver and manager, (preliminary) insolvency receiver, liquidator, sequestrator, trustee, custodian or other officer having similar powers over any Specified Person, or over all or a substantial part of its property; or the involuntary appointment of an interim receiver, trustee or other custodian of any Specified Person for all or a substantial part of its property, which remains, in any case under this clause (f), undismissed, unvacated, unbonded or unstayed pending appeal for 60 consecutive days; or

(g) Voluntary Bankruptcy; Appointment of Receiver, Etc. (i) The entry against any Specified Person of an order for relief, the commencement by any Specified Person of a voluntary case under any Debtor Relief Law, or the consent by any Specified Person to the entry of an order for relief in an involuntary case or to the conversion of an involuntary case to a voluntary case, under any Debtor Relief Law, or the consent by any Specified Person to the appointment of or taking possession by a receiver, receiver and manager, trustee or other custodian for all or a substantial part of its property; (ii) the making by any Specified Person of a general assignment for the benefit of creditors; or (iii) the admission by any Specified Person in writing of their inability to pay their respective debts as such debts become due; or

(h) Judgments and Attachments. The entry of one or more final money judgments, writs or warrants of attachment or similar process against any Specified Person involving in the aggregate at any time an amount in excess of the Threshold Amount (in either case to the extent not adequately covered by indemnity from a third party as to which the indemnifying party has been notified and not denied its indemnification obligations, self-insurance (if applicable) or insurance as to which the relevant third party insurance company has been notified and not denied coverage), which judgment, writ, warrant or similar process remains unpaid, undischarged, unvacated, unbonded or unstayed pending appeal for a period of 60 consecutive days; or

(i) Employee Benefit Plans. The Company or any ERISA Affiliate shall fail to pay when due an amount or amounts aggregating in excess of \$300,000,000 which it shall have become liable to pay to the PBGC or to a Plan under Title IV of ERISA; or notice of intent to terminate a Plan or Plans having aggregate Unfunded Liabilities in excess of \$300,000,000 (collectively “Material Plans”) shall be filed under Title IV of ERISA by the Company or any ERISA Affiliate, any plan administrator or any combination of the foregoing; or the PBGC shall institute proceedings under Title IV of ERISA to terminate or to cause a trustee to be appointed to administer any Material Plan or a proceeding shall be instituted by a fiduciary of any Material Plan against the Company or any ERISA Affiliate to enforce Section 515 of ERISA or 4219(c)(5) of ERISA and such proceeding shall not have been dismissed within 30 days thereafter; or a condition shall exist by reason of which the PBGC would be entitled to obtain a decree adjudicating that any Material Plan must be terminated; or

(j) Change of Control. The occurrence of a Change of Control; or

(k) Guaranties, Collateral Documents and Other Loan Documents. At any time after the execution and delivery thereof (i) any material Guarantee of the Obligations hereunder by any Subsidiary Guarantor for any reason ceasing to be in full force and effect (other than in accordance with its terms or as a result of the occurrence of the Termination Date) or being declared by a court of competent jurisdiction to be null and void or the repudiation in writing by any Loan Party of its obligations thereunder (in each case other than as a result of the discharge of such Loan Party in accordance with the terms thereof), (ii) this Agreement or any material Collateral Document ceasing to be in full force and effect (other than by reason of a release of Collateral in accordance with the terms hereof or thereof, the occurrence of the Termination Date or any other termination of such Collateral Document in accordance with the terms thereof) or being declared by a court of competent jurisdiction to be null and void or (iii) other than in any bona fide, good faith dispute as to the scope of Collateral or whether any Lien has been, or is required to be released, the contesting by any Loan Party of the validity or enforceability of any material provision of any Loan Document in writing or denial by any Loan Party in writing that it has any further liability (other than by reason of the occurrence of the Termination Date or any other termination of any Loan Document in accordance with the terms thereof), including with respect to future advances by the Lenders, under any Loan Document to which it is a party; it being understood and agreed that the failure of the Administrative Agent to maintain possession of any Collateral actually delivered to it or file any UCC (or equivalent) continuation statement shall not result in an Event of Default under this clause (k); or

(l) Subordination. The Obligations hereunder ceasing or the assertion in writing by any Loan Party that the Obligations hereunder cease to constitute senior indebtedness under the subordination provisions of any document or instrument evidencing any permitted Subordinated Obligations in excess of the Threshold Amount (in each case, to the extent required by such subordination provision) or any such subordination provision being invalidated by a court of competent jurisdiction in a final non-appealable order or otherwise ceasing, for any reason, to be valid, binding and enforceable obligations of the parties thereto;

then, and in every such Event of Default (other than an Event of Default with respect to the Company described in clause (f)(i) or (g) of this Article), and at any time thereafter during the continuance of such Event of Default, the Administrative Agent may, and at the request of the Required Lenders shall, by notice to the Company, take any of the following actions, at the same or different times: (i) terminate the Commitments, and thereupon the Commitments shall terminate immediately and (ii) declare the Loans then outstanding to be due and payable in whole (or in part, in which case any principal not so declared to be due and payable may thereafter be declared to be due and payable), and thereupon the principal of the Loans so declared to be due and payable, together with accrued interest thereon and all fees and other obligations of the Company accrued hereunder, shall become due and payable immediately, without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the Company; provided that upon the occurrence of an Event of Default with respect to the Company described in clause (f)(i) or (g) of this Article, any such Commitments shall automatically terminate and the principal of the Loans then outstanding, together with accrued interest thereon and all fees and other obligations of the Company accrued hereunder, shall automatically become due and payable, without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the Company. Upon the occurrence and during the continuance of an Event of Default, subject to the ABL Intercreditor Agreement and any other applicable intercreditor agreement, the Administrative Agent may, and at the request of the Required Lenders shall, exercise any rights and remedies provided to the Administrative Agent under the Loan Documents or at law or equity, including all remedies provided under the UCC. Notwithstanding anything in this Article 7 to the contrary, no exercise of remedies under the Loan Documents or at law or equity may occur with respect to any action taken, and publicly reported or reported to the Administrative Agent or the Lenders, more than two years prior to such exercise of remedies.

ARTICLE 8 THE ADMINISTRATIVE AGENT

SECTION 8.01. The Agents. Each of the Lenders hereby irrevocably appoints each of the Administrative Agent and the Collateral Agent as its agent and authorizes such Agent to take such actions on its behalf and to exercise such powers as are delegated to such Agent by the terms of the Loan Documents, together with such actions and powers as are reasonably incidental thereto. In addition, to the extent required under the laws of any jurisdiction, each of the Lenders hereby grants to the Collateral Agent any required powers of attorney to execute and enforce any Collateral Document governed by the laws of such jurisdiction on such Lender's behalf.

Each of the banks serving as an 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 an Agent, and such bank and its Affiliates may accept deposits from, lend money to and generally engage in any kind of business with the Company or any Subsidiary or other Affiliate thereof as if it were not an Agent under the Loan Documents.

The Agents shall not have any duties or obligations except those expressly set forth in the Loan Documents. Without limiting the generality of the foregoing, (a) the Agents shall not be subject to any fiduciary or other implied duties, regardless of whether a Default has occurred and is continuing, (b) the Agents shall not have any duty to take any discretionary action or exercise any discretionary powers, except discretionary rights and powers expressly contemplated by the Loan Documents that the applicable Agent is required to exercise in writing by the Required Lenders or, in the case of the Collateral Documents, the Required Secured Parties, and (c) except as expressly set forth in the Loan Documents, the Agents shall not have any duty to disclose, and shall not be liable for the failure to disclose, any information relating to the Company or any of its Subsidiaries that is communicated to or obtained by the banks serving as Agents or any of their respective Affiliates in any capacity. No Agent shall be liable for any action taken or not taken by it with the consent or at the request of the Required Lenders or, in the case of the Collateral Documents, the Required Secured Parties, or in the absence of its own gross negligence or willful misconduct. Each Agent shall be deemed not to have knowledge of any Default unless and until written notice thereof is given to such Agent by the Company or a Lender, and the Agents shall not be responsible for or have any duty to ascertain or inquire into (i) any statement, warranty or representation made in or in connection with this Agreement, (ii) the contents of any certificate, report or other document delivered hereunder or in connection with any Loan Document, (iii) qualification of (or lapse of any qualification of) any Account, Credit Card Receivable or Inventory under the eligibility criteria set forth herein, other than eligibility criteria expressly referring to the matters described therein being acceptable or satisfactory to, or being determined by, the Collateral Agent, (iv) the performance or observance of any of the covenants, agreements or other terms or conditions set forth in any Loan Document, (v) the validity, enforceability, effectiveness or genuineness of any Loan Document or any other agreement, instrument or document or (vi) the satisfaction of any condition set forth in Article 4 or elsewhere in any Loan Document, other than to confirm receipt of items expressly required to be delivered to the applicable Agent.

Each Agent shall be entitled to rely upon, and shall not incur any liability for relying upon, any notice, request, certificate, consent, statement, instrument, document or other writing believed by it to be genuine and to have been signed or sent by the proper Person. Each of the Agents also may rely upon any statement made to it orally or by telephone and believed by it to be made by the proper Person, and shall not incur any liability for relying thereon. Each Agent may consult with legal counsel (who may be counsel for the Company), 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 of the Agents may perform any and all of its duties and exercise its rights and powers by or through any one or more sub-agents appointed by such Agent. Each of the Agents and any such sub-agent may perform any and all of its duties and exercise its rights and powers through their respective Related Parties. The exculpatory provisions of the preceding paragraphs shall apply to any such sub-agent and to the Related Parties of each Agent and any such sub-agent, and shall apply to their respective activities in connection with the syndication of the credit facilities provided for herein as well as activities as an Agent.

Subject to the appointment and acceptance of a successor Agent as provided in this paragraph, either Agent may resign at any time by notifying the Lenders and the Company. Upon any such resignation, the Required Lenders shall have the right, with the consent of the Company, to appoint a successor. In addition, if either Agent is a Defaulting Lender due to it having had a receiver, conservator, trustee, administrator, assignee for the benefit of creditors or similar Person charged with the reorganization or liquidation of its business or custodian appointed for it, the Required Lenders shall have the right, by notice in writing to the Company and such Agent, to remove such Agent in its capacity as such and, with the consent of the Company (not to be unreasonably withheld and except during the continuance of a Specified Event of Default hereunder, when no consent shall be required), to appoint a successor. If no successor shall have been so appointed by the Required Lenders and shall have accepted such appointment within 30 days after the retiring Agent gives notice of its resignation, then the retiring Agent may, on behalf of the Lenders, appoint a successor Agent which shall be a bank with an office in New York, New York, or an Affiliate of any such bank. Upon the acceptance of its appointment as an Agent by a successor, such successor shall succeed to and become vested with all the rights, powers, privileges and duties of the retiring Agent, and the retiring Agent shall be discharged from its duties and obligations under the Loan Documents. The fees payable by the Company to a successor Agent shall be the same as those payable to its predecessor unless otherwise agreed between the Company and such successor. After such Agent's resignation hereunder, the provisions of this Article and Section 8.03 shall continue in effect for the benefit of such retiring 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 it was acting as an Agent.

Each Lender acknowledges that it has, independently and without reliance upon the Agents or any other Lender and any of their Related Parties and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Agreement. Each Lender also acknowledges that it will, independently and without reliance upon the Agents or any other Lender and any of their Related Parties and based on such documents and information as it shall from time to time deem appropriate, continue to make its own decisions in taking or not taking action under or based upon any Loan Document, any related agreement or any document furnished hereunder or thereunder. The Joint Lead Arrangers and Joint Bookrunners, the Co-Syndication Agents and the Co-Documentation Agents (each as identified on the cover page of this Agreement) (each of the foregoing, in its capacity as such, a "**Titled Person**"), in their capacities as such, shall have no rights, powers, duties, liabilities, fiduciary relationships or obligations under any Loan Document or any of the other documents related hereto.

Each of the Lenders hereby (a) agrees to be bound by the provisions of the Collateral Documents, including those terms thereof applicable to the Collateral Agent and the provisions thereof authorizing the Required Secured Parties to approve amendments or modifications thereto or waivers thereof, and to control remedies thereunder, and (b) irrevocably authorizes the Collateral Agent to (i) release any Liens on any Non-ABL Priority Collateral in accordance with an Intercreditor Agreement and (ii) release any Liens on any Collateral in accordance with the Collateral Documents.

Each of the Lenders hereby (a) authorizes and instructs the Collateral Agent to enter into the ABL Intercreditor Agreement and each other Acceptable Intercreditor Agreement, as applicable, pursuant to Sections 6.01 and 6.02 and (b) agrees that it will be bound by and will take no actions contrary to the provisions of such Acceptable Intercreditor Agreement.

Notwithstanding anything to the contrary herein, the Arrangers shall not have any right, power, obligation, liability, responsibility or duty under this Agreement, except in their respective capacities, as applicable, as the Administrative Agent or a Lender hereunder.

Each Secured Party irrevocably authorizes and instructs the Administrative Agent to, and the Administrative Agent shall, upon request of the Company:

(a) without limiting Section 9.22, release any Lien on any property granted to or held by the Administrative Agent under any Loan Document (i) upon the occurrence of the Termination Date, (ii) that is sold or to be sold or transferred as part of or in connection with any Disposition permitted under the Loan Documents to a Person that is not a Loan Party, (iii) that does not constitute (or ceases to constitute) Collateral, (iv) if the property subject to such Lien is owned by a Subsidiary Guarantor, upon the release of such Subsidiary Guarantor from its Guarantee of the Obligations otherwise in accordance with the Loan Documents, (v) as required under clause (d) below or (vi) if approved, authorized or ratified in writing by the Required Lenders (or such other number or percentage of Lenders as shall be necessary under the relevant circumstances as provided in Section 9.02) in accordance with Section 9.02;

(b) without limiting Section 9.22 (but subject to the proviso to Section 9.22(a)), release any Subsidiary Guarantor from its obligations under the Collateral Agreement (i) if such Person ceases to be a Restricted Subsidiary (or becomes an Excluded Subsidiary as a result of a single transaction or series of related transactions or any event or other circumstance permitted hereunder) and/or (ii) upon the occurrence of the Termination Date;

(c) [reserved];

(d) enter into subordination, intercreditor, collateral trust and/or similar agreements (and any amendments thereto) with respect to Indebtedness (including any Acceptable Intercreditor Agreement and any amendment thereto) that is (i) required or permitted to be subordinated hereunder or pari passu with the Liens securing the Obligations and/or (ii) secured by Liens, and with respect to which Indebtedness and/or Liens, this Agreement contemplates an intercreditor, subordination, collateral trust or similar agreement.

Upon the request of the Administrative Agent at any time, the Required Lenders will confirm in writing the Administrative Agent's authority to release or subordinate its interest in particular types or items of property, or to release any Loan Party from its obligations under the Collateral Agreement or its Lien on any Collateral pursuant to this Article 8. In each case as specified in this Article 8, the Administrative Agent will (and each Lender hereby authorizes the Administrative Agent to), at the Company's expense, execute and deliver to the applicable Loan Party such documents as such Loan Party may reasonably request to evidence the release of such item of Collateral from the assignment and security interest granted under the Collateral Documents, to subordinate its interest therein, or to release such Loan Party from its obligations under the Collateral Agreement, in each case in accordance with the terms of the Loan Documents and this Article 8.

SECTION 8.02. Certain ERISA Matters. Each of the Lenders hereby (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, each Agent and each Titled Person and their respective Affiliates and not, for the avoidance of doubt, to or for the benefit of any Borrower or any other Loan Party, that at least one of the following is and will be true:

(a) such Lender is not using “plan assets” (within the meaning of Section 3(42) of ERISA or otherwise) of one or more Benefit Plans with respect to such Lender’s entrance into, participation in, administration of and performance of the Loans, the Commitments or this Agreement,

(b) 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 with respect to such Lender’s entrance into, participation in, administration of and performance of the Loans, the Commitments and this Agreement,

(c) (i) such Lender is an investment fund managed by a “Qualified Professional Asset Manager” (within the meaning of Part VI of PTE 84-14), (ii) 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 Commitments and this Agreement, (iii) the entrance into, participation in, administration of and performance of the Loans, the Commitments and this Agreement satisfies the requirements of sub-sections (b) through (g) of Part I of PTE 84-14 and (iv) 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 Commitments and this Agreement, or

(d) such other representation, warranty and covenant as may be agreed in writing between the Administrative Agent, in its sole discretion, and such Lender.

In addition, unless either (1) clause (a) in the immediately preceding paragraph is true with respect to a Lender or (2) a Lender has provided another representation, warranty and covenant in accordance with clause (d) in the immediately preceding paragraph, 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, each Agent and each Titled Person and their respective Affiliates and not, for the avoidance of doubt, to or for the benefit of any Borrower or any other Loan Party, that the Administrative Agent is not 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 Commitments and this Agreement (including in connection with the reservation or exercise of any rights by the Administrative Agent under this Agreement, any Loan Document or any documents related hereto or thereto).

SECTION 8.03. Erroneous Payments. (a) Each Lender hereby agrees that (x) if the Administrative Agent notifies such Lender that the Administrative Agent has determined in its sole discretion that any funds received by such Lender from the Administrative Agent or any of its Affiliates (whether as a payment, prepayment or repayment of principal, interest, fees or otherwise; individually and collectively, a “Payment”) were erroneously transmitted to such Lender (whether or not known to such Lender), and demands the return of such Payment (or a portion thereof), such Lender shall promptly, but in no event later than one Business Day thereafter, return to the Administrative Agent the amount of any such Payment (or portion thereof) as to which such a demand was made in same day funds, together with interest thereon in respect of each day from and including the date such Payment (or portion thereof) was received by such Lender to the date such amount is repaid to the Administrative Agent at the greater of the NYFRB Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation from time to time in effect, and (y) to the extent permitted by applicable law, such Lender shall not assert, and hereby waives, as to the Administrative Agent, 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 Payments received, including without limitation any defense based on “discharge for value” or any similar doctrine. A notice of the Administrative Agent to any Lender under this Section 8.03 shall be conclusive, absent manifest error.

(b) Each Lender hereby further agrees that if it receives a 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 sent by the Administrative Agent (or any of its Affiliates) with respect to such Payment (a "Payment Notice") or (y) that was not preceded or accompanied by a Payment Notice, it shall be on notice, in each such case, that an error has been made with respect to such Payment. Each Lender agrees that, in each such case, or if it otherwise becomes aware a Payment (or portion thereof) may have been sent in error, such Lender shall promptly notify the Administrative Agent of such occurrence and, upon demand from the Administrative Agent, it shall promptly, but in no event later than one Business Day thereafter, return to the Administrative Agent the amount of any such Payment (or portion thereof) as to which such a demand was made in same day funds, together with interest thereon in respect of each day from and including the date such Payment (or portion thereof) was received by such Lender to the date such amount is repaid to the Administrative Agent at the greater of the NYFRB Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation from time to time in effect.

(c) The Borrower and each other Loan Party hereby agrees that (x) in the event an erroneous Payment (or portion thereof) is not recovered from any Lender that has received such Payment (or portion thereof) for any reason, the Administrative Agent shall be subrogated to all the rights of such Lender with respect to such amount to the maximum extent permitted by law and (y) an erroneous Payment shall not pay, prepay, repay, discharge or otherwise satisfy any Obligations owed by the Borrower or any other Loan Party; provided that this clause (c) shall not be interpreted to increase (or accelerate the due date for), or have the effect of increasing (or accelerating the due date for), any Obligations of the Loan Parties in respect of principal and interest hereunder relative to the amount (and/or timing for payment) of the Obligations of the Loan Parties in respect of principal and interest hereunder 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 clause (c) shall not apply to the extent any such Payment is, and solely with respect to the amount of such Payment that is, comprised of funds received by the Administrative Agent from the Borrower or any other Loan Party for the purpose of making such Payment, satisfying Obligations or from the proceeds of Collateral.

(d) Each party's obligations under this Section 8.03 shall survive the resignation or replacement of the Administrative Agent or any transfer of rights or obligations by, or the replacement of, a Lender, the repayment, satisfaction or discharge of all Obligations under any Loan Document.

ARTICLE 9 MISCELLANEOUS

SECTION 9.01. Notices.

(a) 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 or email, as follows:

(i) if to any Loan Party, to such Loan Party in the care of the Company at:

Victoria's Secret & Co
4 Limited Parkway
Reynoldsburg, OH 43068
Attention: Treasury Department
Email: atucay@lb.com; VSTreasuryCashMgmt@lb.com

With copy to:
Attention: Chief Legal Officer
Email: MMcAfee@lb.com

(ii) if to the Administrative Agent, at:

JPMorgan Chase Bank, N.A
Loan and Agency Services Group
500 Stanton Christiana Rd, NCCS, Floor 01,
Newark, DE 19713
Attention: James Campbell
Telecopy No: 302-634-4250
Email: james.x.campbell@chase.com

(iii) if to any Lender, to it at its address, facsimile number or email address set forth in its Administrative Questionnaire.

All such notices and other communications (A) sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when delivered in person or by courier service and signed for against receipt thereof or three Business Days after dispatch if sent by certified or registered mail, in each case, delivered, sent or mailed (properly addressed) to the relevant party as provided in this Section 9.01 or in accordance with the latest unrevoked direction from such party given in accordance with this Section 9.01 or (B) sent by facsimile shall be deemed to have been given when sent and when receipt has been confirmed by telephone; provided that notices and other communications sent by telecopier shall be deemed to have been given when sent (except that, if not given during normal business hours for the recipient, such notices or other communications 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 clause (b) below shall be effective as provided in such clause (b).

(b) Notices and other communications to the Lenders hereunder may be delivered or furnished by electronic communications (including e-mail and Internet or Intranet websites, including Intralinks or another similar electronic system (the "**Platform**")) pursuant to procedures set forth herein or otherwise approved by the Administrative Agent. The Administrative Agent or the Company (on behalf of any Loan Party) may, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures set forth herein or otherwise approved by it; provided that approval of such procedures may be limited to particular notices or communications. All such notices and other communications (i) sent to an e-mail address shall be deemed received upon the sender's receipt of an acknowledgment from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgment); provided that if not given during the normal business hours of the recipient, such notice or communication shall be deemed to have been given at the opening of business on the next Business Day for the recipient and (ii) 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 (b)(i) of notification that such notice or communication is available and identifying the website address therefor.

(c) Certain of the Lenders may be “public-side” Lenders (i.e., Lenders that do not wish to receive material non-public information with respect to any Borrower or its securities) (each, a “**Public Lender**”). The Company and each other Borrower hereby agree that, at the request of the Administrative Agent, (i) all 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; (ii) by marking such materials “PUBLIC,” the Company shall be deemed to have authorized the Administrative Agent and the Lenders to treat such materials as not containing any material non-public information with respect to the Company and any other Borrower or its securities for purposes of foreign, United States federal and state securities laws (provided, however, that to the extent such materials constitute Confidential Information, they shall be treated as set forth in **Section 9.13**); (iii) all materials marked “PUBLIC” are permitted to be made available through a portion of the Platform designated as “Public Investor;” and (iv) the Administrative Agent shall be entitled to treat any materials that are not marked “PUBLIC” as being suitable only for posting on a portion of the Platform not marked as “Public Investor.” Notwithstanding the foregoing, the following materials shall be marked “PUBLIC”, unless the Company or any other Borrower notifies the Administrative Agent promptly that any such document contains material non-public information: (A) the Loan Documents and (B) notification of changes in the terms of the Credit Facilities. 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 foreign, United States Federal and state securities laws, to make reference to communications 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 Company or any other Borrower or its securities for purposes of foreign, United States Federal or state securities laws.

(d) Any party hereto may change its address or facsimile number or other notice information hereunder by notice to the other parties hereto; it being understood and agreed that the Company may provide any such notice to the Administrative Agent as recipient on behalf of itself and each Lender.

(e) Any additional Borrower hereby irrevocably appoints the Company as its agent for all purposes relevant to this Agreement and each of the other Loan Documents (other than with respect to payment), including (i) the giving and receipt of notices and (ii) the execution and delivery of all documents, instruments and certificates contemplated herein and all modifications hereto. Any acknowledgment, consent, direction, certification or other action (other than with respect to payment) which might otherwise be valid or effective only if given or taken by all Borrowers, or by each Borrower acting singly, shall be valid and effective if given or taken only by the Company, whether or not any such additional Borrower joins therein. Any notice, demand, consent, acknowledgment, direction, certification or other communication delivered to the Company in accordance with the terms of this Agreement shall be deemed to have been delivered to each additional Borrower.

SECTION 9.02. Waivers; Amendments.

(a) No failure or delay by the Administrative Agent or any Lender in exercising any right or power hereunder or under any other Loan Document shall operate as a waiver thereof except as provided herein or in any other Loan Document, nor shall any single or partial exercise of any such right or power, or any abandonment or discontinuance of steps to enforce such a right or power, preclude any other or further exercise thereof or the exercise of any other right or power. The rights and remedies of the Administrative Agent and the Lenders hereunder and under any other Loan Document are cumulative and are not exclusive of any rights or remedies that they would otherwise have. No waiver of any provision of any Loan Document or consent to any departure by any party thereto therefrom shall in any event be effective unless the same is permitted by this Section 9.02, and then such waiver or consent shall be effective only in the specific instance and for the purpose for which it is given. Without limiting the generality of the foregoing, to the extent permitted by law, the making of a Loan shall not be construed as a waiver of any Default or Event of Default, regardless of whether the Administrative Agent or any Lender may have had notice or knowledge of such Default or Event of Default at the time.

(b) Subject to clauses (A), (B), (C), (D) and (E) of this Section 9.02(b) and Section 9.02(c) and (d) below, neither this Agreement nor any other Loan Document nor any provision hereof or thereof may be waived, amended or modified, except (i) in the case of this Agreement, pursuant to an agreement or agreements in writing entered into by the Company and the Required Lenders (or the Administrative Agent with the consent of the Required Lenders) or (ii) in the case of any other Loan Document (other than any waiver, amendment or modification to effectuate any modification thereto expressly contemplated by the terms of such other Loan Document), pursuant to an agreement or agreements in writing entered into by the Administrative Agent and each Loan Party that is party thereto, with the consent of the Required Lenders; provided that, notwithstanding the foregoing:

(A) except with the consent of each Lender directly and adversely affected thereby (but without requiring the consent of the Required Lenders), no such agreement shall;

(1) increase the Commitment of such Lender (other than with respect to any Incremental Facility pursuant to Section 2.21(a) in respect of which such Lender has agreed to be an Additional Lender); it being understood that no amendment, modification or waiver of, or consent to departure from, any condition precedent, representation, warranty, covenant, Default, Event of Default, mandatory prepayment or mandatory reduction of the Commitments shall constitute an increase of any Commitment of such Lender;

(2) reduce or forgive the principal amount of any Loan owed to such Lender or any amount due to such Lender on any Loan Installment Date (other than, in each case, any waiver of, or consent to or departure from, any Default or Event of Default or any mandatory prepayment; it being understood that no change in (i) the definition of "Consolidated First Lien Leverage Ratio" or any other ratio used in the calculation of any mandatory prepayment (including any component definition thereof) or (ii) the MFN Provision shall constitute a reduction or forgiveness of any principal amount due hereunder);

(3) (x) extend the scheduled final maturity of any Loan or (y) postpone any Loan Installment Date, any Interest Payment Date or the date of any scheduled payment of any fee, in each case payable to such Lender hereunder (in each case, other than any extension for administrative reasons agreed by the Administrative Agent) (other than, in each case, any waiver of, or consent or departure from, any Default or Event of Default or any mandatory prepayment; it being understood that no change in the definition of "Consolidated First Lien Leverage Ratio" or any other ratio used in the calculation of any mandatory prepayment (including any component definition thereof) shall constitute such an extension or postponement);

(4) reduce the rate of interest (other than to waive any Default or Event of Default or obligation of the Company to pay interest at the default rate of interest under Section 2.13(d), which shall only require the consent of the Required Lenders) or the amount of any fee owed to such Lender; it being understood that no change in (i) the definition of “Consolidated First Lien Leverage Ratio” or in the calculation of any other interest or fee due hereunder (including any component definition thereof) or (ii) the MFN Provision shall constitute a reduction in any rate of interest or fee hereunder;

(5) extend the expiry date of such Lender’s Commitment; it being understood that no amendment, modification or waiver of, or consent to departure from, any condition precedent, representation, warranty, covenant, Default, Event of Default, mandatory prepayment or mandatory reduction of any Commitment shall constitute an extension of any Commitment of any Lender; and

(6) waive, amend or modify the provisions of Sections 2.18(b) or 2.18(c) in a manner that would by its terms alter the pro rata sharing of payments required thereby or any requirement to make payments to Lenders in accordance with their respective Applicable Percentages (except in connection with any transaction permitted under Sections 2.22, 2.23, 9.02(c) and/or 9.05(g) or as otherwise provided in this Section 9.02); and

(B) no such agreement shall:

(1) change any of the provisions of Section 9.02(a) or Section 9.02(b) or the definition of “Required Lenders”, in each case, to reduce any voting percentage required to waive, amend or modify any right thereunder or make any determination or grant any consent thereunder, without the prior written consent of each Lender;

(2) release all or substantially all of the Collateral from the Lien granted pursuant to the Loan Documents (except as otherwise permitted herein or in the other Loan Documents, including pursuant to Article 8 or Section 9.22 hereof or pursuant to any Acceptable Intercreditor Agreement), without the prior written consent of each Lender; or

(3) release all or substantially all of the value of the Guarantees under the Collateral Agreement (except as otherwise permitted herein or in the other Loan Documents, including pursuant to Article 8 or Section 9.22 hereof), without the prior written consent of each Lender;

provided, further, that no such agreement shall adversely amend, modify or otherwise affect the rights or duties of the Administrative Agent hereunder without the prior written consent of the Administrative Agent. The Administrative Agent may also amend the Commitment Schedule to reflect assignments entered into pursuant to Section 9.05, Commitment reductions or terminations pursuant to Section 2.09, incurrences of Additional Commitments or Additional Loans pursuant to Sections 2.22, 2.23 or 9.02(c), and reductions or terminations of any such Additional Commitments or Additional Loans. Notwithstanding anything to the contrary herein, (i) no Defaulting Lender shall have any right to approve or disapprove any amendment, waiver or consent hereunder, except that the Commitment of any Defaulting Lender may not be increased without the consent of such Defaulting Lender (it being understood that any Commitment or Loan held or deemed held by any Defaulting Lender shall be excluded from any vote hereunder that requires the consent of any Lender, except as expressly provided in Section 2.21(b)) and (ii) no Net Short Lender shall have any right to approve or disapprove any amendment, waiver or consent hereunder or under any of the Loan Documents and instead shall be deemed to have voted its interest as a Lender as provided in the immediately succeeding paragraph below. Notwithstanding the foregoing, but without limiting the provisions of Section 2.22(g), this Agreement may be amended (or amended and restated) with the written consent of the Required Lenders, the Administrative Agent and the Company (i) to add one or more additional credit facilities to this Agreement and to permit any extension of credit from time to time outstanding thereunder and the accrued interest and fees in respect thereof to share ratably in the relevant benefits of this Agreement and the other Loan Documents and (ii) to include appropriately the Lenders holding such credit facilities in any determination of the Required Lenders on substantially the same basis as the Lenders prior to such inclusion.

Notwithstanding anything to the contrary herein, in connection with any determination as to whether the requisite Lenders have (A) consented (or not consented) to any amendment, modification or waiver of any provision of this Agreement or any other Loan Document or any departure by any Loan Party therefrom, (B) otherwise acted on any matter related to any Loan Document, or (C) directed or required the Administrative Agent or any Lender to undertake any action (or refrain from taking any action) with respect to or under any Loan Document, any Lender (other than (x) any Lender that is a Regulated Bank, (y) the Administrative Agent and (z) any Arranger) that, as a result of its interest in any total return swap, total rate of return swap, credit default swap or other derivative contract (other than any such total return swap, total rate of return swap, credit default swap or other derivative contract entered into pursuant to bona fide market making activities), has a net short position with respect to any of the Loans and/or Commitments (each, a “**Net Short Lender**”) shall have no right to vote any of its Loans and Commitments with respect to any of the matters set forth in the preceding clauses (A), (B) or (C) and shall be deemed to have voted its interest as a Lender without discretion in the same proportion as the allocation of voting with respect to such matter by Lenders who are not Net Short Lenders. For purposes of determining whether a Lender has a “net short position” on any date of determination: (i) derivative contracts with respect to the Loans and Commitments and such contracts that are the functional equivalent thereof shall be counted at the notional amount thereof in Dollars, (ii) notional amounts in other currencies shall be converted to the Dollar equivalent thereof by such Lender in a commercially reasonable manner consistent with generally accepted financial practices and based on the prevailing conversion rate (determined on a mid-market basis) on the date of determination, (iii) derivative contracts in respect of an index that includes any of the Company or other Loan Parties or any instrument issued or guaranteed by any of the Company or other Loan Parties shall not be deemed to create a short position with respect to the Loans and/or Commitments, so long as (x) such index is not created, designed, administered or requested by such Lender and (y) the Company and other Loan Parties and any instrument issued or guaranteed by any of the Company or other Loan Parties, collectively, shall represent less than 5% of the components of such index, (iv) derivative transactions that are documented using either the 2014 ISDA Credit Derivatives Definitions or the 2003 ISDA Credit Derivatives Definitions (collectively, the “**ISDA CDS Definitions**”) shall be deemed to create a short position with respect to the Loans and/or Commitments if such Lender is a protection buyer or the equivalent thereof for such derivative transaction and (x) the Loans or the Commitments are a “Reference Obligation” under the terms of such derivative transaction (whether specified by name in the related documentation, included as a “Standard Reference Obligation” on the most recent list published by Markit, if “Standard Reference Obligation” is specified as applicable in the relevant documentation or in any other manner), (y) the Loans or the Commitments would be a “Deliverable Obligation” under the terms of such derivative transaction or (z) any of the Company or other Loan Parties (or its successor) is designated as a “Reference Entity” under the terms of such derivative transactions, and (v) credit derivative transactions or other derivatives transactions not documented using the ISDA CDS Definitions shall be deemed to create a short position with respect to the Loans and/or Commitments if such transactions offer the Lender protection against a decline in the value of the Loans or the Commitments, or in the credit quality of any of the Company or other Loan Parties other than, in each case, as part of an index so long as (x) such index is not created, designed, administered or requested by such Lender and (y) the Company and other Loan Parties and any instrument issued or guaranteed by any of the Company or other Loan Parties, collectively, shall represent less than 5% of the components of such index. In connection with any such determination, each Lender shall promptly notify the Administrative Agent in writing that it is a Net Short Lender, or shall otherwise be deemed to have represented and warranted to the Company and the Administrative Agent that it is not a Net Short Lender (it being understood and agreed that the Company and the Administrative Agent shall be entitled to rely on each such notification and deemed representation). In no event shall the Administrative Agent (a) be obligated to ascertain, monitor or inquire as to whether any Lender or Participant or prospective Lender or Participant is a Net Short Lender or have any liability in connection therewith (including with respect to or arising out of the voting in any amendment, modification or waiver of any provisions of this Agreement or any other Loan Document by any Net Short Lender), (b) have any duty to enforce compliance with the provisions of this Agreement relating to Net Short Lenders or (c) have any responsibility or liability for enforcing any Lender’s compliance with the terms of any of the provisions set forth herein with respect to Net Short Lenders.

Notwithstanding the foregoing, this Agreement may be amended:

(iii) with the written consent of the Company and the Lenders providing the relevant Replacement Term Loans to permit the refinancing or replacement of all or any portion of the outstanding Term Loans under any applicable Class (any such loans being refinanced or replaced, the “**Replaced Term Loans**”) with one or more replacement term loans hereunder (“**Replacement Term Loans**”) pursuant to a Refinancing Amendment; provided that

(A) the aggregate principal amount of any Replacement Term Loans shall not exceed the aggregate principal amount of the Replaced Term Loans (*plus* (1) any additional amounts permitted to be incurred under Section 6.01 and, to the extent any such additional amounts are secured, the related Liens are permitted under Section 6.06 and *plus* (2) the amount of accrued interest, penalties and premium (including any tender premium) thereon, any committed but undrawn amount and underwriting discounts, fees (including upfront fees, original issue discount or initial yield payments), commissions and expenses associated therewith),

(B) any Replacement Term Loans (other than (x) customary bridge loans with a maturity date of not longer than one year; provided that any loans, notes, securities or other Indebtedness which are exchanged for or otherwise replace such bridge loans shall be subject to the requirements of this clause (B), (y) [reserved] and (z) Refinancing Indebtedness having an aggregate principal amount outstanding not exceeding the greater of \$500.0 million and 50% of Consolidated EBITDA as of the last day of the most recently ended Test Period) must have a final maturity date that is equal to or later than the final maturity date of, and have a Weighted Average Life to Maturity equal to or greater than the Weighted Average Life to Maturity of, the Replaced Term Loans at the time of the relevant refinancing,

(C) any Replacement Term Loans may be *pari passu* or junior in right of payment and *pari passu* (without regard to the control of remedies) or junior with respect to the Collateral with the remaining portion of the Initial Term Loans or Additional Term Loans (provided that if *pari passu* or junior as to Collateral, such Replacement Term Loans shall be subject to an Acceptable Intercreditor Agreement and may, at the option of the Company, be documented in a separate agreement or agreements), or be unsecured,

(D) if any Replacement Term Loans are secured, such Replacement Term Loans may not be secured by any assets other than the Collateral,

(E) if any Replacement Term Loans are guaranteed, such Replacement Term Loans may not be guaranteed by any Person other than one or more Loan Parties,

(F) any Replacement Term Loans that are *pari passu* with the Initial Term Loans in right of payment and security may participate (1) in any voluntary prepayment of Term Loans as set forth in Section 2.11(a)(i), and (2) in any mandatory prepayment of Term Loans as set forth in Section 2.11(b)(vi),

(G) any Replacement Term Loans shall have pricing (including interest, fees and premiums) and, subject to preceding clause (E), optional prepayment and redemption terms and, subject to preceding clause (B), an amortization schedule, as the Company and the lenders providing such Replacement Term Loans may agree, and

(H) the covenants and events of default of any Replacement Term Loans (excluding pricing, interest, fees, rate floors, premiums, optional prepayment or redemption terms, security and maturity, subject to preceding clauses (B) through (G)) shall be (i) substantially identical to, or (taken as a whole) no more favorable (as determined by the Company in good faith) to the lenders providing such Replacement Term Loans than, those applicable to the Replaced Term Loans (other than covenants or other provisions applicable only to periods after the latest Maturity Date of such Replaced Term Loans (in each case, as of the date of incurrence of such Replacement Term Loans)), (ii) then-current market terms (as determined by the Company in good faith at the time of incurrence or issuance (or the obtaining of a commitment with respect thereto)) for the applicable type of Indebtedness or (iii) reasonably acceptable to the Administrative Agent (it being agreed that covenants and events of default of any Replacement Term Loans that are more favorable to the lenders or the agent of such Replacement Term Loans than those contained in the Loan Documents and are then conformed (or added) to the Loan Documents pursuant to the applicable Refinancing Amendment shall thereafter be deemed acceptable to the Administrative Agent).

Each party hereto hereby agrees that, upon the effectiveness of any Refinancing Amendment, this Agreement shall be amended by the Company, each other Borrower, the Administrative Agent and the lenders providing the relevant Replacement Term Loans, as applicable, to the extent (but only to the extent) necessary to reflect the existence and terms of such Replacement Term Loans incurred or implemented pursuant thereto (including any amendment necessary to treat the loans and commitments subject thereto as a separate "tranche" and "Class" of Loans and/or commitments hereunder). It is understood that any Lender approached to provide all or a portion of any Replacement Term Loans may elect or decline, in its sole discretion, to provide such Replacement Term Loans.

(c) Notwithstanding anything to the contrary contained in this Section 9.02 or any other provision of this Agreement or any provision of any other Loan Document, (i) the Company and the Administrative Agent may, without the input or consent of any Lender, amend, supplement and/or waive any guaranty, collateral security agreement, pledge agreement and/or related document (if any) executed in connection with this Agreement to (x) comply with any Requirements of Law or the advice of counsel or (y) cause any such guaranty, collateral security agreement, pledge agreement or other document to be consistent with this Agreement, any Acceptable Intercreditor Agreement and/or the relevant other Loan Documents, (ii) the Company and the Administrative Agent may, without the input or consent of any other Lender (other than the relevant Lenders (including Additional Lenders) providing Loans under such Sections), effect amendments to this Agreement and the other Loan Documents as may be necessary in the reasonable opinion of the Company and the Administrative Agent to (A) effect the provisions of Sections 2.14, 2.22, 2.23, 5.10 or 9.02(b), or any other provision specifying that any waiver, amendment or modification may be made with the consent or approval of the Administrative Agent and/or (B) add terms (including representations and warranties, conditions, prepayments, covenants or events of default), in connection with the addition of any Loan or Commitment hereunder or the incurrence of any Incremental Equivalent Debt, any Replacement Term Loans, any Replacement Debt and/or any Refinancing Indebtedness with respect to Indebtedness originally incurred in reliance on Section 6.01(b)(i)(A)(II), that are favorable to the then-existing Lenders, as reasonably determined by the Administrative Agent (it being understood that, where applicable, any such amendment may be effectuated as part of an Incremental Facility Amendment and/or a Refinancing Amendment), (iii) if the Administrative Agent and the Company have jointly identified any ambiguity, mistake, defect, inconsistency, obvious error or any error or omission of a technical or administrative nature or any necessary or desirable technical change, in each case, in any provision of any Loan Document, then the Administrative Agent and the Company shall be permitted to amend such provision solely to address such matter as reasonably determined by them acting jointly without the consent of any Lender so long as, upon the written request of the Administrative Agent, such proposed amendment has been posted to the Lenders and the Administrative Agent shall not have received, within five Business Days of the date of such posting, a written notice from the Required Lenders stating that such Lenders object to such amendment, (iv) the Administrative Agent and the Company may amend, restate, amend and restate or otherwise modify any Acceptable Intercreditor Agreement as provided therein or to give effect thereto or to carry out the purpose thereof without the input or consent of any Lender and (v) any amendment, waiver or modification of any term or provision that directly affects Lenders under one or more Classes and does not directly affect Lenders under one or more other Classes may be effected with the consent of Lenders owning 50% of the aggregate commitments or Loans of such directly affected Class in lieu of the consent of the Required Lenders.

(d) (i) Notwithstanding anything to the contrary contained in this Section 9.02 or any Loan Document, the Company may at any time, upon not less than ten (10) Business Days' notice from the Company to the Administrative Agent (or such shorter period as may be agreed by the Administrative Agent in its sole discretion), designate any Subsidiary of the Company as an additional Term Loan Borrower hereunder (each such entity, a "**Discretionary Borrower**") pursuant to joinder or other documentation to be reasonably agreed solely between the Administrative Agent and the Company (the "**Borrower Joinder**"); provided, that solely in the case of any such designation of a non-Domestic Subsidiary of the Company as a co-Borrower, consent of the Administrative Agent shall be required prior to the addition of any such co-Borrower, in each case, such consent not to be unreasonably withheld, delayed or conditioned. The Company and the Administrative Agent shall be permitted to make such amendments to the Loan Documents as necessary to incorporate such additional entity as a co-Borrower. The parties hereto acknowledge and agree that prior to any such entity becoming a Borrower hereunder, the Administrative Agent shall have received (w) such corporate authorizations, opinions, and customary certificates (including with respect to representations) reasonably requested by the Administrative Agent, (x) the receipt of customary "Know Your Customer" information requested by the Administrative Agent, (y) the receipt of, in relation to itself as a "legal entity customer", a Beneficial Ownership Certification and (z) joinders or amendments to security or guaranty documents to evidence the Borrower Joinder, reasonably satisfactory to the Administrative Agent. The new Borrower shall be a party to the Credit Agreement and shall constitute a "Borrower" for all purposes thereof, and the new Borrower shall agree to be bound by all provisions of the Credit Agreement.

(ii) Each such Discretionary Borrower hereby irrevocably appoints the Company as its agent for all purposes relevant to this Agreement and each of the other Loan Documents (other than with respect to payment), including (A) the giving and receipt of notices and (B) the execution and delivery of all documents, instruments and certificates contemplated herein and all modifications hereto. Any acknowledgment, consent, direction, certification or other action (other than with respect to payment) which might otherwise be valid or effective only if given or taken by all Borrowers, or by each Borrower acting singly, shall be valid and effective if given or taken only by the Company, whether or not any such other Borrower joins therein. Any notice, demand, consent, acknowledgment, direction, certification or other communication delivered to the Company in accordance with the terms of this Agreement shall be deemed to have been delivered to each such additional Borrower.

SECTION 9.03. Expenses; Indemnity; Indemnity; Damage Waiver.

(a) The Company shall pay (i) all reasonable out-of-pocket expenses incurred by the Agents and their respective Affiliates, including the reasonable fees, charges and disbursements of a single counsel for the Agents, as applicable, in connection with the syndication of the credit facilities provided for herein, the preparation and administration of the Loan Documents or any amendments, modifications or waivers of the provisions thereof (whether or not the transactions contemplated hereby or thereby shall be consummated), (ii) [reserved] and (iii) if an Event of Default occurs, all reasonable out-of-pocket expenses incurred by either Agent or any Lender, including the fees, charges and disbursements of any counsel for either Agent or any Lender, in connection with the enforcement or protection of its rights in connection with the Loan Documents.

(b) The Company shall indemnify each Agent and each Lender, and each Related Party of any of the foregoing Persons (each such Person being called an “**Indemnitee**”) against, and hold each Indemnitee harmless from, any Liabilities and related expenses (but limited, in the case of legal fees and expenses, to the actual reasonable and documented out-of-pocket fees, disbursements and other charges of one counsel to all Indemnitees taken as a whole and, if reasonably necessary, one local counsel in any relevant material jurisdiction to all Indemnitees taken as a whole and, solely in the case of an actual or perceived conflict of interest after the affected Person notifies the Company of such conflict, (x) one additional counsel to all similarly situated affected Indemnitees taken as a whole and (y) one additional local counsel in any relevant material jurisdiction to all similarly situated affected Indemnitees taken as a whole), in each case, incurred in connection with any investigative, administrative or judicial proceeding, whether or not such Indemnitee shall be designated a party thereto, which may be incurred by any Indemnitee, relating to or arising out of any actual or proposed use of proceeds of Loans hereunder for the purpose of acquiring equity securities of any Person or any exercise of remedies under the Loan Documents; provided that no Indemnitee shall have the right to be indemnified hereunder (i) with respect to the acquisition of equity securities of a wholly-owned Subsidiary, or of a Person who prior to such acquisition did not conduct any business or (ii) for its own gross negligence or willful misconduct determined by a final nonappealable decision of a court of competent jurisdiction. This **Section** 9.03(b) shall not apply with respect to Taxes other than any Taxes that represent losses, claims, damages, etc. arising from any non-Tax claim.

(c) The Company shall not be liable for any settlement or compromise of, or the consent to the entry of any judgment with respect to, any proceeding effected without its consent (which consent shall not be unreasonably withheld, delayed or conditioned), but if any proceeding is so settled, compromised or consented to with the Company’s written consent, or if there is a final judgment entered against any Indemnitee in any such proceeding, the Company agrees to indemnify and hold harmless each Indemnitee to the extent and in the manner set forth above. The Company shall not, without the prior written consent of the affected Indemnitee (which consent shall not be unreasonably withheld, conditioned or delayed), effect any settlement of any pending or threatened proceeding in respect of which indemnity could have been sought hereunder by such Indemnitee unless (i) such settlement includes an unconditional release of such Indemnitee from all liability or claims that are the subject matter of such proceeding and (ii) such settlement does not include any statement as to any admission of fault or culpability.

(d) To the extent that the Company fails to pay any amount required to be paid by it to the Agent under paragraph (a) or (b) of this Section, (i) each Lender severally agrees to pay to the Administrative Agent and each of its Related Parties such Lender's ratable share (determined in accordance with such Lender's share of the Loans outstanding hereunder as of the time that the applicable unreimbursed expense or indemnity payment is sought) of such unpaid amount and (ii) each Secured Party, in the case of the Collateral Agreement, severally agrees to pay to the Collateral Agent and each of its Related Parties such Secured Party's ratable share (determined in accordance with such Secured Party's share of the Obligations) 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 such Agent in its capacity as such. The agreements in this Section shall survive the termination of this Agreement and the payment of the Loans and all other amounts payable hereunder.

(e) [Reserved].

(f) All amounts due under this Section shall be payable promptly after written demand therefor.

SECTION 9.04. Waiver of Claim. To the extent permitted by applicable law, (i) no Loan Party shall assert, and each Loan Party hereby waives, any claim against the Administrative Agent, any Arranger, and any Lender, and any Related Party of any of the foregoing Persons (each such Person being called a "**Lender-Related Person**") for any Liabilities arising from the use by others of information or other materials (including, without limitation, any personal data) obtained through telecommunications, electronic or other information transmission systems (including the Internet); provided, that such waiver shall not apply to any claims against a Lender-Related Person attributable to the gross negligence or willful misconduct of such Lender-Related Person and (ii) no party to this Agreement nor any Secured Party shall assert, and each hereby waives, any claim against any party hereto, any Loan Party and/or any Related Party of any thereof, on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement or any agreement or instrument contemplated hereby, the Transactions, any Loan or the use of the proceeds thereof; provided that, nothing in this Section 9.04 shall relieve any Loan Party of any obligation it may have to indemnify an Indemnitee, as provided in Section 9.03(b), against any special, indirect, consequential or punitive damages asserted against such Indemnitee by a third party.

SECTION 9.05. Successors and Assigns.

(a) The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns; provided that (i) except as provided under Section 6.08, the Company may not assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of each Lender (and any attempted assignment or transfer by the Company without such consent shall be null and void) and (ii) no Lender may assign or otherwise transfer its rights or obligations hereunder except in accordance with the terms of this Section (any attempted assignment or transfer not complying with the terms of this Section shall be null and void and, with respect to any attempted assignment or transfer to any Disqualified Institution, subject to Section 9.05(f)). Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and permitted assigns, Participants (to the extent provided in paragraph (c) of this Section) and, to the extent expressly contemplated hereby, the Related Parties of each of the Arrangers, the Administrative Agent and the Lenders) any legal or equitable right, remedy or claim under or by reason of this Agreement. Any Successor Company permitted pursuant to a transaction referred to in clause (i) of the proviso above, shall thereafter be deemed to be and become the "Company" and a "Borrower" for all purposes hereunder, and the Company or such initial Borrower shall be released from its Obligations in respect of this Agreement and the other Loan Documents.

(b) (i) Subject to the conditions set forth in paragraph (b)(ii) below, any Lender may assign to one or more Eligible Assignees all or a portion of its rights and obligations under this Agreement (including all or a portion of any Additional Loan or Additional Commitment added pursuant to Sections 2.22, 2.23 or 9.02 at the time owing to it) with the prior written consent (not to be unreasonably withheld or delayed) of:

(A) the Company; provided that the Company shall be deemed to have consented to any assignment of Loans (other than any such assignment to a Disqualified Institution or an affiliate thereof referred to in the last proviso of this clause (i)) if it has not responded to a written request for its consent from the Administrative Agent within 15 Business Days after receiving such written request; provided, further, that no consent of the Company shall be required (x) for any assignment of Term Loans or Commitments to another Lender, an Affiliate of any Lender or an Approved Fund, or (y) during the continuance of a Specified Event of Default; and

(B) the Administrative Agent; provided that no consent of the Administrative Agent shall be required for any assignment to another Lender, any Affiliate of a Lender or any Approved Fund, or for any assignment to the Company and/or its Affiliates, which otherwise complies with the terms of this Section 9.05;

provided, that, notwithstanding the foregoing, the Company may, in its sole discretion, withhold its consent to any assignment to any Person that is not expressly a Disqualified Institution but is known by the Company to be an Affiliate of a Disqualified Institution without regard as to whether such Person is identifiable as an Affiliate of a Disqualified Institution on the basis of such Affiliate's name.

(ii) Assignments shall be subject to the following additional conditions:

(A) except in the case of any assignment to another Lender, any Affiliate of any Lender or any Approved Fund or any assignment of the entire remaining amount of the relevant assigning Lender's Loans or commitments of any Class, the principal amount of Loans or commitments of the assigning Lender subject to the relevant assignment (determined as of the date on which the Assignment Agreement with respect to such assignment is delivered to the Administrative Agent and determined on an aggregate basis in the event of concurrent assignments to Related Funds or by Related Funds) shall not be less than \$1,000,000, unless the Company and the Administrative Agent otherwise consent to a lesser amount, and in each case any assigned amount may exceed such minimum amount in an integral multiple of \$1,000,000 in excess thereof;

(B) any partial assignment shall be made as an assignment of a proportionate part of all the relevant assigning Lender's rights and obligations under this Agreement;

(C) the parties to each assignment shall execute and deliver to the Administrative Agent an Assignment Agreement via an electronic settlement system acceptable to the Administrative Agent (or, if previously agreed with the Administrative Agent, manually), and shall pay to the Administrative Agent a processing and recordation fee of \$3,500 (which fee may be waived or reduced in the sole discretion of the Administrative Agent and which fee shall not apply for any assignment to an Affiliated Lender);

(D) the relevant Eligible Assignee, if it is not a Lender, shall deliver on or prior to the effective date of such assignment, to the Administrative Agent and the Company (irrespective of whether an Event of Default exists) (1) an Administrative Questionnaire and (2) any form required under Section 2.17; and

(E) the assigning Lender shall, concurrently with its delivery of the same to the Administrative Agent, provide the Company with a copy of its request for such assignment, which shall include the name of the prospective assignee (irrespective of whether an Event of Default exists).

(iii) Except as otherwise provided in Section 9.05(g), subject to the acceptance and recording thereof pursuant to paragraph (b)(iv) of this Section, from and after the effective date specified in any Assignment Agreement, the Eligible Assignee thereunder shall be a party hereto and, to the extent of the interest assigned pursuant to such Assignment Agreement, have the rights and obligations of a Lender under this Agreement, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment Agreement, be released from its obligations under this Agreement (and, in the case of an Assignment Agreement covering all of the assigning Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto but shall continue to be (A) entitled to the benefits of Sections 2.15, 2.16, 2.17 and 9.03 with respect to facts and circumstances occurring on or prior to the effective date of such assignment and (B) subject to its obligations thereunder and under Section 9.13). If any assignment by any Lender holding any Promissory Note is made after the issuance of such Promissory Note, the assigning Lender shall, upon the effectiveness of such assignment or as promptly thereafter as practicable, surrender such Promissory Note to the Administrative Agent for cancellation, and, following such cancellation, if requested by either the assignee or the assigning Lender, the Company shall issue and deliver a new Promissory Note to such assignee and/or to such assigning Lender, with appropriate insertions, to reflect the new commitments and/or outstanding Loans of the assignee and/or the assigning Lender.

(iv) The Administrative Agent, acting for this purpose as an agent of the Company, shall maintain at one of its offices in the United States a copy of each Assignment Agreement delivered to it and a register for the recordation of the names and addresses of the Lenders and their respective successors and assigns, and the commitment of, and principal amount of and stated interest on the Loans owing to, each Lender pursuant to the terms hereof from time to time (the "**Register**"). Failure to make any such recordation, or any error in such recordation, shall not affect the Company's obligations in respect of such Loans. The entries in the Register shall be conclusive, absent manifest error, and the Company, the Administrative Agent and the Lenders shall treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement, notwithstanding notice to the contrary. The Register shall be available for inspection by the Company and each Lender (but only as to its own holdings), at any reasonable time and from time to time upon reasonable prior notice.

(v) Upon its receipt of a duly completed Assignment Agreement executed by an assigning Lender and an Eligible Assignee, the Eligible Assignee's completed Administrative Questionnaire and any tax certification required by Section 9.05(b)(i)(D)(2) (unless the assignee is already a Lender hereunder), the processing and recordation fee referred to in paragraph (b) of this Section, if applicable, and any written consent to the relevant assignment required by paragraph (b) of this Section, the Administrative Agent shall promptly accept such Assignment Agreement and record the information contained therein in the Register. No assignment shall be effective for purposes of this Agreement unless it has been recorded in the Register as provided in this paragraph.

(vi) By executing and delivering an Assignment Agreement, the assigning Lender and the Eligible Assignee thereunder shall be deemed to confirm and agree with each other and the other parties hereto as follows: (A) such assigning Lender warrants that it is the legal and beneficial owner of the interest being assigned thereby free and clear of any adverse claim and that the amount of its commitments, and the outstanding balances of its Loans, in each case without giving effect to any assignment thereof which has not become effective, are as set forth in such Assignment Agreement, (B) except as set forth in clause (A) above, such assigning Lender makes no representation or warranty and assumes no responsibility with respect to any statement, warranty or representation made in or in connection with this Agreement, or the execution, legality, validity, enforceability, genuineness, sufficiency or value of this Agreement, any other Loan Document or any other instrument or document furnished pursuant hereto, or the financial condition of the Company or any Restricted Subsidiary or the performance or observance by the Company or any Restricted Subsidiary of any of its obligations under this Agreement, any other Loan Document or any other instrument or document furnished pursuant hereto; (C) such assignee represents and warrants that it is an Eligible Assignee (and not a Disqualified Institution), legally authorized to enter into such Assignment Agreement; (D) such assignee confirms that it has received a copy of this Agreement, the ABL Intercreditor Agreement and each other then-applicable Acceptable Intercreditor Agreement, together with copies of the most recent financial statements delivered pursuant to Section 5.01 and such other documents and information as it has deemed appropriate to make its own credit analysis and decision to enter into such Assignment Agreement; (E) such assignee will independently and without reliance upon the Administrative Agent, the assigning Lender or any other Lender and based on such documents and information as it deems appropriate at the time, continue to make its own credit decisions in taking or not taking action under this Agreement; (F) such assignee appoints and authorizes the Administrative Agent to take such action as agent on its behalf and to exercise such powers under this Agreement as are delegated to the Administrative Agent, by the terms hereof, together with such powers as are reasonably incidental thereto; and (G) such assignee agrees that it will perform in accordance with their terms all the obligations which by the terms of this Agreement are required to be performed by it as a Lender.

(c) (i) Any Lender may, without the consent of the Company, the Administrative Agent or any other Lender, sell participations to any bank or other entity (other than to any Disqualified Institution or an Affiliate thereof referred to in the last proviso of clause (b)(i) of this Section, any Defaulting Lender or any natural Person) (a “**Participant**”) in all or a portion of such Lender’s rights and obligations under this Agreement (including all or a portion of its commitments and the Loans owing to it); provided, that, (A) such Lender’s obligations under this Agreement shall remain unchanged, (B) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations and (C) the Company, the Administrative Agent 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 Agreement. Any agreement or instrument pursuant to which any Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Agreement and to approve any amendment, modification or waiver of any provision of this Agreement; provided that such agreement or instrument may provide that such Lender will not, without the consent of the relevant Participant, agree to any amendment, modification or waiver described in (x) clause (A) of the first proviso to Section 9.02(b) that directly and adversely affects the Loans or commitments in which such Participant has an interest and (y) clauses (B)(1), (2) or (3) of the first proviso to Section 9.02(b). Subject to paragraph (c)(ii) of this Section, the Company agrees that each Participant shall be entitled to the benefits of Sections 2.15, 2.16 and 2.17 (subject to the limitations and requirements of such Sections and Section 2.19) to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to paragraph (b) of this Section (it being understood that the documentation required under Section 2.17(f) shall be delivered to the participating Lender, and if additional amounts are required to be paid pursuant to Section 2.17(a) or Section 2.17(c), to the Company). To the extent permitted by applicable Requirements of Law, each Participant also shall be entitled to the benefits of Section 9.09 as though it were a Lender; provided that such Participant agrees to be subject to Section 2.18(c) as though it were a Lender.

(ii) No Participant shall be entitled to receive any greater payment under Sections 2.15, 2.16 or 2.17 than the participating 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 Company's prior written consent (in its sole discretion) expressly acknowledging such Participant may receive a greater benefit. Any Participant that would be a Foreign Lender if it were a Lender shall not be entitled to the benefits of Section 2.17 unless the Company is notified of the participation sold to such Participant and such Participant agrees, for the benefit of the Company, to comply with Section 2.17(f) as though it were a Lender and to deliver the tax forms required to claim an exemption from or reduction of withholding Tax with respect to payments made under any Loan Document and then only to the extent of any amount to which such Lender would be entitled in the absence of any such participation (it being understood that the documentation required under Section 2.17(f) shall be delivered to the participating Lender, and if additional amounts are required to be paid pursuant to Section 2.17(a) or Section 2.17(c), to the Company).

Each Lender that sells a participation shall, acting solely for this purpose as a non-fiduciary agent of the Company, maintain a register on which it enters the name and address of each Participant and their respective successors and assigns, and the principal amounts and stated interest of each Participant's interest in the Loans or other obligations under the Loan 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 any Participant's interest in any Commitment, Loan or any other obligation under any Loan Document) to any Person except to the extent that such disclosure is necessary to establish that such Commitment, Loan or other obligation is in registered form under Section 5f.103-1(c) of the Treasury Regulations. The entries in the Participant Register shall be conclusive absent manifest error, and each Lender shall treat each Person whose name is recorded in the Participant Register as the owner of such participation for all purposes of this 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.

(d) (i) Any Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement (other than to any Disqualified Institution, Defaulting Lender or any natural person) to secure obligations of such Lender, including without limitation any pledge or assignment to secure obligations to any Federal Reserve Bank or other central bank having jurisdiction over such Lender, and this Section 9.05 shall not apply to any such pledge or assignment of a security interest; provided that no such pledge or assignment of a security interest shall release any Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto.

(ii) No Lender may at any time enter into a total return swap, total rate of return swap, credit default swap or other derivative instrument under which any Loan or other Obligation hereunder is a reference obligation with any counterparty that is a Disqualified Institution.

(e) Notwithstanding anything to the contrary contained herein, any Lender (a “**Granting Lender**”) may grant to a special purpose funding vehicle (an “**SPC**”), identified as such in writing from time to time by the Granting Lender to the Administrative Agent and the Company, the option to provide to the Company all or any part of any Loan that such Granting Lender would otherwise be obligated to make to the Company pursuant to this Agreement; provided that (i) nothing herein shall constitute a commitment by any SPC to make any Loan, (ii) if an SPC elects not to exercise such option or otherwise fails to provide all or any part of such Loan, the Granting Lender shall be obligated to make such Loan pursuant to the terms hereof and (iii) in no event may any Lender grant any option to provide to the Company all or any part of any Loan that such Granting Lender would have otherwise been obligated to make to the Company pursuant to this Agreement to any Disqualified Institution or Defaulting Lender. The making of any Loan by an SPC hereunder shall utilize the Commitment of the Granting Lender to the same extent, and as if, such Loan were made by such Granting Lender. Each party hereto hereby agrees that (A) neither the grant to any SPC nor the exercise by any SPC of such option shall increase the costs or expenses or otherwise increase or change the obligations of the Company under this Agreement (including its obligations under Section 2.15, 2.16 or 2.17) and no SPC shall be entitled to any greater amount under Section 2.15, 2.16 or 2.17 or any other provision of this Agreement or any other Loan Document that the Granting Lender would have been entitled to receive, unless the grant to such SPC is made with the prior written consent of the Company (in its sole discretion), expressly acknowledging that such SPC’s entitlement to benefits under Section 2.15, 2.16 or 2.17 is not limited to what the Granting Lender would have been entitled to receive absent the grant to the SPC, (B) no SPC shall be liable for any indemnity or similar payment obligation under this Agreement (all liability for which shall remain with the Granting Lender) and (C) the Granting Lender shall for all purposes including approval of any amendment, waiver or other modification of any provision of the Loan Documents, remain the Lender of record hereunder. In furtherance of the foregoing, each party hereto hereby agrees (which agreement shall survive the termination of this Agreement) that, prior to the date that is one year and one day after the payment in full of all outstanding commercial paper or other senior indebtedness of any SPC, it will not institute against, or join any other Person in instituting against, such SPC any bankruptcy, reorganization, arrangement, insolvency or liquidation proceedings under the Requirements of Law of the U.S. or any State thereof; provided that (i) such SPC’s Granting Lender is in compliance in all material respects with its obligations to the Company hereunder and (ii) each Lender designating any SPC hereby agrees to indemnify, save and hold harmless each other party hereto for any loss, cost, damage or expense arising out of its inability to institute such a proceeding against such SPC during such period of forbearance. In addition, notwithstanding anything to the contrary contained in this Section 9.05, any SPC may (i) with notice to, but without the prior written consent of, the Company or the Administrative Agent and without paying any processing fee therefor, assign all or a portion of its interests in any Loan to the Granting Lender and (ii) disclose on a confidential basis any non-public information relating to its Loans to any rating agency, commercial paper dealer or provider of any surety, guaranty or credit or liquidity enhancement to such SPC.

(f) (i) If any assignment or participation under this Section 9.05 is made (1) to any Affiliate of any Disqualified Institution (other than any Bona Fide Debt Fund that is not itself a Disqualified Institution) or (2) to the extent the Company’s consent is required under this Section 9.05 (and not deemed to have been given pursuant to Section 9.05(b)(i)(A)), to any other Person, in each case of clauses (1) and (2) without the Company’s prior written consent (any such person, a “**Disqualified Person**”), then the Company may, at its sole expense and effort, upon notice to the applicable Disqualified Person and the Administrative Agent, (A) terminate any Commitment of such Disqualified Person and repay all obligations of the Company owing to such Disqualified Person, (B) in the case of any outstanding Term Loans held by such Disqualified Person, purchase such Term Loans by paying the lesser of (x) par and (y) the amount that such Disqualified Person paid to acquire such Term Loans, plus accrued interest thereon, accrued fees and all other amounts payable to it hereunder and/or (C) require such Disqualified Person to assign, without recourse (in accordance with and subject to the restrictions contained in this Section 9.05), all of its interests, rights and obligations under this Agreement to one or more Eligible Assignees and if such person does not execute and deliver to the Administrative Agent a duly executed Assignment Agreement reflecting such assignment within five Business Days of the date on which the Eligible Assignee executes and delivers such Assignment Agreement to such person, then such person shall be deemed to have executed and delivered such Assignment Agreement without any action on its part; provided that (I) in the case of clauses (A) and (B), the Company shall not be liable to the relevant Disqualified Person under Section 2.16 if any LIBO Rate Loan owing to such Disqualified Person is repaid or purchased other than on the last day of the Interest Period relating thereto, (II) in the case of clause (C), the relevant assignment shall otherwise comply with this Section 9.05 (except that no registration and processing fee required under this Section 9.05 shall be required with any assignment pursuant to this paragraph) and (III) in no event shall such Disqualified Person be entitled to receive amounts set forth in Section 2.13(d). Further, any Disqualified Person identified by the Company to the Administrative Agent (A) shall not be permitted to (x) receive information or reporting provided by any Loan Party, the Administrative Agent or any Lender and/or (y) attend and/or participate in conference calls or meetings attended solely by the Lenders and the Administrative Agent, (B) (x) shall not for purposes of determining whether the Required Lenders or the majority Lenders under any Class have (i) consented (or not consented) to any amendment, modification, waiver, consent or other action with respect to any of the terms of any Loan Document or any departure by any Loan Party therefrom, (ii) otherwise acted on any matter related to any Loan Document or (iii) directed or required the Administrative Agent or any Lender to undertake any action (or refrain from taking any action) with respect to or under any Loan Document, have a right to consent (or not consent), otherwise act or direct or require the Administrative Agent or any Lender to take (or refrain from taking) any such action; it being understood that all Loans held by any Disqualified Person shall be deemed to be not outstanding for all purposes of calculating whether the Required Lenders, majority Lenders under any Class or all Lenders have taken any action and (y) shall be deemed to vote in the same proportion as Lenders that are not Disqualified Persons in any proceeding under any Debtor Relief Law commenced by or against the Company or any other Loan Party and (C) shall not be entitled to receive the benefits of Section 9.03. For the sake of clarity, the provisions in this Section 9.05(f) shall not apply to any Person that is an assignee of any Disqualified Person, if such assignee is not a Disqualified Person;

(ii) Upon the request of any Lender, the Administrative Agent may and the Company will make the list of Disqualified Institutions (other than any Disqualified Institution that is a reasonably identifiable Affiliate of another Disqualified Institution on the basis of such Person's name as described in clause (a)(i) of the definition of "Disqualified Institution") at the relevant time and such Lender may provide the list to any potential assignee for the purpose of verifying whether such Person is a Disqualified Institution, in each case so long as such Lender and such potential assignee agree to keep the list of Disqualified Institutions confidential in accordance with the terms hereof; and

(iii) Notwithstanding anything herein to the contrary, the Administrative Agent shall not be responsible or have any liability for, or have any duty to ascertain, inquire into, monitor or enforce, compliance with the provisions hereof relating to Disqualified Institutions.

(g) Notwithstanding anything to the contrary contained herein, any Lender may, at any time, assign all or a portion of its rights and obligations under this Agreement in respect of its Term Loans to an Affiliated Lender on a non-pro rata basis (A) through Dutch Auctions, or similar transactions pursuant to procedures to be established by the applicable "auction agent" that are consistent with this **Section 9.05(g)**, in each case open to all Lenders holding the relevant Term Loans on a pro rata basis or (B) through open market purchases (which purchases may be effected at any price as agreed between such Lender and such Affiliated Lender in their respective sole discretion), in each case with respect to clauses (A) and (B), without the consent of the Administrative Agent; provided that:

(i) any Term Loans acquired by the Company or any Restricted Subsidiary shall, to the extent permitted by applicable Requirements of Law, be retired and cancelled immediately upon the acquisition thereof; provided that upon any such retirement and cancellation, the aggregate outstanding principal amount of the Term Loans shall be deemed reduced by the full par value of the aggregate principal amount of the Term Loans so retired and cancelled, with no reduction to the scheduled installments of principal due in respect of the Initial Term Loans prior to the Initial Term Loan Maturity Date,

(ii) [reserved];

(iii) the relevant Affiliated Lender and assigning Lender shall have executed an Affiliated Lender Assignment and Assumption;

(iv) [reserved];

(v) in connection with any assignment effected pursuant to a Dutch Auction and/or open market purchase conducted by the Company or any of its Subsidiaries, no Event of Default exists at the time of acceptance of bids for the Dutch Auction or the confirmation of such open market purchase, as applicable;

(vi) [reserved];

(vii) neither the Company nor any Affiliated Lender shall be required to represent or warrant that it is not in possession of material non-public information with respect to the Company and/or any subsidiary thereof and/or their respective securities in connection with any assignment permitted by this **Section 9.05(g)**.

SECTION 9.06. **Survival.** All covenants, agreements, representations and warranties made by the Loan Parties in the Loan Documents and in the certificates or other instruments delivered in connection with or pursuant to this Agreement or any other Loan Document shall be considered to have been relied upon by the other parties hereto and shall survive the execution and delivery of the Loan Documents and the making of any Loan regardless of any investigation made by any such other party or on its behalf and notwithstanding that the Administrative Agent may have had notice or knowledge of any Default or Event of Default or incorrect representation or warranty at the time any credit is extended hereunder, and shall continue in full force and effect until the Termination Date. The provisions of **Sections 2.15, 2.16, 2.17, 9.03 and 9.13** and **Article 8** shall survive and remain in full force and effect regardless of the consummation of the transactions contemplated hereby, the repayment of the Loans, the occurrence of the Termination Date or the termination of this Agreement or any provision hereof but in each case, subject to the limitations set forth in this Agreement.

SECTION 9.07. **Counterparts; Integration; Effectiveness.** This Agreement may be executed in counterparts, each of which when so executed shall be deemed to be an original and all of which when taken together shall constitute one and the same instrument. Any signature to this Agreement, any other Loan Document and/or any document, amendment, approval, consent, information, notice (including for the avoidance of doubt, any notice delivered pursuant to Section 9.01), certificate, request, statement, disclosure or authorization related to this Agreement, any other Loan Document and/or the transactions contemplated hereby and/or thereby may be delivered by facsimile, electronic mail (including pdf) or any electronic signature complying with the U.S. federal ESIGN Act of 2000 or the New York Electronic Signature and Records Act or other transmission method and any counterpart so delivered shall be deemed to have been duly and validly delivered and be valid and effective for all purposes to the fullest extent permitted by applicable law. Each of the parties represents and warrants to the other parties that it has the corporate capacity and authority to execute this Agreement and such other documents described in the foregoing sentence through electronic means and there are no restrictions for doing so in that party's constitutive documents. This Agreement, the other Loan Documents and the Fee Letter constitute the entire agreement among the parties relating to the subject matter hereof and supersede any and all previous agreements and understandings, oral or written, relating to the subject matter hereof. This Agreement shall become effective when it has been executed by the Company and the Administrative Agent and when the Administrative Agent has received counterparts hereof which, when taken together, bear the signatures of each of the other parties hereto, and thereafter shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns.

SECTION 9.08. Severability. To the extent permitted by applicable Requirements of Law, any provision of any Loan Document held to be invalid, illegal or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such invalidity, illegality or unenforceability without affecting the validity, legality and enforceability of the remaining provisions thereof; and the invalidity of a particular provision in a particular jurisdiction shall not invalidate such provision in any other jurisdiction.

SECTION 9.09. Right of Setoff. At any time when an Event of Default exists and the Administrative Agent has commenced an exercise of secured creditor remedies pursuant to Section 7.01 or otherwise with the consent of the Administrative Agent, upon the written consent of the Administrative Agent, the Administrative Agent, each Lender and each of their respective Affiliates is hereby authorized at any time and from time to time, to the fullest extent permitted by applicable Requirements of 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 obligations (in any currency) at any time owing by the Administrative Agent, such Lender or any of their respective Affiliates to or for the credit or the account of the Company or any other Loan Party against any of and all the Secured Obligations then due and owing held by such Lender, irrespective of whether or not the Administrative Agent or such Lender shall have made any demand under the Loan Documents and although such obligations may be owing to a branch or office of such Lender different than the branch or office holding such deposit or obligation on such Indebtedness. Any applicable Lender shall promptly notify the Company and the Administrative Agent of such set-off or application; provided that any failure to give or any delay in giving such notice shall not affect the validity of any such set-off or application under this Section. The rights of each Lender and the Administrative Agent under this Section are in addition to other rights and remedies (including other rights of setoff) which such Lender or the Administrative Agent may have.

SECTION 9.10. Governing Law; Jurisdiction; Consent to Service of Process.

(a) THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS (OTHER THAN AS EXPRESSLY SET FORTH IN ANY OTHER LOAN DOCUMENT) AND ANY CLAIM, CONTROVERSY OR DISPUTE ARISING UNDER OR RELATED TO THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS (OTHER THAN AS EXPRESSLY SET FORTH IN ANY OTHER LOAN DOCUMENT), WHETHER IN TORT, CONTRACT (AT LAW OR IN EQUITY) OR OTHERWISE, SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK.

(b) EACH PARTY HERETO HEREBY IRREVOCABLY AND UNCONDITIONALLY SUBMITS, FOR ITSELF AND ITS PROPERTY, TO THE EXCLUSIVE JURISDICTION OF THE SUPREME COURT 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, OVER ANY SUIT, ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO ANY LOAN DOCUMENT AND AGREES THAT ALL CLAIMS IN RESPECT OF ANY SUCH ACTION OR PROCEEDING SHALL (EXCEPT AS PERMITTED BELOW) BE HEARD AND DETERMINED IN SUCH NEW YORK STATE OR, TO THE EXTENT PERMITTED BY APPLICABLE REQUIREMENTS OF LAW, FEDERAL COURT. EACH PARTY HERETO AGREES THAT SERVICE OF ANY PROCESS, SUMMONS, NOTICE OR DOCUMENT BY REGISTERED MAIL ADDRESSED TO SUCH PERSON SHALL BE EFFECTIVE SERVICE OF PROCESS AGAINST SUCH PERSON FOR ANY SUIT, ACTION OR PROCEEDING BROUGHT IN ANY SUCH COURT. EACH PARTY HERETO AGREES THAT A FINAL JUDGMENT IN ANY SUCH ACTION OR PROCEEDING MAY BE ENFORCED IN OTHER JURISDICTIONS BY SUIT ON THE JUDGMENT OR IN ANY OTHER MANNER PROVIDED BY APPLICABLE REQUIREMENTS OF LAW. EACH PARTY HERETO AGREES THAT THE ADMINISTRATIVE AGENT RETAINS THE RIGHT TO BRING PROCEEDINGS AGAINST ANY LOAN PARTY IN THE COURTS OF ANY OTHER JURISDICTION SOLELY IN CONNECTION WITH THE EXERCISE OF ANY RIGHTS UNDER ANY COLLATERAL DOCUMENT.

(c) EACH PARTY HERETO HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT IT MAY LEGALLY AND EFFECTIVELY DO SO, ANY OBJECTION WHICH IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE OF ANY SUIT, ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT IN ANY COURT REFERRED TO IN PARAGRAPH (B) OF THIS SECTION. EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE REQUIREMENTS OF LAW, ANY CLAIM OR DEFENSE OF AN INCONVENIENT FORUM TO THE MAINTENANCE OF SUCH ACTION, SUIT OR PROCEEDING IN ANY SUCH COURT.

(d) TO THE EXTENT PERMITTED BY APPLICABLE REQUIREMENTS OF LAW, EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES PERSONAL SERVICE OF ANY AND ALL PROCESS UPON IT AND AGREES THAT ALL SUCH SERVICE OF PROCESS MAY BE MADE BY REGISTERED MAIL (OR ANY SUBSTANTIALLY SIMILAR FORM OF MAIL) DIRECTED TO IT AT ITS ADDRESS FOR NOTICES AS PROVIDED FOR IN SECTION 9.01. EACH PARTY HERETO HEREBY WAIVES ANY OBJECTION TO SUCH SERVICE OF PROCESS AND FURTHER IRREVOCABLY WAIVES AND AGREES NOT TO PLEAD OR CLAIM IN ANY ACTION OR PROCEEDING COMMENCED HEREUNDER OR UNDER ANY LOAN DOCUMENT THAT SERVICE OF PROCESS WAS INVALID AND INEFFECTIVE. NOTHING IN THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT WILL AFFECT THE RIGHT OF ANY PARTY TO THIS AGREEMENT TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY APPLICABLE REQUIREMENTS OF LAW.

SECTION 9.11. Waiver of Jury Trial. EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE REQUIREMENTS OF LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY SUIT, ACTION, PROCEEDING OR COUNTERCLAIM (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY) DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT, ANY OTHER LOAN DOCUMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY. EACH PARTY HERETO (a) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HERETO HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (b) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

SECTION 9.12. Headings. Article and Section headings and the Table of Contents used herein are for convenience of reference only, are not part of this Agreement and shall not affect the construction of, or be taken into consideration in interpreting, this Agreement.

SECTION 9.13. Confidentiality. Each of the Administrative Agent, each Lender and each Arranger agrees (and each Lender agrees to cause its SPC, if any) to maintain the confidentiality of the Confidential Information (as defined below), except that Confidential Information may be disclosed (a) to its and its Affiliates' directors, officers, managers, employees, independent auditors, or other experts and advisors, including accountants, legal counsel and other advisors (collectively, the "**Representatives**") on a confidential "need to know" basis solely in connection with the transactions contemplated hereby and who are informed of the confidential nature of the Confidential Information and are or have been advised of their obligation to keep the Confidential Information of this type confidential; provided that such Person shall be responsible for its Affiliates' and their Representatives' compliance with this paragraph; provided, further, that unless the Company otherwise consents, no such disclosure shall be made by the Administrative Agent, any Arranger, any Lender or any Affiliate or Representative thereof to any Affiliate or Representative of the Administrative Agent, any Arranger or any Lender that is a Disqualified Institution, (b) upon the demand or request of any regulatory, self-regulatory or governmental authority having jurisdiction over such Person or its Affiliates (in which case such Person shall, except with respect to any audit or examination conducted by bank accountants or any Governmental Authority or regulatory authority exercising examination or regulatory authority, to the extent practicable and permitted by applicable Requirements of Law, (i) inform the Company promptly in advance thereof and (ii) ensure that any information so disclosed is accorded confidential treatment), (c) to the extent compelled by legal process in, or reasonably necessary to, the defense of such legal, judicial or administrative proceeding, in any legal, judicial or administrative proceeding or otherwise as required by applicable Requirements of Law (in which case such Person shall, to the extent practicable and permitted by law, (i) inform the Company promptly in advance thereof, (ii) ensure that any such information so disclosed is accorded confidential treatment and (iii) allow the Company a reasonable opportunity to object to such disclosure in such proceeding), (d) to any other party to this Agreement, (e) subject to an acknowledgment and agreement by the relevant recipient that the Confidential Information is being disseminated on a confidential basis (on substantially the terms set forth in this paragraph or as otherwise reasonably acceptable to the Company and the Administrative Agent, including as set forth in the Lender Presentation) in accordance with the standard syndication process of the Arrangers or market standards for dissemination of the relevant type of information, which shall in any event require "click through" or other affirmative action on the part of the recipient to access the Confidential Information and acknowledge its confidentiality obligations in respect thereof, to (i) any Eligible Assignee of or Participant in, or any prospective Eligible Assignee of or prospective Participant in, any of its rights or obligations under this Agreement, including any SPC (in each case other than a Disqualified Institution), (ii) any pledgee referred to in Section 9.05, (iii) any actual or prospective direct or indirect contractual counterparty (or its advisors, but not any Disqualified Institution) to any Derivative Transaction (including any credit default swap) or similar derivative product under which payments are to be made by reference to the Company and its Obligations and (iv) subject to the Company's prior approval of the information to be disclosed (not to be unreasonably withheld or delayed), to (A) Moody's or S&P on a confidential basis in connection with obtaining or maintaining ratings as required under Section 5.11 and (B) the CUSIP Service Bureau or any similar agency in connection with the issuance and monitoring of CUSIP numbers with respect to the credit facilities provided for herein, (f) with the prior written consent of the Company, (g) in the case of information with respect to this Agreement that is of the type routinely provided by arrangers to such providers, to data service providers, including league table providers, that serve the lending industry and (h) to the extent the Confidential Information becomes publicly available other than as a result of a breach of this Section by such Person, its Affiliates or their respective Representatives. For purposes of this Section, "**Confidential Information**" means all information relating to the Company and/or any of its Subsidiaries and their respective businesses or the Transactions (including any information obtained by the Administrative Agent, any Lender or any Arranger, or any of their respective Affiliates or Representatives, based on a review of any books and records relating to the Company and/or any of its subsidiaries and their respective Affiliates from time to time, including prior to the date hereof) other than any such information that is publicly available to the Administrative Agent or any Arranger or Lender on a non-confidential basis prior to disclosure by the Company or any of its subsidiaries. For the avoidance of doubt, in no event shall any disclosure of any Confidential Information be made to Person that is a Disqualified Institution at the time of disclosure. Any Person required to maintain the confidentiality of Confidential 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 Confidential Information as such Person would accord to its own confidential information.

SECTION 9.14. No Fiduciary Duty. Each of the Administrative Agent, the Arrangers, each Lender and their respective Affiliates (collectively, solely for purposes of this paragraph, the “**Lenders**”), may have economic interests that conflict with those of the Loan Parties, their stockholders and/or their respective affiliates. Each Loan Party agrees that nothing in the Loan Documents or otherwise will be deemed to create an advisory, fiduciary or agency relationship or fiduciary or other implied duty between any Lender, on the one hand, and such Loan Party, its respective stockholders or its respective affiliates, on the other. Each Loan Party acknowledges and agrees that: (a) the transactions contemplated by the Loan Documents (including the exercise of rights and remedies hereunder and thereunder) are arm’s-length commercial transactions between the Lenders, on the one hand, and the Loan Parties, on the other, and (b) in connection therewith and with the process leading thereto, (x) no Lender, in its capacity as such, has assumed an advisory or fiduciary responsibility in favor of any Loan Party, its respective stockholders or its respective affiliates with respect to the transactions contemplated hereby (or the exercise of rights or remedies with respect thereto) or the process leading thereto (irrespective of whether any Lender has advised, is currently advising or will advise any Loan Party, its respective stockholders or its respective Affiliates on other matters) or any other obligation to any Loan Party except the obligations expressly set forth in the Loan Documents and (y) each Lender, in its capacity as such, is acting solely as principal and not as the agent or fiduciary of such Loan Party, its respective management, stockholders, creditors or any other Person. Each Loan Party acknowledges and agrees that such Loan Party has consulted its own legal, tax and financial advisors to the extent it deemed appropriate and that it is responsible for making its own independent judgment with respect to such transactions and the process leading thereto.

SECTION 9.15. Several Obligations. The respective obligations of the Lenders hereunder are several and not joint and the failure of any Lender to make any Loan or perform any of its obligations hereunder shall not relieve any other Lender from any of its obligations hereunder.

SECTION 9.16. USA PATRIOT Act. Each Lender that is subject to the requirements of the USA PATRIOT Act hereby notifies the Loan Parties that, pursuant to the requirements of the USA PATRIOT Act and the Beneficial Ownership Regulation, it is required to obtain, verify and record information that identifies each Loan Party, which information includes the name and address of such Loan Party and other information that will allow such Lender to identify such Loan Party in accordance with the USA PATRIOT Act.

SECTION 9.17. Disclosure. Each Loan Party and each Lender hereby acknowledges and agrees that the Administrative Agent and/or its Affiliates from time to time may hold investments in, make other loans to or have other relationships with any of the Loan Parties and their respective Affiliates.

SECTION 9.18. Appointment for Perfection. Each Lender hereby appoints each other Lender as its agent for the purpose of perfecting Liens for the benefit of the Administrative Agent and the Lenders, in assets which, in accordance with Article 9 of the UCC or any other applicable Requirements of Law can be perfected only by possession. If any Lender (other than the Administrative Agent) obtains possession of any Collateral, such Lender shall notify the Administrative Agent thereof and, promptly upon the Administrative Agent’s request therefor, shall deliver such Collateral to the Administrative Agent or otherwise deal with such Collateral in accordance with the Administrative Agent’s instructions.

SECTION 9.19. Interest Rate Limitation. Notwithstanding anything herein to the contrary, if at any time the interest rate applicable to any Loan, together with all fees, charges and other amounts which are treated as interest on such Loan under applicable law (collectively, the “**Applicable Charges**”), shall exceed the maximum lawful rate (the “**Maximum Rate**”) which may be contracted for, charged, taken, received or reserved by the Lender holding such Loan in accordance with applicable Requirements of Law, the rate of interest payable in respect of such Loan hereunder, together with all Applicable Charges payable in respect thereof, shall be limited to the Maximum Rate and, to the extent lawful, the interest and Applicable Charges that would have been payable in respect of such Loan but were not payable as a result of the operation of this Section shall be cumulated and the interest and Applicable Charges payable to such Lender in respect of other Loans or periods shall be increased (but not above the Maximum Rate therefor) until such cumulated amount, together with interest thereon at the Federal Funds Effective Rate to the date of repayment, shall have been received by such Lender.

SECTION 9.20. [Reserved].

SECTION 9.21. Conflicts. Notwithstanding anything to the contrary contained herein or in any other Loan Document (but excluding the ABL Intercreditor Agreement or any other Acceptable Intercreditor Agreement), in the event of any conflict or inconsistency between this Agreement and any other Loan Document (but excluding the ABL Intercreditor Agreement or any other Acceptable Intercreditor Agreement), the terms of this Agreement shall govern and control; provided that in the case of any conflict or inconsistency between the ABL Intercreditor Agreement or any other Acceptable Intercreditor Agreement, on the one hand, and any other Loan Document, on the other hand, the terms of the ABL Intercreditor Agreement or such Acceptable Intercreditor Agreement shall govern and control.

SECTION 9.22. Release of Guarantors and Discretionary Borrowers. (a) Notwithstanding anything in Section 9.02(b) to the contrary, (a) any Subsidiary Guarantor or Discretionary Borrower shall automatically be released from its obligations hereunder (and the Collateral Agreement and any Liens on its property constituting Collateral shall be automatically released) (i) upon the consummation of any permitted transaction or series of related transactions or the occurrence of any other permitted event or circumstance if as a result thereof such Subsidiary Guarantor ceases to be a Restricted Subsidiary or Discretionary Borrower (included by merger or dissolution) or becomes an Excluded Subsidiary as a result of a single transaction or series of related transactions or other event or circumstance permitted hereunder, or (ii) upon the occurrence of the Termination Date and/or (b) any Subsidiary Guarantor or Discretionary Borrower that qualifies as an "Excluded Subsidiary" shall be released from its obligations hereunder (and the Collateral Agreement and any Liens on its property constituting Collateral shall be automatically released) by the Administrative Agent promptly following the request therefor by the Company; provided that, in each case of clauses (a)(i) and (b), if any Restricted Subsidiary becomes an Excluded Subsidiary solely as a result of becoming a non-Wholly-Owned Subsidiary, such release shall only be permitted if the transaction or event resulting in such Restricted Subsidiary becoming a non-Wholly-Owned Subsidiary is with an unaffiliated third party (other than a bona fide joint venture) and was not entered into with the primary purpose of evading the Collateral and Guarantee Requirement (as determined by the Company in good faith).

(b) Notwithstanding anything in Section 9.02(b) to the contrary, any Lien on any asset or property granted to or held by the Administrative Agent under any Loan Document shall be automatically released without the need for further action by any Person (i) upon the occurrence of the Termination Date, (ii) upon the sale or other transfer of such asset or property as part of or in connection with any Disposition or Investment permitted under the Loan Documents to a Person that is not a Loan Party, (iii) upon such asset or property becoming an Excluded Asset or if such asset or property does not constitute (or ceases to constitute) Collateral, (iv) if the property subject to such Lien is owned by a Subsidiary Guarantor, upon the release of such Subsidiary Guarantor from the Collateral Agreement otherwise in accordance with the Loan Documents, (v) as provided for under Article 8 or as provided for in any other Loan Document or (vi) if approved, authorized or ratified in writing by the Required Lenders (or such other number or percentage of Lenders as shall be necessary under the relevant circumstances as provided in Section 9.02) in accordance with Section 9.02. Without limiting the foregoing, in the event that Receivables Facility Assets become subject to a Specified Receivables Facility, whether by transfer or conveyance or by placing a security interest, trust or other encumbrance required by a Specified Receivables Facility with respect to such Receivables Facility Assets, the Liens under the Loan Documents on such Receivables Facility Assets (including proceeds thereof and any deposit accounts holding exclusively such proceeds) shall be automatically released (or such Receivables Facility Assets, proceeds or deposit accounts re-assigned). Each Secured Party hereby consents to any release or re-assignment contemplated by this Section 9.22 and any steps any Agent may take or request to give effect to such release or re-assignment under the governing law of such Lien.

(c) In connection with any such release described in this Section, the Administrative Agent shall promptly execute and deliver to the relevant Loan Party, at such Loan Party's expense, all documents that such Loan Party shall reasonably request to evidence termination or release. Any execution and delivery of any document pursuant to the preceding sentence of this Section 9.22 shall be without recourse to or warranty by the Administrative Agent (other than as to the Administrative Agent's authority to execute and deliver such documents).

SECTION 9.23. Acknowledgment and Consent to Bail-In of Affected Financial Institutions. Notwithstanding anything to the contrary in any Loan Document or in any other agreement, arrangement or understanding among any such parties, each party hereto acknowledges that any liability of any Affected Financial Institution arising under any Loan 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 party hereto 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 Agreement or any other Loan 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.

[Signature Pages Follow]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their respective authorized officers as of the day and year first above written.

VICTORIA'S SECRET & CO., as the Company

By: /s/ Todd Helvie

Name: Todd Helvie

Title: Treasurer

Signature Page to Credit Agreement

JPMORGAN CHASE BANK, N.A., as Administrative Agent

By: /s/ Ryan Baker

Name: Ryan Baker

Title: Vice President

Signature Page to Credit Agreement

REVOLVING CREDIT AGREEMENT
dated as of August 2, 2021,

among
VICTORIA'S SECRET & CO.,
The Borrowing Subsidiaries Party Hereto,
The Lenders Party Hereto

and

JPMORGAN CHASE BANK, N.A.,
as Administrative Agent and Collateral Agent

JPMORGAN CHASE BANK, N.A., GOLDMAN SACHS BANK USA, BANK OF
AMERICA, N.A., CITIBANK, N.A., HSBC SECURITIES (USA) INC., WELLS
FARGO BANK, NATIONAL ASSOCIATION and BARCLAYS BANK PLC,
as Joint Lead Arrangers and Joint Bookrunners

and

GOLDMAN SACHS BANK USA, BANK OF AMERICA, N.A., CITIBANK, N.A.,
HSBC BANK USA, N.A., WELLS FARGO BANK, NATIONAL ASSOCIATION
and BARCLAYS BANK PLC,
as Co-Syndication Agents
and

KEYBANK NATIONAL ASSOCIATION, MIZUHO BANK, LTD., THE
HUNTINGTON NATIONAL BANK, U.S. BANK NATIONAL ASSOCIATION and
MUFG UNION BANK, N.A.,
as Co-Documentation Agents

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REVOLVING CREDIT AGREEMENT (the “Agreement”) dated as of August 2, 2021, among VICTORIA’S SECRET & CO., a Delaware corporation, the BORROWING SUBSIDIARIES party hereto, the LENDERS party hereto and JPMORGAN CHASE BANK, N.A., as Administrative Agent and Collateral Agent.

The parties hereto agree as follows:

ARTICLE I

Definitions

SECTION 1.01. Defined Terms. As used in this Agreement, the following terms have the meanings specified below:

“ABL Collection Account” has the meaning assigned to such term in the Collateral Agreements.

“ABL Priority Collateral” means, at any time, any and all of the following that constitute Collateral, whether now owned or hereafter acquired and wherever located: (a) all Accounts (other than (x) Accounts arising under agreements for sale of Non-ABL Priority Collateral described in clauses (a) through (h) of the definition of such term to the extent constituting identifiable Proceeds of such Non-ABL Priority Collateral and (y) Accounts pledged in support of Specified Receivables Facilities), (b) all Payment Intangibles, including all corporate and other tax refunds and all Credit Card Receivables and all other rights to payment arising therefrom in a credit-card, debit-card, prepaid-card or other payment-card transaction (other than any Payment Intangibles constituting identifiable Proceeds of Non-ABL Priority Collateral described in clauses (a) through (f) and (h) of the definition of such term); (c) all Inventory; (d) all Deposit Accounts and Securities Accounts (including the ABL Collection Account and the Concentration Account) and all cash, cash equivalents and other assets contained in, or credited to, and all Securities Entitlements arising from, any such Deposit Accounts or Securities Accounts (in each case, other than any identifiable Proceeds of Non-ABL Priority Collateral described in clauses (a) through (h) of the definition of such term); (e) for so long as Eligible Real Property is included in the Borrowing Base, all real property, related appurtenant rights and Fixtures and interests therein (including both fee and leasehold interests) located in the United States of America; (f) all rights to business interruption insurance and all rights to credit insurance with respect to any Accounts (in each case, regardless of whether the Collateral Agent is a loss payee thereof); (g) solely to the extent evidencing, governing, securing or otherwise relating to any of the items constituting ABL Priority Collateral under clauses (a) through (e) above, (i) all General Intangibles (excluding Intellectual Property, Indebtedness (or any evidence thereof) between or among the Company or any of the Subsidiaries Loan Parties and any Equity Interests, but including all contract rights as against operators of storage facilities and as against other transporters of Inventory and all rights as consignor or consignee, whether arising by contract, statute or otherwise), (ii) Instruments (including Promissory Notes), (iii) Documents (including each warehouse receipt or bill of lading covering any Inventory), (iv) insurance policies (regardless of whether the Collateral Agent is a loss payee thereof), (v) licenses from any Governmental Authority to sell or to manufacture any Inventory and (vi) Chattel Paper; (h) all collateral and guarantees given by any other Person with respect to any of the foregoing, and all other Supporting Obligations (including Letter-of-Credit Rights) with respect to any of the foregoing; (i) all books and Records to the extent relating to any of the foregoing; and (j) all products and Proceeds of the foregoing. Notwithstanding the foregoing, the term “ABL Priority Collateral” shall not include any assets referred to in clauses (a) through (h) of the definition of the term “Non-ABL Priority Collateral”. Capitalized terms used in this definition but not defined herein have the meanings assigned to them in the Collateral Agreements.

“ABR”, when used in reference to any Loan or Borrowing, refers to whether such Loan, or the Loans comprising such Borrowing, is bearing interest at a rate determined by reference to the Alternate Base Rate.

“Account” has the meaning specified in the UCC.

“Account Debtor” means any Person obligated on an Account.

“Additional Borrower Agreement” has the meaning set forth in Section 2.20.

“Additional Borrowers” means, at any time, with respect to the Commitments, Loans and Letters of Credit of any Class, each of the wholly-owned Domestic Subsidiaries or Canadian Subsidiaries that has been designated as an Additional Borrower in respect of such Class pursuant to Section 2.20 or an Incremental Facility Agreement.

“Adjusted LIBO Rate” means, with respect to any Eurodollar Borrowing for any Interest Period, an interest rate per annum (rounded upwards, if necessary, to the next 1/100 of 1%) equal to (a) the LIBO Rate for such Interest Period multiplied by (b) the Statutory Reserve Percentage; provided that if the Adjusted LIBO Rate shall be less than zero, such rate shall be deemed to be zero for the purposes of this Agreement.

“Administrative Agent” means JPMorgan Chase Bank, N.A., in its capacity as administrative agent for the Lenders hereunder, and its Affiliates in such capacity.

“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 U.K. Financial Institution.

“Affiliate” means, with respect to a specified Person, another Person that directly, or indirectly through one or more intermediaries, Controls or is Controlled by or is under common Control with the Person specified.

“Agents” means the Administrative Agent and the Collateral Agent.

“Aggregate Commitments” means, at any time, the sum of the Commitments of all the Lenders at such time.

“Aggregate Credit Exposure” means, at any time, the sum of the Credit Exposures of all the Lenders at such time.

“Alternate Base Rate” means, for any day, a rate per annum equal to the greatest of (a) the Prime Rate in effect on such day, (b) the NYFRB Rate in effect on such day plus ½ of 1% per annum and (c) the Adjusted LIBO Rate on such day (or if such day is not a Business Day, the immediately preceding Business Day) for a deposit in dollars with a maturity of one month plus 1% per annum; provided, that for purposes of this definition, the Adjusted LIBO Rate for any day shall be based on the LIBO Screen Rate on such day for deposits in dollars with a maturity of one month (or, if the LIBO Screen Rate is not available for such one month maturity, the Interpolated Rate) at approximately 11:00 a.m., London time. Any change in the Alternate Base Rate due to a change in the Prime Rate, the NYFRB Rate or the Adjusted LIBO Rate shall be effective from and including the effective date of such change in the Prime Rate, the NYFRB Rate or the Adjusted LIBO Rate, respectively. If the Alternate Base Rate is being used as an alternate rate of interest pursuant to Section 2.13 (for the avoidance of doubt, only until the applicable Benchmark Replacement has been determined pursuant to Section 2.13(b)), then for purposes of clause (c) above the Adjusted LIBO Rate shall be deemed to be 0.00%. Notwithstanding the foregoing, the Alternate Base Rate shall at no time be less than 1.00% per annum.

“Anti-Corruption Laws” means FCPA, the U.K. Bribery Act 2010 and all other laws, rules and regulations of any jurisdiction concerning or relating to bribery, corruption or money laundering, in each case to the extent applicable to the Company and its Subsidiaries.

“Applicable Creditor” has the meaning set forth in Section 8.18(b).

“Applicable Percentage” means, with respect to any Revolving Lender or any Lender of any other Class, the percentage of the total Revolving Commitments or total Commitments of any other Class, as applicable, represented by such Lender’s Revolving Commitment or Commitment of any other Class. If the Revolving Commitments or Commitments of any other Class have terminated or expired, the Applicable Percentages shall be determined based upon the Revolving Commitments or Commitments of any other Class most recently in effect, giving effect to any assignments.

“Applicable Rate” means, for any day, with respect to any Eurodollar or CDOR Rate Revolving Loan, ABR or Canadian Prime Rate Loan, with respect to any Protective Advance or with respect to the participation fees payable hereunder in respect of Letters of Credit, as the case may be, the applicable rate per annum set forth below under the caption “Eurodollar (LIBO Rate) / CDOR Rate Spread”, “ABR / Canadian Prime Rate Spread” or “LC Participation Fee Rate”, as the case may be, based upon the Company’s Average Daily Excess Availability applicable on such date:

Average Daily Excess Availability:	Eurodollar (LIBO Rate) / CDOR Rate Spread	ABR / Canadian Prime Rate Spread	LC Participation Fee Rate
<u>Category 1</u> > 66.7%	1.50%	0.50%	1.50%
<u>Category 2</u> ≤ 66.7% but ≥ 33.3%	1.75%	0.75%	1.75%
<u>Category 3</u> < 33.3%	2.00%	1.00%	2.00%

The Applicable Rate shall be determined based on Average Daily Excess Availability for the most recently ended fiscal quarter of the Company as set forth in the table above. Each change to the Applicable Rate shall be effective on the first day of the first month immediately following the last day of such fiscal quarter. Notwithstanding the foregoing provisions of this definition, the Applicable Rate shall be determined by reference to Category 3 in the table above (a) if the Company shall fail to deliver any Borrowing Base Certificate by the time required under Section 5.01(a)(iii), for the period from and including the day following the date on which such Borrowing Base Certificate shall have been due to and including the day on which such Borrowing Base Certificate shall have been delivered, and (b) at any other time that an Event of Default has occurred and is continuing (unless such increase in the Applicable Rate is otherwise waived by the Required Lenders).

“Approved Fund” means any Person (other than a natural person) that is engaged in making, purchasing, holding or investing in bank loans and similar extensions of credit in the ordinary course of its business and that is administered or managed by a Lender, an Affiliate of a Lender or an entity or an Affiliate of an entity that administers or manages a Lender.

“Assignment and Assumption” means an assignment and assumption entered into by a Lender and an Eligible Assignee (with the consent of any party whose consent is required by Section 8.04), and accepted by the Administrative Agent, in the form of Exhibit A or any other form approved by the Administrative Agent.

“Availability Period” means the period from and including the Effective Date to but excluding the earlier of the Maturity Date and the date of termination of the Commitments.

“Available Tenor” means, as of any date of determination and with respect to the then-current Benchmark for any currency, any tenor for such Benchmark (or component thereof) or payment period for interest calculated with reference to such Benchmark (or component thereof), as applicable, that is or may be used for determining the length of an Interest Period for any term rate or otherwise, for determining any frequency of making payments of interest calculated pursuant to this Agreement 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 2.13(f).

“Average Daily Excess Availability” means, with respect to any fiscal quarter, (a)(i) the sum of Excess Availability for each day during such fiscal quarter, divided by (ii) the number of days in such fiscal quarter, divided by (b)(i) the Aggregate Commitments in effect for each day during such fiscal quarter divided by (ii) the number of days in such fiscal quarter.

“Average Utilization” means, with respect to any period, (a) the sum of Utilization for each day during such period divided by (b) the number of days in such period.

“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, regulation, rule 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).

“Bankruptcy Code” means title 11 of the United States Code, as amended.

“Bankruptcy Event” means, with respect to any Person, that such Person has filed a petition or application seeking relief under any applicable Insolvency Law or similar law of any jurisdiction, has become the subject of a voluntary or involuntary bankruptcy or insolvency proceeding, or has had a receiver, interim receiver, receiver and manager, liquidator, sequestrator, conservator, trustee, administrator, custodian, assignee for the benefit of creditors or similar Person charged with the reorganization or liquidation of its business appointed for it, or, in the good faith determination of the Administrative Agent, has taken any action in furtherance of, or indicating its consent to, approval of or acquiescence in, any such proceeding or appointment.

“BBW” means L Brands, Inc., a Delaware corporation.

“Benchmark” means, initially, with respect to any (i) Loans denominated in US Dollars, the Adjusted LIBO Rate or (ii) Loans denominated in CAD, the CDOR Rate; provided that if a Benchmark Transition Event, a Term SOFR Transition Event or an Early Opt-in Election, as applicable, and its related Benchmark Replacement Date have occurred with respect to the Adjusted LIBO Rate or the CDOR Rate or any other then-current Benchmark, as applicable, then “Benchmark” means the applicable Benchmark Replacement to the extent that such Benchmark Replacement has replaced such prior benchmark rate pursuant to Section 2.13(b) or (c).

“Benchmark Replacement” means, for any Available Tenor, the first alternative set forth in the order below that can be determined by the Administrative Agent for the applicable Benchmark Replacement Date; provided that, in the case of any Loan denominated in CAD, “Benchmark Replacement” shall mean the alternative set forth in (3) below:

- (1) in the case of any Loan denominated in US Dollars, the sum of: (a) Term SOFR and (b) the related Benchmark Replacement Adjustment;
- (2) in the case of any Loan denominated in US Dollars, the sum of: (a) Daily Simple SOFR and (b) the related Benchmark Replacement Adjustment;
- (3) the sum of: (a) the alternate benchmark rate that has been selected by the Administrative Agent and the Borrower as the replacement for the then-current Benchmark for the applicable Corresponding Tenor 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 for the then-current Benchmark for syndicated credit facilities denominated in the applicable currency at such time in the United States and (b) the related Benchmark Replacement Adjustment;

provided that, in the case of clause (1), such Unadjusted Benchmark Replacement is 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; provided, further, that, notwithstanding anything to the contrary in this Agreement or in any other Loan Document, upon the occurrence of a Term SOFR Transition Event, and the delivery of a Term SOFR Notice, on the applicable Benchmark Replacement Date the “Benchmark Replacement” with respect to Loans denominated in US Dollars shall revert to and shall be deemed to be the sum of (a) Term SOFR and (b) the related Benchmark Replacement Adjustment, as set forth in clause (1) of this definition (subject to the first proviso above).

If the Benchmark Replacement as determined pursuant to clause (1), (2) or (3) above would be less than the Floor, the Benchmark Replacement will be deemed to be the Floor for the purposes of this Agreement and the other Loan Documents.

“Benchmark Replacement Adjustment” means, with respect to any replacement of the then-current Benchmark with an Unadjusted Benchmark Replacement for any applicable Interest Period and Available Tenor for any setting of such Unadjusted Benchmark Replacement:

- (1) for purposes of clauses (1) and (2) of the definition of “Benchmark Replacement,” the first alternative set forth in the order below that can be determined by the Administrative Agent:
 - (a) the spread adjustment, or method for calculating or determining such spread adjustment (which may be a positive or negative value or zero) as of the Reference Time such Benchmark Replacement is first set for such Interest Period that has been selected or recommended by the Relevant Governmental Body for the replacement of such Benchmark with the applicable Unadjusted Benchmark Replacement for the applicable Corresponding Tenor;
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(b) the spread adjustment (which may be a positive or negative value or zero) as of the Reference Time such Benchmark Replacement is first set for such Interest Period that would apply to the fallback rate for a derivative transaction referencing the ISDA Definitions to be effective upon an index cessation event with respect to such Benchmark for the applicable Corresponding Tenor; and

(2) for purposes of clause (3) of the definition of “Benchmark Replacement,” 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 for the applicable Corresponding Tenor giving due consideration to (i) 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 on the applicable Benchmark Replacement Date and/or (ii) 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 syndicated credit facilities denominated in the applicable currency at such time;

provided that, in the case of clause (1) above, such adjustment is displayed on a screen or other information service that publishes such Benchmark Replacement Adjustment from time to time as selected by the Administrative Agent in its reasonable discretion.

“Benchmark Replacement Conforming Changes” means, with respect to any Benchmark Replacement, any technical, administrative or operational changes (including changes to the definition of “Alternate Base Rate,” the definition of “Business Day,” the definition of “Interest Period,” timing and frequency of determining rates and making payments of interest, timing of borrowing requests or prepayment, conversion or continuation notices, length of lookback periods, the applicability of breakage provisions, and other technical, administrative or operational matters) that the Administrative Agent decides, following consultation with the Company, may be appropriate to reflect the adoption and implementation of such Benchmark Replacement and to permit the 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 such Benchmark Replacement exists, in such other manner of administration as the Administrative Agent decides is reasonably necessary in connection with the administration of this Agreement and the other Loan Documents).

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

(1) in the case of clause (1) or (2) of the definition of “Benchmark Transition Event,” the later of (a) the date of the public statement or publication of information referenced therein and (b) 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);

(2) in the case of clause (3) of the definition of “Benchmark Transition Event,” the first date on which such Benchmark (or the published component used in the calculation thereof) has been determined and announced by the regulatory supervisor for the administrator of such Benchmark (or such component thereof) to be no longer representative; provided, that such non-representativeness will be determined by reference to the most recent statement or publication referenced in such clause (3) and even if any Available Tenor of such Benchmark (or such component thereof) continues to be provided on such date;

(3) in the case of a Term SOFR Transition Event, the date that is thirty (30) days after the date a Term SOFR Notice is provided to the Lenders and the Borrower pursuant to Section 2.14(c); or

(4) in the case of an Early Opt-in Election, the sixth (6th) Business Day after the date notice of such Early Opt-in Election is provided to the Lenders, so long as the Administrative Agent has not received, by 5:00 p.m. (New York City time) on the fifth (5th) Business Day after the date notice of such Early Opt-in Election is provided to the Lenders, written notice of objection to such Early Opt-in Election from Lenders comprising the Required Lenders.

For the avoidance of doubt, (i) if the event giving rise to the Benchmark Replacement Date occurs on the same day as, but earlier than, the Reference Time in respect of any determination, the Benchmark Replacement Date will be deemed to have occurred prior to the Reference Time for such determination and (ii) the “Benchmark Replacement Date” will be deemed to have occurred in the case of clause (1) or (2) 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, with respect to any Benchmark, the occurrence of one or more of the following events with respect to such then-current Benchmark:

(1) 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);

(2) 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 Board, the NYFRB, the central bank for the currency applicable to such Benchmark, 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), in each case, 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

(3) 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 no longer, or as of a specified future date will no longer 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 Unavailability Period” means, with respect to any Benchmark, the period (if any) (x) beginning at the time that a Benchmark Replacement Date pursuant to clauses (1) or (2) of that definition has occurred if, at such time, no Benchmark Replacement has replaced such then-current Benchmark for all purposes hereunder and under any Loan Document in accordance with Section 2.13 and (y) ending at the time that a Benchmark Replacement has replaced such then-current Benchmark for all purposes hereunder and under any Loan Document in accordance with Section 2.13.

“Beneficial Ownership Regulation” means 31 C.F.R. § 1010.230.

“Benefit Plan” means (a) an “employee benefit plan” (as defined in ERISA) that is subject to Title I of ERISA, (b) a “plan” as defined in 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”.

“BHC Act Affiliate” means, with respect to any Person, an “affiliate” (as such term is defined under, and interpreted in accordance with, 12 U.S.C. § 1841(k)) of such Person.

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

“Borrowers” means, with respect to the Commitments, Loans and Letters of Credit of any Class, (i) the Company and (ii) the Borrowing Subsidiaries in respect of such Class.

“Borrowing” means (a) Loans of the same Class, Type and currency made, converted or continued on the same date and, in the case of Eurodollar or CDOR Rate Loans, as to which a single Interest Period is in effect or (b) a Protective Advance.

“Borrowing Base” means the sum of:

- (i) 95% of Eligible Credit Card Receivables at such time, plus
- (ii) 85% of Eligible Accounts at such time, plus
- (iii) up to 90% of the Net Orderly Liquidation Value of Eligible Inventory at such time, plus
- (iv) following receipt of the Required Real Property Documentation and prior to receipt of a Real Property Exclusion Notice, 50% of the fair market value (as identified in the most recent Real Property Appraisal) of Eligible Real Property at such time, minus
- (v) Reserves determined by the Collateral Agent in its Permitted Discretion

provided (A) notwithstanding anything contained herein to the contrary, as of any date of determination, the portion of the Borrowing Base attributable to Eligible Real Property shall not exceed the lesser of (x) \$150,000,000 and (y) 25% of the Borrowing Base and (B) from and after receipt by the Collateral Agent of a Real Property Exclusion Notice, (I) the component set forth in clause (iv) shall be excluded from the calculation of the Borrowing Base for so long as such Permitted Non-ABL Indebtedness remains outstanding and (II) the Collateral Agent shall adjust the Borrowing Base to reflect such exclusion effective from and after the incurrence of such Permitted Non-ABL Indebtedness.

The Collateral Agent may, in its Permitted Discretion, establish or adjust Reserves, with any such changes to be effective three Business Days after delivery of written notice (which notice shall include a reasonably detailed description of such Reserve being established or adjusted) thereof to the Company and the Lenders; provided that during such three Business Day period (i) the Collateral Agent shall, if requested, discuss any such Reserve or adjustment with the Company and (ii) the Company may take such action as may be required so that the event, condition or matter that is the basis for such Reserve no longer exists or exists in a manner that would result in the establishment of a lower Reserve, in each case in a manner and to the extent satisfactory to the Collateral Agent in its Permitted Discretion; provided, further, that no such prior notice shall be required for (a) changes to any Reserves resulting solely by virtue of mathematical calculations of the amount of the Reserves in accordance with the methodology of calculation previously utilized, or (b) changes to Reserves or the establishment of additional Reserves if a Material Adverse Effect has occurred or it would be reasonably likely that a Material Adverse Effect would occur were such Reserves not changed or established prior to the expiration of such three day period. Subject to the immediately preceding sentence and the other provisions hereof expressly permitting the Collateral Agent to adjust the Borrowing Base or any component thereof, the Borrowing Base at any time shall be determined by reference to the most recent Borrowing Base Certificate delivered to the Administrative Agent pursuant to Section 5.01(a)(iii).

The parties hereto understand that eligibility criteria and any Reserves that may be imposed as provided herein, any deductions or other adjustments to determine the face amount of Eligible Accounts and factors considered in the calculation of Net Orderly Liquidation Value of Eligible Inventory have the effect of reducing the Borrowing Base, and, accordingly, whether or not any provisions hereof so state, all the foregoing shall be determined without duplication so as not to result in multiple reductions in the Borrowing Base for the same facts or circumstances.

At the time of any disposition of a Loan Party, or any disposition outside the ordinary course of business of, or any casualty or condemnation event affecting, assets reflected in the then-current Borrowing Base having a fair market value of \$5,000,000 or more, the Company shall give the Collateral Agent written notice of such disposition, casualty or condemnation event, together with such information as shall be required for the Collateral Agent to adjust the Borrowing Base to reflect such disposition.

“Borrowing Base Certificate” means a Borrowing Base Certificate, substantially in the form of Exhibit C (with such changes thereto as may be reasonably required by the Collateral Agent from time to time to reflect (a) the results of the most recent field examination or Inventory appraisal conducted pursuant to Section 5.23 and (b) the components of, or Reserves against, the Borrowing Base as provided for hereunder), together with all attachments and supporting documentation contemplated thereby, signed and certified as accurate and complete by a Financial Officer of the Company.

“Borrowing Request” means a request by a Borrower for a Borrowing in accordance with Section 2.03.

“Borrowing Subsidiary” means any Additional Borrowers.

“Borrowing Subsidiary Termination” has the meaning set forth in Section 2.20.

“Business Day” means any day that is not a Saturday, Sunday or other day on which commercial banks in New York City are authorized or required by law to remain closed; provided that, (a) when used in connection with a Eurodollar Loan, the term “Business Day” shall also exclude any day on which banks are not open for dealings in US Dollar deposits in the London interbank market and (b) when used in connection with a CDOR Rate Loan or a Canadian Prime Rate Loan, the term “Business Day” shall also exclude any day on which banks are not open for business in Toronto.

“CAD Sublimit” means the portion of the Revolving Commitments in an aggregate amount equal to the US Dollar Equivalent in Canadian Dollars of \$80,000,000 that is being made available hereunder to the Canadian Borrowers for borrowings in Canadian Dollars.

“Canadian Borrower” means any Additional Borrower that is a Canadian Subsidiary.

“Canadian Defined Benefit Pension Plan” means any Canadian Pension Plan which contains a “defined benefit provision”, as defined in subsection 147.1(1) of the ITA.

“Canadian Dollars” or “CAD” means the lawful money of Canada.

“Canadian Economic Sanctions and Export Control Laws” means any Canadian laws, regulations or orders governing transactions in controlled goods or technologies or dealings with countries, entities, organizations, or individuals subject to economic sanctions and similar measures.

“Canadian Loan Party” means any Loan Party organized under the laws of Canada or any province or territory thereof.

“Canadian Pension Benefits Legislation” shall mean any Canadian federal or provincial pension standards legislation, including, without limitation, the Supplemental Pension Plans Act (Quebec) and the Pension Benefits Act (Ontario), that applies in respect of a Canadian Pension Plan.

“Canadian Pension Event” means (a) any Loan Party shall, directly or indirectly, terminate or cause to terminate, in whole or in part, or initiate the termination of, in whole or in part, any Canadian Defined Benefit Pension Plan where doing so results in any wind-up deficit that is required to be funded under Canadian Pension Benefits Legislation; (b) any Loan Party shall fail to make minimum required contributions to amortize any funding deficiencies under a Canadian Defined Benefit Pension Plan within the time period set out in Canadian Pension Benefits Legislation or fails to make a required contribution under any Canadian Pension Plan which results in the imposition of a Lien upon the assets of any Loan Party (other than inchoate Liens under Canadian Pension Benefits Legislation for amounts required to be remitted but not yet due); or (c) any Loan Party makes any improper withdrawals or applications of assets of a Canadian Pension Plan.

“Canadian Pension Plans” means each pension plan required to be registered under Canadian federal or provincial pension standards legislation that is administered or contributed to by a Loan Party or any subsidiary of any Loan Party for its employees or former employees, but does not include the Canada Pension Plan or the Quebec Pension Plan as maintained by the Government of Canada or the Province of Quebec, respectively, or any comparable pension plan maintained by a Governmental Authority in any other Canadian jurisdiction.

“Canadian Prime Rate” means, for the relevant interest period, the rate of interest per annum (rounded upwards, if necessary, to the next 1/100 of 1% (with 0.005% being rounded up)) determined by the Administrative Agent to be the greater of (a) the rate equal to the PRIMCAN Index rate that appears on the Bloomberg screen at 10:15 a.m., Toronto time, on such day (or, in the event that the PRIMCAN Index is not published by Bloomberg, any other information service that publishes such index from time to time, as selected by the Administrative Agent in its reasonable discretion) and (b) the sum of (i) the CDOR Rate applicable for an Interest Period of one month plus (ii) one percent (1.0%). Notwithstanding the foregoing, the Canadian Prime Rate shall at no time be less than 1.00% per annum.

“Canadian Subsidiary” means any Subsidiary that is organized under the laws of Canada or any province or territory thereof.

“Capital Lease Obligations” of any Person means the obligations of such Person to pay rent or other amounts under any lease of (or other arrangement conveying the right to use) real or personal property, or a combination thereof, which obligations are required to be classified and accounted for as capital leases on a balance sheet of such Person under GAAP (subject to the proviso in Section 1.04), and the amount of such obligations shall be the capitalized amount thereof determined in accordance with GAAP (subject to the proviso in Section 1.04).

“Captive Insurance Subsidiary” means any Subsidiary of the Company that is subject to regulation as an insurance company (or any Subsidiary thereof).

“Cash Dominion Period” means (a) each period during which a Specified Event of Default has occurred and is continuing or (b) each period (i) commencing on any day when Specified Excess Availability has for three consecutive Business Days been less than the greater of (x) \$80,000,000 and (y) 12.5% of the Maximum Borrowing Amount and (ii) ending on the date that Specified Excess Availability has been greater than the amount set forth in clause (i) above for 20 consecutive calendar days during which period no Specified Event of Default shall have occurred and be continuing.

“CCQ” has the meaning set forth in Section 7.01.

“CDOR Rate” means, for the relevant Interest Period, on the first day of such Interest Period, the annual rate of interest determined with reference to the arithmetic average of the discount rate quotations of all institutions listed in respect of the relevant Interest Period for Canadian Dollar-denominated bankers’ acceptances displayed and identified as such on the CDOR Rate page of the Reuters screen (or on any successor or substitute page on such screen or service that displays such rate, or on the appropriate page of such other information service that publishes such rate as shall be selected by the Administrative Agent from time to time in its reasonable discretion; in each case, the “CDO Screen Rate”), at or about approximately 10:15 a.m., Toronto time, on such day and, if such day is not a Business Day, then on the immediately preceding Business Day (as adjusted by the Administrative Agent after 10:15 a.m. Toronto time to reflect any error in the posted rate of interest or in the posted average annual rate of interest); provided that if such rates are not available for such Interest Period, the applicable Interpolated Rate as of such time on such day; or if such day is not a Business Day, then as so determined on the immediately preceding Business Day; provided that if the CDOR Rate shall be less than zero, such rate shall be deemed to be zero for the purposes of this Agreement

“Change in Control” means the acquisition of ownership, directly or indirectly, beneficially or of record, by any Person or group (within the meaning of the Securities Exchange Act of 1934 and the rules of the Securities and Exchange Commission thereunder as in effect on the date hereof) other than the Permitted Holders of shares representing more than 35% of the aggregate ordinary voting power represented by the issued and outstanding capital stock of the Company.

“Change in Law” means (a) the adoption of any law, rule or regulation after the date of this Agreement, (b) any change in any law, rule or regulation or in the interpretation or application thereof by any Governmental Authority after the date of this Agreement, or (c) compliance by any Lender or any Issuing Bank (or, for purposes of Section 2.14(b), by any lending office of such Lender or by such Lender’s or such Issuing Bank’s holding company, if any) with any request, guideline or directive (whether or not having the force of law) of any Governmental Authority made or issued after the date of this Agreement; provided that, notwithstanding anything herein to the contrary, (i) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines or directives thereunder or issued in connection therewith and (ii) 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, promulgated or issued.

“Class”, when used in reference to (a) any Loan or Borrowing, refers to whether such Loan, or the Loans comprising such Borrowing, are Revolving Loans, Incremental Revolving Loans of any tranche or Protective Advances, (b) any Commitment, refers to whether such Commitment is a Revolving Commitment or an Incremental Revolving Commitment of any tranche, (c) any Lender, refers to whether such Lender has a Loan or Commitment of a particular Class and (d) any Letter of Credit, refers to whether such Letter of Credit is issued pursuant to a Revolving Commitment or an Incremental Revolving Commitment of any tranche.

“Closing Date Distribution” means the distribution by BBW, of 100% of the Company’s common stock to BBW’s existing shareholders.

“Closing Date Payment” means the payment of the Special Cash Payment (as defined in the Separation Agreement).

“Code” means the Internal Revenue Code of 1986, as amended from time to time.

“Collateral” means any and all assets, tangible or intangible, on which Liens are purported to be granted pursuant to the Collateral Documents as security for the Obligations.

“Collateral Access Agreement” means any landlord waiver or other agreement, in form and substance reasonably satisfactory to the Collateral Agent, between the Collateral Agent and any warehouseman, bailee or other similar Person in possession of any Collateral, any landlord of any real property where any Collateral is located or any administrative agent, collateral agent and/or similar representative acting on behalf of the holders of any Permitted Non-ABL Indebtedness secured by a Lien on any real property where any Inventory is located.

“Collateral Agent” means JPMorgan Chase Bank, N.A., in its capacity as collateral agent under the Collateral Documents.

“Collateral Agreements” means, individually and collectively as the context may require, (a) the Guarantee and Collateral Agreement dated as of August 2, 2021, among the Company, the Subsidiary Loan Parties party thereto and the Collateral Agent and (b) the Guarantee and Collateral Agreement dated as of August 2, 2021, among the Canadian Loan Parties and the Collateral Agent.

“Collateral and Guarantee Requirement” means, at any time, the requirement that:

(a) the Collateral Agent shall have received from the Company and each Material Subsidiary either (i) a counterpart of the applicable Collateral Agreement duly executed and delivered on behalf of the Company or such Material Subsidiary, as applicable, or (ii) in the case of any Person that becomes a Material Subsidiary after the Effective Date, a supplement to the applicable Collateral Agreement, in the form specified therein, duly executed and delivered on behalf of such Material Subsidiary;

(b) all UCC financing statements, and all similar filings and registrations in each applicable jurisdictions, required by law or reasonably requested by the Collateral Agent to be filed, registered or recorded to perfect the Liens intended to be created by each Collateral Agreement to the extent required by, and with the priority required by, such Collateral Agreement, shall have been filed, registered or recorded or delivered to the Collateral Agent for filing, registration or recording;

(c) commencing with the date that is 90 days after the Effective Date (or such later date as may be agreed by the Collateral Agent in its sole discretion), the Collateral Agent shall have received a counterpart, duly executed and delivered by the applicable Loan Party and the applicable depository bank or securities intermediary, as the case may be, of a Control Agreement with respect to (i) each deposit account maintained by any Loan Party with any depository bank (other than any Excluded Deposit Account) and (ii) each securities account maintained by any Loan Party with any securities intermediary (other than any Excluded Securities Account), and the requirements of a Collateral Agreement relating to the concentration and application of collections on accounts shall have been satisfied;

(d) commencing with the date that is 90 days after the Effective Date (or such later date as may be agreed by the Collateral Agent in its sole discretion), the Collateral Agent shall have received evidence that all Credit Card Notifications required to be provided pursuant to Section 5.24 have been provided;

(e) commencing with the date that is 90 days after the Effective Date or such later date as may be agreed by the Collateral Agent in its sole discretion), each Loan Party shall have delivered to the Collateral Agent all Collateral Access Agreements requested by the Collateral Agent exercising its Permitted Discretion pursuant to this Agreement or a Collateral Agreement;

(f) prior to its inclusion in the Borrowing Base, the Collateral Agent shall have received (i) counterparts of a Mortgage with respect to each Mortgaged Property duly executed and delivered by the record owner of such Mortgaged Property and (ii) all Required Real Property Documentation;

(g) commencing with the date that is 90 days after the Effective Date or such later date as may be agreed by the Collateral Agent in its sole discretion), the Collateral Agent shall have received evidence of the insurance required to be maintained pursuant to Section 5.03; and

(h) the Company and each Material Subsidiary shall have obtained all consents and approvals required to be obtained by it in connection with the execution and delivery of all Collateral Documents to which it is a party, the performance of its obligations thereunder and the granting by it of the Liens thereunder.

With respect to any Mortgaged Property as to which a Mortgage is required to be executed and delivered, notwithstanding anything to the contrary set forth in this definition or elsewhere in this Agreement, no such Mortgage shall be required to be executed and delivered until and unless (a) the Collateral Agent shall have received the items referred to in clause (f)(ii) above (it being understood that the Loan Parties shall be required to deliver such items otherwise in accordance with the terms of the Loan Documents), and shall have provided copies thereof to the Lenders, (b) the Collateral Agent shall have provided copies of all documents referred to in clause (a) of this paragraph received by it to the Lenders and (c) prior to the contemplated date of effectiveness of such Mortgage (as notified by the Collateral Agent to the Lenders), the Collateral Agent shall have been advised in writing by each Lender that such Lender has completed its flood insurance due diligence and flood insurance compliance with respect to such Mortgaged Property (with each Lender agreeing to complete such due diligence and compliance as promptly as practicable following receipt of the documents as referred to in clause (b) of this paragraph).

“Collateral Documents” means, collectively, the Collateral Agreements, the Control Agreements, the Credit Card Notifications, the Mortgages and each other pledge, deed of hypothec, security agreement or other instrument or document granting a Lien upon the Collateral as security for the Obligations (as required by this Agreement or any other Loan Document).

“Commitment” means a Revolving Commitment, an Incremental Revolving Commitment of any tranche or any combination thereof, as the context requires.

“Company” means Victoria’s Secret & Co., a Delaware corporation.

“Concentration Account” has the meaning assigned to such term in the Collateral Agreements.

“Consolidated Debt” means, at any date of determination, the total Indebtedness of the Company and the Consolidated Subsidiaries at such date determined on a consolidated basis in accordance with GAAP.

“Consolidated EBITDA” means, for any period, Consolidated Net Income for such period (adjusted (i) to exclude any non-cash items deducted or included in determining Consolidated Net Income for such period attributable to Accounting Standards Codification Topic 815, Derivatives and Hedging, Accounting Standards Codification Topic 350, Intangibles–Goodwill and Other, or stock options and other equity-linked compensation to officers, directors and employees, and (ii) to deduct cash payments made during such period in respect of Hedging Agreements (or other items subject to FAS 133 – Accounting for Derivative Instruments and Hedging Activities) to the extent not otherwise deducted in determining Consolidated Net Income for such period) plus (a) without duplication and to the extent deducted in determining such Consolidated Net Income, the sum of (i) consolidated interest expense for such period, (ii) consolidated income tax expense for such period, (iii) all amounts attributable to depreciation and amortization for such period and (iv) any extraordinary or nonrecurring charges for such period, and minus (b) without duplication and to the extent included in determining such Consolidated Net Income, any extraordinary or nonrecurring gains for such period, all determined on a consolidated basis in accordance with GAAP; provided that if on or prior to the applicable date of determination of Consolidated EBITDA, an acquisition or disposition outside of the ordinary course of business has occurred that has the effect of increasing or decreasing Consolidated EBITDA then (without duplication of any other adjustment made in determining Consolidated EBITDA for such period) Consolidated EBITDA shall be determined on a pro forma basis to give effect to such acquisition or disposition as if such acquisition or disposition had occurred immediately prior to the commencement of the period for which Consolidated EBITDA is to be determined.

“Consolidated EBITDAR” means, for any period, Consolidated EBITDA for such period plus, without duplication and to the extent deducted in the determination of such Consolidated EBITDA, consolidated fixed minimum store rental expense for such period, all determined on a consolidated basis in accordance with GAAP; provided that, if on or prior to the applicable date of determination of Consolidated EBITDAR, an acquisition or disposition outside of the ordinary course of business has occurred that has the effect of increasing or decreasing Consolidated EBITDAR, then (without duplication of adjustments made in determining Consolidated EBITDA for such period) Consolidated EBITDAR shall be determined on a pro forma basis to give effect to such acquisition or disposition as if such acquisition or disposition had occurred immediately prior to the commencement of the period for which Consolidated EBITDAR is to be determined.

“Consolidated Fixed Charges” means, for any period, the sum of (a) consolidated interest expense, both expensed and capitalized (including the interest component in respect of Capital Lease Obligations), of the Company and the Consolidated Subsidiaries for such period, plus (b) consolidated fixed minimum store rental expense of the Company and the Consolidated Subsidiaries for such period, all determined on a consolidated basis in accordance with GAAP; provided that, if on or prior to the applicable date of determination of Consolidated Fixed Charges, an acquisition or disposition outside of the ordinary course of business has occurred that has the effect of increasing or decreasing Consolidated Fixed Charges, then Consolidated Fixed Charges shall be determined on a pro forma basis to give effect to such acquisition or disposition as if such acquisition or disposition had occurred immediately prior to the commencement of the period for which Consolidated Fixed Charges is to be determined.

“Consolidated Net Income” means, for any period, the net income or loss of the Company and the Consolidated Subsidiaries for such period determined on a consolidated basis in accordance with GAAP.

“Consolidated Subsidiary” means any Subsidiary (other than an Unrestricted Subsidiary), the accounts of which are, or are required to be, consolidated with those of the Company in the Company’s periodic reports filed under the Securities Exchange Act of 1934.

“Control” means, with respect to a specified Person, the possession, directly or indirectly, of the power to direct, or cause the direction of, the management or policies of such Person, whether through the ability to exercise voting power, by contract or otherwise. “Controlling” and “Controlled” have correlative meanings.

“Control Agreement” means, with respect to any deposit account or securities account maintained by any Loan Party, a control agreement in form and substance reasonably satisfactory to the Collateral Agent, duly executed and delivered by such Loan Party and the depository bank or the securities intermediary, as the case may be, with which such account is maintained.

“Corresponding Tenor” with respect to any Available Tenor means, as applicable, either a tenor (including overnight) or an interest payment period having approximately the same length (disregarding business day adjustment) as such Available Tenor.

“Covenant Period” has the meaning set forth in Section 5.06.

“Covered Entity” means (a) a “covered entity” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 252.82(b); (b) a “covered bank” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 47.3(b); or (c) a “covered FSI” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 382.2(b).

“Covered Party” has the meaning set forth in Section 8.21.

“Credit Card Agreement” means any agreement between a Loan Party, on the one hand, and a credit card issuer or a credit card processor (including any credit card processor that processes purchases of Inventory from a Loan Party through debit cards or mall cards), on the other hand.

“Credit Card Notifications” means each Credit Card Notification, in form and substance reasonably satisfactory to the Collateral Agent, executed by one or more Loan Parties and delivered by such Loan Parties to credit card issuers or credit card processors that are party to any Credit Card Agreement.

“Credit Card Receivables” means any Account or Payment Intangible due to any Loan Party in connection with purchases from and other goods and services provided by such Loan Party on (a) Visa, MasterCard, American Express, Discover and any other credit card issuers that are reasonably acceptable to the Collateral Agent and PayPal and (b) such other credit cards (it being understood that such term, for purposes hereof, includes debit cards) as the Collateral Agent shall approve from time to time in its Permitted Discretion, in each case which have been originated in the ordinary course of business by such Loan Party and earned by performance by such Loan Party but not yet paid to such Loan Party by the credit card issuer or the credit card processor, as applicable, and which represents the bona fide amount due to a Loan Party from such credit card processor or credit card issuer; provided that, in any event, “Credit Card Receivables” shall exclude Accounts and Payment Intangibles due in connection with credit cards issued by Affiliates.

“Credit Exposure” means a Revolving Exposure, an exposure of any other Class or any combination thereof, as the context requires.

“Credit Party” means the Agents, each Issuing Bank or any other Lender.

“Credit Rating” means, in the case of S&P, the “Issuer Credit Rating” assigned by S&P to the Company and, in the case of Moody’s, the “Corporate Family Rating” assigned by Moody’s to the Company.

“Daily Simple SOFR” means, for any day, SOFR, with the conventions for this rate (which may include a lookback) being established by the Administrative Agent in accordance with the conventions for this rate selected or recommended by the Relevant Governmental Body for determining “Daily Simple SOFR” for business loans; provided, that if the Administrative Agent decides that any such convention is not administratively feasible for the Administrative Agent, then the Administrative Agent may establish another convention in its reasonable discretion.

“Default” means any event or condition which constitutes an Event of Default or which upon notice, lapse of time or both would, unless cured or waived, become an Event of Default.

“Default Right” has the meaning assigned to such term in, and shall be interpreted in accordance with, 12 C.F.R. §§ 252.81, 47.2 or 382.1, as applicable.

“Defaulting Lender” means any Lender, as reasonably determined by the Administrative Agent, that has (a) failed to fund any portion of its Loans, participations in Letters of Credit or Protective Advances within three Business Days of the date required to be funded by it hereunder unless such Lender notifies the Administrative Agent and the Company 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) notified the Company, the Administrative Agent, any Issuing Bank or any Lender in writing that it does not intend to comply with any of its funding obligations under this Agreement or has made a public statement to the effect that it does not intend to comply with its funding obligations under this Agreement or generally under other agreements in which it commits to extend credit (unless such writing or public statement relates to such Lender’s obligation to fund a Loan hereunder and states that such position is based on such Lender’s determination that a condition precedent to funding (which condition precedent, together with any applicable Default, shall be specifically identified in such writing or public statement) cannot be satisfied), (c) failed, within five Business Days after written request by the Administrative Agent, to confirm that it will comply with the terms of this Agreement relating to its obligations to fund prospective Loans and participations in then outstanding Letters of Credit and Protective Advances (provided that such Lender shall cease to be a Defaulting Lender pursuant to this clause (c) upon receipt by the Administrative Agent of such confirmation), (d) otherwise failed to pay over to the Administrative Agent, any Issuing Bank or any other Lender any other amount required to be paid by it hereunder within three Business Days of the date when due, unless the subject of a good-faith dispute, (e) become the subject of a bankruptcy or insolvency proceeding, or has had a receiver, conservator, trustee or custodian appointed for it, or has consented to, approved of or acquiesced in any such proceeding or appointment or has a parent company that has become the subject of a bankruptcy or insolvency proceeding, or has had a receiver, conservator, trustee or custodian appointed for it, or has consented to, approved of or acquiesced in any such proceeding or appointment or (f) has, or has a direct or indirect parent company that has, become the subject of a Bail-In Action; provided that (i) if a Lender would be a “Defaulting Lender” solely by reason of events relating to a parent company of such Lender or solely because a Governmental Authority has been appointed as receiver, conservator, trustee or custodian for such Lender, in each case as described in clause (e) above, the Administrative Agent may, in its discretion, determine that such Lender is not a “Defaulting Lender” if and for so long as the Administrative Agent is satisfied that such Lender will continue to perform its funding obligations hereunder, (ii) the Administrative Agent may, by notice to the Company and the Lenders, declare that a Defaulting Lender is no longer a “Defaulting Lender” if the Administrative Agent determines, in its discretion, that the circumstances that resulted in such Lender becoming a “Defaulting Lender” no longer apply and (iii) 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 so long as such ownership interest does not result in or provide such Lender with immunity from the jurisdiction of courts within the United States or Canada or any state, province or territory of the foregoing or from the enforcement of judgments or writs of attachment on its assets or permit such Lender (or such Governmental Authority) to reject, repudiate, disavow or disaffirm any contracts or agreements made with such Lender.

“Designated Real Estate Subsidiary” means each Domestic Subsidiary designated by the Company to the Administrative Agent in writing at any time following the Effective Date for the purpose of including the Eligible Real Property of such Subsidiary in the Borrowing Base subject to the terms and conditions hereof.

“Disclosed Matters” means the actions, suits and proceedings and the environmental matters disclosed in Schedule 3.05.

“Disqualified Equity Interest” means, any Equity Interest in the Company that by its terms (or by the terms of any security into which it is convertible or for which it is exchangeable, either mandatorily or at the option of the holder thereof), or upon the happening of any event or condition:

(a) matures or is mandatorily redeemable (other than solely for Equity Interests in the Company that do not constitute Disqualified Equity Interests and cash in lieu of fractional shares of such Equity Interests), whether pursuant to a sinking fund obligation or otherwise, prior to the Specified Date;

(b) is convertible or exchangeable at the option of the holder thereof for Indebtedness or Equity Interests (other than solely for Equity Interests in the Company that do not constitute Disqualified Equity Interests and cash in lieu of fractional shares of such Equity Interests), prior to the Specified Date; or

(c) is redeemable (other than solely for Equity Interests in the Company that do not constitute Disqualified Equity Interests and cash in lieu of fractional shares of such Equity Interests) or is required to be repurchased by the Company or any of its Affiliates, in whole or in part, at the option of the holder thereof, prior to the Specified Date; provided that this clause (c) shall not apply to any requirement of mandatory redemption or repurchase that is contingent upon an asset disposition or the incurrence of Indebtedness if such mandatory redemption or repurchase can be avoided through repayment or prepayment of Loans or through investments by the Company or the Consolidated Subsidiaries in assets to be used in their businesses.

“Domestic Subsidiary” means any Subsidiary that is organized under the laws of the United States of America, any State thereof or the District of Columbia.

“Early Opt-in Election” means, if the then current Benchmark with respect to US Dollars is the Adjusted LIBO Rate, the occurrence of:

- (1) a notification by the Administrative Agent to (or the request by the Borrower to the Administrative Agent to notify) each of the other parties hereto that at least five currently outstanding US Dollar denominated syndicated credit facilities at such time contain (as a result of amendment or as originally executed) a SOFR-based rate (including SOFR, Term SOFR or any other rate based upon SOFR) as a benchmark rate (and such syndicated credit facilities are identified in such notice and are publicly available for review), and
- (2) the joint election by the Administrative Agent and the Borrower to trigger a fallback from LIBO Rate and the provision, as applicable, by the Administrative Agent of written notice of such election to the Borrower and the Lenders.

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

“Effective Date” means August 2, 2021.

“Electronic Signature” means an electronic sound, symbol, or process attached to, or associated with, a contract or other record and adopted by a Person with the intent to sign, authenticate or accept such contract or record.

“Eligible Accounts” means, at any time, the Accounts owned by any Loan Party and in which such Loan Party has good and marketable title, but excluding Credit Card Receivables and any other Account:

- (a) which is not subject to a first priority (subject to a Lien described in clause (a) or (b) in the definition of “Permitted Encumbrances”) perfected Lien in favor of the Collateral Agent pursuant to the Collateral Agreements securing the Obligations;
 - (b) which is subject to any Lien whatsoever, other than (i) a Lien in favor of the Collateral Agent, (ii) Permitted Encumbrances (other than those described in clauses (a) and (b) in the definition of “Permitted Encumbrances”) that do not have priority over the Liens securing the Obligations created by the Collateral Agreements and (iii) Liens permitted under Section 5.08(b)(ii) or (b)(x);
 - (c) (i) with respect to which the scheduled due date is more than 90 days after the date of the original invoice therefor, (ii) which is unpaid more than 90 days after the date of the original invoice therefor or more than 60 days after the original due date therefor or (iii) which has been written off the books of the applicable Loan Party or otherwise designated as uncollectible;
 - (d) which is owing by an Account Debtor for which more than 50% of the Accounts owing by such Account Debtor and its Affiliates are ineligible pursuant to clause (c) above;
 - (e) which is owing by an Account Debtor to the extent the aggregate amount of Accounts owing by such Account Debtor and its Affiliates to the Loan Parties exceeds 25% of the aggregate Eligible Accounts (or, in the case of M.H. Alshaya Co. and its Affiliates, exceeds \$50,000,000); provided that the amount of Eligible Accounts that are excluded because they exceed the percentage set forth in this clause (e) shall be determined based on all of the otherwise Eligible Accounts prior to giving effect to any eliminations based on the foregoing concentration limit;
 - (f) with respect to which any covenant, representation or warranty contained in this Agreement or in the other Loan Documents has been breached or is not true;
 - (g) which (i) does not arise from the sale of goods or performance of services in the ordinary course of business, (ii) is not evidenced by an invoice or other documentation reasonably satisfactory to the Collateral Agent which has been sent to the applicable Account Debtor, (iii) represents a sale on a bill-and-hold, guaranteed sale, sale-and-return, sale on approval, consignment, cash-on-delivery or any other repurchase or return basis or (iv) relates to payments of interest;
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(h) for which the goods giving rise to such Account have not been shipped to the Account Debtor or for which the services giving rise to such Account have not been performed by the applicable Loan Party or if such Account is in respect of an invoice that is duplicative of a previously invoiced Account;

(i) with respect to which any check or other instrument of payment has been returned uncollected for any reason;

(j) which is owed by an Account Debtor which (i) is the subject of any Bankruptcy Event, (ii) is liquidating, dissolving or winding up its affairs, (iii) is otherwise deemed not creditworthy by the Collateral Agent in its Permitted Discretion, (iv) has admitted in writing its inability, or is generally unable, to pay its debts as they become due, (v) has become insolvent or (vi) has ceased operation of its business;

(k) which is owed by an Account Debtor which has sold all or substantially all its assets;

(l) which is owed by an Account Debtor that (i) does not have its head office, registered office, principal place of business or chief executive office in the United States or Canada or (ii) is not organized under applicable law of (A) the United States or any state of the United States or (B) Canada or any province or territory of Canada unless, in any such case, such Account is backed by a letter of credit or trade insurance (in the case of Accounts backed by trade insurance, not to exceed \$50,000,000), in each case acceptable to the Collateral Agent which, in each case, is in the possession of, and is directly drawable by, the Collateral Agent or otherwise subject to a pledge in favor of the Collateral Agent in form and substance reasonably satisfactory to the Collateral Agent;

(m) which is owed in any currency other than US Dollars or Canadian Dollars;

(n) which is owed by (i) any Governmental Authority of any country other than the United States or Canada unless such Account is backed by a letter of credit acceptable to the Collateral Agent which is in the possession of, and is directly drawable by, the Collateral Agent, (ii) any Governmental Authority of the United States or Canada, or any department, agency, public corporation, or instrumentality thereof, unless any steps necessary to perfect the Lien of the Collateral Agent in such Account have been complied with to the Collateral Agent's satisfaction, including in respect of the Federal Assignment of Claims Act of 1940, as amended (31 U.S.C. § 3727 et seq. and 41 U.S.C. § 15 et seq.), or (iii) any Governmental Authority of any State of the United States, any province or territory of Canada or any other Governmental Authority not referred to in clause (i) or (ii) above;

(o) which is owed by any Affiliate of any Loan Party or any employee, officer, director, agent or equityholder of any Loan Party or any of its Affiliates;

(p) which is owed by an Account Debtor or any Affiliate of such Account Debtor to which any Loan Party is indebted or which is subject to any security, deposit, progress payment, retainage or other similar advance made by or for the benefit of an Account Debtor; provided that the excess of the Accounts of such Account Debtor over the aggregate amount of such indebtedness, security, deposits, progress payments, retainage and other similar advances, shall not be excluded pursuant to this clause (p);

(q) which is subject to any counterclaim, deduction, defense, setoff or dispute; provided that the excess of such Accounts over such counterclaims, deductions, defenses, setoffs or disputes shall not be excluded pursuant to this clause (q);

(r) which is evidenced by any promissory note, judgment, chattel paper or instrument;

(s) which is owed by an Account Debtor located in any jurisdiction which requires filing of a "Notice of Business Activities Report" or other similar report in order to permit the applicable Loan Party to seek judicial enforcement in such jurisdiction of payment of such Account, unless such Loan Party has filed such report or is qualified to do business in such jurisdiction;

(t) with respect to which the applicable Loan Party has made any agreement with the Account Debtor for any reduction thereof, other than discounts and adjustments given in the ordinary course of business (but only to the extent of any such reduction), or any Account which was partially paid and the applicable Loan Party created a new receivable for the unpaid portion of such Account;

(u) which does not comply in all material respects with the requirements of all applicable laws and regulations, whether Federal, state or local, including the Federal Consumer Credit Protection Act, the Federal Truth in Lending Act and Regulation Z of the Board;

(v) which is for goods that have been sold under a purchase order or pursuant to the terms of a contract or other agreement or understanding (written or oral) that indicates or purports that any Person other than the applicable Loan Party has or has had an ownership interest in such goods, or which indicates any party other than the applicable Loan Party as payee or remittance party;

(w) which is owed by an Account Debtor that is a Sanctioned Person; or

(x) which is not a true and correct statement of a bona fide obligation incurred in the amount of the Account for merchandise sold to or services rendered and accepted by the applicable Account Debtor;

provided, however, that the Collateral Agent may, in its Permitted Discretion and upon prior written notice to the Company, deem any Account ineligible, or impose additional eligibility criteria, based on the results of the most recent field examination or Inventory appraisal conducted pursuant to Section 5.23.

In determining the amount of an Eligible Account, the face amount of an Account may, in the Collateral Agent's Permitted Discretion and upon prior written notice to the Company, be reduced by, without duplication, to the extent not reflected in such face amount, (i) to the extent not otherwise reflected in the eligibility criteria, the amount of all accrued and actual discounts, claims, credits or credits pending, promotional program allowances, price adjustments, finance charges or other allowances (including any amount that the applicable Loan Party may be obligated to rebate to an Account Debtor pursuant to the terms of any agreement or understanding (written or oral)) and (ii) the aggregate amount of all cash received in respect of such Account but not yet applied by the applicable Loan Party to reduce the amount of such Account.

Notwithstanding anything to the contrary contained herein, no Account acquired by any Loan Party after the Effective Date outside the ordinary course of business, or acquired or originated by any Person that becomes a Loan Party after the Effective Date, shall be included in determining Eligible Accounts until a field examination with respect thereto has been completed to the satisfaction of the Collateral Agent in its Permitted Discretion (it being understood and agreed that additional field examinations conducted at the Company's election pursuant to this paragraph shall not count against the number of field examinations permitted pursuant to Section 5.23).

"Eligible Assignee" means (a) a Lender, (b) an Affiliate of a Lender, (c) an Approved Fund and (d) any other Person, other than, in each case, a natural person, the Company, any Subsidiary or other Affiliate of the Company or its Subsidiaries; provided that an Eligible Assignee shall not include a Defaulting Lender.

"Eligible Credit Card Receivables" means, as of any date of determination, each Credit Card Receivable that satisfies all the requirements set forth below:

- Receivable; (a) such Credit Card Receivable is owned by a Loan Party and such Loan Party has good and marketable title to such Credit Card
 - (b) such Credit Card Receivable has not been outstanding for more than five Business Days;
 - (c) the credit card issuer or the credit card processor of the applicable credit card with respect to such Credit Card Receivable (i) is not the subject of any Bankruptcy Event, (ii) is not liquidating, dissolving or winding up its affairs, (iii) is not otherwise deemed not creditworthy by the Collateral Agent in its Permitted Discretion, (iv) has not admitted in writing its inability, or is not generally unable to, pay its debts as they become due, (v) has not become insolvent and (vi) has not ceased operation of its business;
 - (d) such Credit Card Receivable is a valid, legally enforceable obligation of the applicable credit card issuer or credit card processor with respect thereto;
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(e) such Credit Card Receivable is subject to a first priority (subject to a Lien described in clause (a) or (b) in the definition of “Permitted Encumbrances”) perfected Lien in favor of the Collateral Agent pursuant to the Collateral Agreements;

(f) such Credit Card Receivable is not subject to any Lien whatsoever, other than (i) a Lien in favor of the Collateral Agent, (ii) Permitted Encumbrances (other than those described in clauses (a) and (b) in the definition of “Permitted Encumbrances”) that do not have priority over the Liens securing the Obligations created by the Collateral Agreements and (iii) Liens permitted under Section 5.08(b)(ii) or (b)(x);

(g) such Credit Card Receivable conforms in all material respects to all representations, warranties or other provisions in the Loan Documents or in the credit card agreements relating to such Credit Card Receivable;

(h) if such Credit Card Receivable is subject to risk of set-off, non-collection or not being processed due to unpaid and/or accrued credit card processor fee balances, or if a claim, counterclaim, offset or chargeback has been asserted by the applicable credit card issuer or credit card processor, the face amount thereof for purposes of determining the Borrowing Base has been reduced by the amount of such unpaid and/or accrued credit card processor fees or such claim, counterclaim, offset or chargeback;

(i) subject to the grace period in clause (d) of the definition of “Collateral and Guarantee Requirement”, such Credit Card Receivable is subject to a Credit Card Notification; and

(j) such Credit Card Receivable is not evidenced by chattel paper or an instrument of any kind unless such chattel paper or instrument is in the possession of the Collateral Agent, and to the extent necessary or appropriate, endorsed to the Collateral Agent;

provided, however, the Collateral Agent may, in its Permitted Discretion and upon prior written notice to the Company, deem any Credit Card Receivable ineligible, or impose additional eligibility criteria, based on the results of the most recent field examination or Inventory appraisal conducted pursuant to Section 5.23.

In determining the amount of an Eligible Credit Card Receivable, the face amount thereof may, in the Collateral Agent’s Permitted Discretion and upon prior written notice to the Company, be reduced by, without duplication, to the extent not reflected in such face amount, (i) the amount of all customary fees and expenses in connection with the credit card arrangements applicable thereto and (ii) the aggregate amount of all cash received in respect thereof but not yet applied by the applicable Loan Party to reduce the amount of such Eligible Credit Card Receivable.

Notwithstanding anything to the contrary contained herein, no Credit Card Receivable acquired by any Loan Party after the Effective Date outside the ordinary course of business, or acquired or originated by any Person that becomes a Loan Party after the Effective Date, shall be included in determining Eligible Credit Card Receivables until a field examination with respect thereto has been completed to the satisfaction of the Collateral Agent in its Permitted Discretion (it being understood and agreed that additional field examinations conducted at the Company’s election pursuant to this paragraph shall not count against the number of field examinations permitted pursuant to Section 5.23).

“Eligible Inventory” means, at any time, the Inventory owned by any Loan Party (and in which such Loan Party has good and marketable title), but excluding any Inventory:

(a) which is not subject to a first priority perfected (subject to a Lien described in clause (a) or (b) in the definition of “Permitted Encumbrances”) Lien in favor of the Collateral Agent pursuant to the Collateral Agreements securing the Obligations;

(b) which is subject to any Lien whatsoever, other than (i) a Lien in favor of the Collateral Agent, (ii) Permitted Encumbrances (other than those described in clauses (a) and (b) in the definition of “Permitted Encumbrances”) that do not have priority over the Liens securing the Obligations pursuant to the terms of the Collateral Agreements, (iii) Liens permitted under Section 5.08 (b)(ii), (b)(ix) or (b)(x) and (iv) in the case of Inventory at a warehouse or other third party storage facility or in transit with a common carrier or other third party carrier, any Lien in respect of which an appropriate Reserve shall have been established by the Collateral Agent in its Permitted Discretion;

(c) which is slow moving, out of season, obsolete, unmerchantable, defective, used or unfit for sale; provided that, this clause (c) shall not exclude (i) slow moving Inventory located at a clearance center that has been appropriately priced consistent with the Company’s customary practices and (ii) Inventory solely due to such Inventory consisting of out of season products or components thereof;

(d) with respect to which any covenant, representation or warranty contained in this Agreement or in the other Loan Documents has been breached or is not true or which does not conform to all standards imposed by any Governmental Authority in the United States or Canada;

(e) in which any Person other than a Loan Party shall (i) have any direct or indirect ownership, interest or title (including the rights of a purchaser that has made progress payments and the rights of a surety that has issued a bond to assure a Loan Party’s performance with respect to that Inventory) or (ii) be indicated on any purchase order or invoice with respect to such Inventory as having or purporting to have an interest therein;

(f) which is not finished goods or which constitutes work-in-process, raw materials, spare or replacement parts, subassemblies, packaging and shipping material, manufacturing supplies, samples, prototypes, displays or display items, bill-and-hold or ship-in-place goods, goods that are returned or marked for return, repossessed goods, defective or damaged goods, goods held on consignment, or goods which are not of a type held for sale in the ordinary course of business;

(g) which is not located in the United States or Canada or is in transit with a common carrier or other third party carrier from vendors and suppliers; provided that Inventory in transit within the United States or Canada may be included as Eligible Inventory so long as:

- (i) if the applicable Loan Party's rights with respect thereto are evidenced by a bill of lading or comparable document, such document either (A) is non-negotiable or (B) has been delivered to the Collateral Agent,
- (ii) the common carrier or other third party carrier is not an Affiliate of the Loan Parties or of the applicable vendor or supplier, and
- (iii) the customs broker is not an Affiliate of the Loan Parties or of the applicable vendor or supplier; provided that this clause (iii) shall not apply to Retail Brokerage Solutions, LLC;

(h) which is located in any real property leased by a Loan Party unless (i) the lessor has executed and delivered to the Collateral Agent a Collateral Access Agreement (subject to the grace period in clause (e) of the definition of "Collateral and Guarantee Requirement") or (ii) a Reserve for rent, charges and other amounts due or to become due with respect to such location has been established by the Collateral Agent in its Permitted Discretion;

(i) which is located at any warehouse or other third party storage facility or is otherwise in the possession of a bailee (other than a third party processor) and (i) is evidenced by a negotiable warehouse receipt or comparable document unless such document has been delivered to the Collateral Agent or (ii) is not evidenced by a document, unless (A) such warehouseman or other bailee has executed and delivered to the Collateral Agent a Collateral Access Agreement (subject to the grace period in clause (e) of the definition of "Collateral and Guarantee Requirement") and such other documentation as the Collateral Agent may require in its Permitted Discretion or (B) an appropriate Reserve has been established by the Collateral Agent in its Permitted Discretion;

- (j) which is a discontinued product or component thereof;
- (k) which is the subject of a consignment by a Loan Party as consignor;
- (l) which is perishable;

(m) which contains or bears any Intellectual Property rights licensed to a Loan Party unless the Collateral Agent in its Permitted Discretion is satisfied that it may sell or otherwise dispose of such Inventory without (i) infringing the rights of such licensor, (ii) violating any contract with such licensor or (iii) incurring any liability with respect to payment of royalties other than royalties incurred pursuant to sale of such Inventory under the current licensing agreement;

(n) which is not reflected in a current perpetual inventory report of the applicable Loan Party (unless such Inventory is reflected in a report to the Collateral Agent as “in transit” Inventory); or

(o) for which reclamation rights have been asserted by the seller;

provided, however, the Collateral Agent may, in its Permitted Discretion and upon prior written notice to the Company, deem any Inventory ineligible, or impose additional eligibility criteria, based on the results of the most recent field examination or Inventory appraisal conducted pursuant to Section 5.23.

Notwithstanding the foregoing, (i) the amount of Inventory shall be adjusted (A) as required to eliminate intercompany profit and (B) to true up cost by eliminating intercompany performance incentives and (ii) the aggregate amount of Inventory included in the Borrowing Base pursuant to the proviso to clause (c) shall not exceed \$50,000,000.

Notwithstanding anything to the contrary contained herein, no Inventory acquired by any Loan Party after the Effective Date other than in the ordinary course of business, or acquired or created by any Person that becomes a Loan Party after the Effective Date, shall be included in determining Eligible Inventory until an appraisal with respect thereto has been completed to the satisfaction of the Collateral Agent in its Permitted Discretion (it being understood and agreed that additional appraisals conducted at the Company’s election pursuant to this paragraph shall not count against the number of appraisals permitted pursuant to Section 5.23).

“Eligible Real Property” means, on any date, the real property owned in fee by a Loan Party (i) that is acceptable in the Permitted Discretion of the Collateral Agent for inclusion in the Borrowing Base, (ii) in respect of which a Real Property Appraisal has been delivered to the Collateral Agent prior to its inclusion in the Borrowing Base and during the 12-month period ending on such date, (iii) in respect of which the Collateral Agent is satisfied that all actions necessary or desirable in order to create a perfected first priority Lien on such real property in favor of the Collateral Agent have been taken, including the filing and recording of Mortgages, (iv) in respect of which an environmental assessment report has been completed and delivered to the Collateral Agent in form and substance reasonably satisfactory to the Lenders and which does not indicate any pending, threatened or existing Environmental Liability, or noncompliance with any Environmental Law, (v) in respect of which the Company shall have delivered a fully-paid valid title insurance policy in form and substance reasonably satisfactory to the Collateral Agent naming the Collateral Agent as the insured for the benefit of the Lenders, issued by a nationally recognized title insurance company reasonably acceptable to the Collateral Agent, insuring the Lien of such Mortgage as a valid and enforceable first priority Lien on the Eligible Real Property described therein, with such customary endorsements reasonably requested by the Collateral Agent and (vi) if requested by the Collateral Agent: (A) a completed ALTA survey reasonably acceptable to the Collateral Agent has been delivered for which all necessary fees have been paid and which is dated no more than 30 days prior to the date on which the applicable Mortgage is recorded, certified to the Collateral Agent and the issuer of the title insurance policy in a manner reasonably satisfactory to the Collateral Agent by a land surveyor duly registered and licensed in the state in which such Eligible Real Property is located and acceptable to the Agent; (B) in respect of which local counsel for the Company in states in which the Eligible Real Property is located have delivered a letter of opinion with respect to the enforceability and perfection of the Mortgages and any related fixture filings in form and substance reasonably satisfactory to the Collateral Agent; (C) in respect of which the Company shall have used its commercially reasonable best efforts to obtain estoppel certificates executed by all tenants of such Eligible Real Property and such other consents, agreements and confirmations of lessors and third parties have been delivered to the Collateral Agent as the Collateral Agent may deem necessary or desirable; and (D) a completed “Life of Loan” Federal Emergency Management Agency standard flood hazard determination obtained with respect to such Eligible Real Property, together with evidence that all other customary actions that the Collateral Agent may reasonably deem necessary or desirable in order to create perfected first priority Liens on the property described in the Mortgages in favor of the Collateral Agent have been taken; provided, however, Eligible Real Property shall exclude (a) any real property located outside of the United States of America and (b) any Flood Hazard Property.

“Enhanced Borrowing Base Reporting Period” means (a) any period during which a Specified Event of Default has occurred and is continuing or (b) any period (1) commencing on any day when Specified Excess Availability has for three consecutive Business Days been less than or equal to the greater of (x) \$100,000,000 and (y) 15% of the Maximum Borrowing Amount and (2) ending after Specified Excess Availability has been greater than the amount set forth in clause (1) above for 20 consecutive days during which period no Specified Event of Default shall have occurred and be continuing.

“Environmental Laws” means all applicable laws, rules, regulations, codes, orders-in-council, ordinances, orders, decrees, judgments, injunctions or binding agreements issued, promulgated or entered into by any Governmental Authority, relating to the environment, preservation or reclamation of natural resources or the management, release or threatened release of any Hazardous Material.

“Environmental Liability” means any liability, contingent or otherwise (including any liability for damages, costs of environmental remediation, fines, penalties or indemnities), of the Company or any Consolidated Subsidiary directly or indirectly resulting from or based upon (a) violation of any Environmental Law, (b) the generation, use, handling, transportation, storage, treatment or disposal of any Hazardous Materials, (c) exposure to any Hazardous Materials, (d) the release or threatened release of any Hazardous Materials into the environment or (e) any contract, agreement or other consensual arrangement pursuant to which liability is assumed or imposed with respect to any of the foregoing.

“Equity Interests” means shares of capital stock, partnership interests, membership interests in a limited liability company, beneficial interests in a trust or other equity ownership interests in a Person.

“ERISA” means the Employee Retirement Income Security Act of 1974, as amended from time to time, and the rules and regulations promulgated thereunder.

“ERISA Affiliate” means any trade or business (whether or not incorporated) that, together with the Company, is treated as a single employer under Section 414(b) or (c) of the Code or, solely for purposes of Section 302 of ERISA and Section 412 of the Code, is treated as a single employer under Section 414 of the Code.

“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.

“Eurodollar”, when used in reference to any Loan or Borrowing, refers to whether such Loan, or the Loans comprising such Borrowing, is bearing interest at a rate determined by reference to a LIBO Rate.

“Event of Default” has the meaning set forth in Section 6.01.

“Excess Availability” means, at any time, an amount equal to (a) the Maximum Borrowing Amount, minus (b) the Aggregate Credit Exposure (which, solely for purposes of determining Average Daily Excess Availability, shall exclude Protective Advances), in each case outstanding at such time.

“Exchange Rate” means on any day, for purposes of determining the US Dollar Equivalent of any other currency, the rate at which such other currency may be exchanged into US Dollars at the time of determination on such day as set forth on the Reuters WRLD Page for such currency. In the event that such rate does not appear on any Reuters WRLD Page, the Exchange Rate shall be determined by reference to such other publicly available service for displaying exchange rates as may be agreed upon by the Administrative Agent and the Company or, in the absence of such an agreement, such Exchange Rate shall instead be the Spot Rate.

“Excluded Deposit Accounts” means (a) any deposit account the funds in which are used solely for the payment of salaries and wages, workers’ compensation and similar expenses (including payroll taxes) in the ordinary course of business, (b) any deposit account that is a zero-balance disbursement account, (c) any deposit account the funds in which consist solely of (i) funds held by the Company or any Subsidiary Loan Party in trust for any director, officer or employee of the Company or any Subsidiary Loan Party or any employee benefit plan maintained by the Company or any Subsidiary Loan Party or (ii) funds representing deferred compensation for the directors and employees of the Company and the Subsidiary Loan Parties, (d) any deposit account the funds in which consist solely of cash earnest money deposits or funds deposited under escrow or similar arrangements in connection with any letter of intent or purchase agreement for any transaction permitted hereunder and (e) other deposit accounts to the extent the aggregate daily balance in all such accounts does not at any time exceed \$100,000.

“Excluded Securities Account” means any securities account the securities entitlements in which consist solely of (a) securities entitlements held by the Company or any Subsidiary Loan Party in trust for any director, officer or employee of the Company or any Subsidiary Loan Party or any employee benefit plan maintained by the Company or any Subsidiary Loan Party or (b) securities entitlements representing deferred compensation for the directors and employees of the Company and the Subsidiary Loan Parties.

“Excluded Subsidiary” means:

- (a) any Immaterial Subsidiary,
 - (b) any Consolidated Subsidiary that is prohibited or restricted by law, rule or regulation or contractual obligation (in the case of any such contractual obligation, where such contractual obligation exists on the Effective Date or on the date such entity becomes a Consolidated Subsidiary, as long as such contractual obligation was not entered into in contemplation of such person becoming a Consolidated Subsidiary) from Guaranteeing the Obligations or that would require a governmental (including regulatory) or third party consent, approval, license or authorization to Guarantee the Obligations (including under any financial assistance, corporate benefit, thin capitalization, capital maintenance, liquidity maintenance or similar legal principles) for so long as the applicable prohibition or restriction is in effect and unless and until such consent has been received, it being understood that the Company and its subsidiaries shall have no obligation to obtain any such consent, approval, license or authorization,
 - (c) any not-for-profit subsidiary,
 - (d) any Captive Insurance Subsidiary or subsidiary that is a broker-dealer,
 - (e) any special purpose entity (including a special purpose entity used for any permitted securitization or receivables facility or financing) and any Receivables Subsidiary,
 - (f) (i) any Domestic Subsidiary that is a disregarded subsidiary for Tax purposes or (ii) any Domestic Subsidiary that is a direct or indirect subsidiary of any Foreign Subsidiary or any Subsidiary described in the preceding clause (i),
 - (g) any Subsidiary that is not a wholly-owned Consolidated Subsidiary,
 - (h) any Consolidated Subsidiary acquired pursuant to an acquisition or other Investment permitted by this Agreement that has Indebtedness at the time of such acquisition or Investment, and not incurred in contemplation thereof, and any Consolidated Subsidiary thereof that guarantees such Indebtedness, in each case to the extent the terms of such Indebtedness prohibit such Consolidated Subsidiary from becoming a Subsidiary Loan Party,
 - (i) any Consolidated Subsidiary if the provision of a Guarantee of the Obligations could reasonably be expected to result in adverse tax or regulatory consequences to any Loan Party or any of its subsidiaries or parent companies that are not de minimis as determined by the Company in good faith, and
 - (k) any other Consolidated Subsidiary with respect to which, in the good faith judgment of the Administrative Agent and the Company, the burden or cost of Guaranteeing the Obligations outweighs the benefits afforded thereby.
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“Excluded Taxes” means any of the following Taxes imposed on or with respect to a Recipient or required to be withheld or deducted from a payment to a Recipient: (a) income, franchise or similar Taxes and branch profits Taxes, in each case, imposed on (or measured by) such Recipient’s net income by the United States of America, (b) income, franchise or similar Taxes and branch profits Taxes, in each case, imposed by the jurisdiction under the laws of which such Recipient is organized or in which its principal office is located or, in the case of any Lender, in which its applicable lending office is located, or which are imposed by reason of any present or former connection between such Lender and the jurisdiction imposing such Taxes, other than solely as a result of this Agreement or any Loan or transaction contemplated hereby, (c) in the case of a Lender (other than an assignee pursuant to a request by the Company under Section 2.18(b)), any U.S. federal withholding Tax that is in effect and would apply to amounts payable to or for the account of such Lender under applicable law at the time such Lender becomes a party to this Agreement (or designates a new lending office), except to the extent that such Lender (or its assignor, if any) was entitled, under applicable law at the time of designation of a new lending office (or assignment), to receive additional amounts from the Company with respect to any such withholding Tax pursuant to Section 2.16(a), (d) any Tax that is attributable to such Lender’s or any other recipient’s failure to comply with Section 2.16(f), (e) any U.S. federal Taxes imposed under FATCA, and (f) any Canadian withholding tax that is imposed as a result of a Recipient not dealing at arm’s length (within the meaning of the ITA) with the payer at the time of such payment.

“Existing Letter of Credit” means each letter of credit set forth on Schedule 1.01(a).

“FATCA” means Sections 1471 through 1474 of the Code, as of the date of this Agreement (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 intergovernmental agreements entered into thereunder and any law, regulation or official guidance adopted pursuant to any such intergovernmental agreements; and any agreements entered into pursuant to Section 1471(b)(1) of the Code.

“FCPA” means the United States Foreign Corrupt Practices Act of 1977.

“Federal Funds Effective Rate” means, for any day, the rate calculated by the NYFRB based on such day’s federal funds transactions by depository institutions (as determined in such manner as shall be set forth on the Federal Reserve Bank of New York’s Website from time to time) and published on the next succeeding Business Day by the NYFRB as the federal funds effective rate; provided that if such rate shall be less than zero, such rate shall be deemed to be zero for all purposes of this Agreement.

“Federal Reserve Bank of New York’s Website” means the website of the NYFRB at <http://www.newyorkfed.org>, or any successor source.

“Financial Officer” means the chief financial officer, principal accounting officer, treasurer or controller of the Company.

“FIRREA” means the Financial Institutions Reform, Recovery and Enforcement Act of 1989, as amended.

“Fiscal Month” means any fiscal month as set forth in the calendar published by the National Retail Federation.

“Fiscal Year” means any fiscal year as set forth in the calendar published by the National Retail Federation setting forth the fiscal year for retailers on a 52/53 week fiscal year ending on the Saturday on or nearest (whether following or preceding) January 31 of the following calendar year.

“Flood Hazard Property” means any real property improved by a Building (as defined in the Flood Insurance Laws) or Manufactured (Mobile) Home (as defined in the Flood Insurance Laws) that on the relevant date of determination is located in an area identified by the Federal Emergency Management Agency (or any successor agency) as a special flood hazard area.

“Flood Insurance Laws” means, collectively, (i) the National Flood Insurance Reform Act of 1994 (which comprehensively revised the National Flood Insurance Act of 1968 and the Flood Disaster Protection Act of 1973) as now or hereafter in effect or any successor statute thereto, (ii) the Flood Insurance Reform Act of 2004 as now or hereafter in effect or any successor statute thereto and (iii) the Biggert-Waters Flood Insurance Reform Act of 2012 as now or hereafter in effect or any successor statute thereto.

“Floor” means the benchmark rate floor, if any, provided in this Agreement initially (as of the execution of this Agreement, the modification, amendment or renewal of this Agreement or otherwise) with respect to the LIBO Rate.

“Foreign Lender” means any Lender that is not a U.S. Person or, as applicable in the case of a Loan or Commitment to a Canadian Borrower, a Lender that is not resident in Canada for purposes of the ITA.

“Foreign Subsidiary” means any Subsidiary that is not a Domestic Subsidiary or a Canadian Subsidiary.

“GAAP” means generally accepted accounting principles in the United States of America.

“Gift Card Reserve” means, at any time, the sum of (a) 50% of the aggregate remaining amount at such time of outstanding gift certificates and gift cards sold by the Loan Parties entitling the holder thereof to use all or a portion of the certificate or gift card to pay all or a portion of the purchase price of Inventory and (b) 50% of the aggregate amount at such time of outstanding customer deposits and merchandise credits entitling the holder thereof to use all or a portion of such deposit or credit to pay all or a portion of the purchase price of Inventory.

“Governmental Authority” means the government of the United States of America, Canada, any other nation or any political subdivision thereof, whether state, local, provincial or territorial, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government.

“Guarantee” of or by any Person (the “guarantor”) means any obligation, contingent or otherwise, of the guarantor guaranteeing or having the economic effect of guaranteeing any Indebtedness or other obligation of any other Person (the “primary obligor”) in any manner, whether directly or indirectly, and including any obligation of the guarantor, direct or indirect, (a) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness or other obligation or to purchase (or to advance or supply funds for the purchase of) any security for the payment thereof, (b) to purchase or lease property, securities or services for the purpose of assuring the owner of such Indebtedness or other obligation of the payment thereof, (c) to maintain working capital, equity capital or any other financial statement condition or liquidity of the primary obligor so as to enable the primary obligor to pay such Indebtedness or other obligation or (d) as an account party in respect of any letter of credit or letter of guaranty issued to support such Indebtedness or obligation; provided that the term “Guarantee” shall not include endorsements for collection or deposit in the ordinary course of business.

“Hazardous Materials” means all explosive or radioactive substances or wastes and all hazardous or toxic substances, wastes or other pollutants, including petroleum or petroleum distillates, asbestos or asbestos containing materials, polychlorinated biphenyls, radon gas, infectious or medical wastes in each case which are regulated pursuant to any Environmental Law.

“Hedging Agreement” means any interest rate protection agreement, foreign currency exchange agreement, commodity price protection agreement or other interest or currency exchange rate or commodity price hedging arrangement.

“IBA” has the meaning set forth in Section 1.08.

“Immaterial Subsidiaries” means, at any time, Consolidated Subsidiaries that (a) are Domestic Subsidiaries or Canadian Subsidiaries and (b) at such time, in the aggregate for all such Subsidiaries, (i) directly own less than 10% of the amount of Qualifying Assets owned directly by all Consolidated Subsidiaries that are Domestic Subsidiaries or Canadian Subsidiaries and (ii) directly own accounts receivable and inventory representing less than 5% of the book value of the accounts receivable and inventory directly owned by all Consolidated Subsidiaries that are Domestic Subsidiaries or Canadian Subsidiaries.

“Incremental Facility Agreement” means an Incremental Facility Agreement, in form and substance reasonably satisfactory to the Administrative Agent, among the Company, the Administrative Agent and one or more Incremental Lenders, establishing Incremental Revolving Commitments of any tranche and effecting such other amendments hereto and to the other Loan Documents as are contemplated by Section 2.08.

“Incremental Lender” means a Lender with an Incremental Revolving Commitment.

“Incremental Revolving Commitment” means, with respect to any Lender, the commitment, if any, of such Lender, established pursuant to an Incremental Facility Agreement and Section 2.08, to make Incremental Revolving Loans of any tranche, and, if provided in such Incremental Facility Agreement, to acquire participations in Letters of Credit and Protective Advances of such tranche, expressed as an amount representing the maximum aggregate permitted amount of such Lender’s Credit Exposure under such Incremental Facility Agreement.

“Incremental Revolving Loan” means a Loan made pursuant to a tranche of Incremental Revolving Commitments.

“Indebtedness” of any Person means, 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, (c) all obligations of such Person in respect of the deferred purchase price of property (other than inventory) or services (excluding accruals and trade accounts payable arising in the ordinary course of business), (d) all Indebtedness of others secured by any Lien on property owned or acquired by such Person, whether or not the Indebtedness secured thereby has been assumed, (e) all Guarantees by such Person of Indebtedness of others, (f) all Capital Lease Obligations of such Person and (g) all obligations, contingent or otherwise, of such Person in respect of bankers’ acceptances.

“Indemnified Taxes” means (a) Taxes, other than Excluded Taxes, imposed on or with respect to any payment made by or on account of any obligation of any Borrower under any Loan Document and (b) to the extent not otherwise described in (a), Other Taxes.

“Insolvency Laws” means each of the Bankruptcy Code, the *Bankruptcy and Insolvency Act* (Canada), the *Companies’ Creditors Arrangement Act* (Canada) and the *Winding-Up and Restructuring Act* (Canada), in each case as amended, and any other applicable state, provincial, territorial, foreign or federal bankruptcy laws, each as now and hereafter in effect, any successors to such statutes and any other applicable insolvency or other similar law of any jurisdiction, including any corporate law of any jurisdiction permitting a debtor to obtain a stay or a compromise of the claims of its creditors against it and including any rules and regulations pursuant thereto.

“Intellectual Property” has the meaning assigned to such term in the Collateral Agreements.

“Intercreditor Agreement” means (a) the Intercreditor Agreement dated the date hereof, among the Administrative Agent and JPMorgan Chase Bank, N.A., as Term Loan Agent (as defined therein), as amended, restated, supplemented or otherwise modified from time to time or (b) any other customary intercreditor or subordination agreement or arrangement among the Loan Parties, the Collateral Agent and the trustee, agent or other representative for holders of any Indebtedness secured by Non-ABL Priority Collateral or second priority Liens contemplated by clause (b)(x) of Section 5.08, as applicable, which intercreditor agreement shall be consistent with the then existing market practice and reasonably acceptable to the Required Lenders (it being understood that (i) any such intercreditor agreement shall be considered approved by a Lender if made available to such Lender by the Administrative Agent (through Intralinks or similar facility) and such Lender is informed that such intercreditor agreement shall be considered approved by it if there is no objection within five Business Days, and no such objection is made and (ii) such intercreditor agreement shall be deemed accepted if approved or deemed approved by the Required Lenders).

“Interest Election Request” means a request by a Borrower to convert or continue a Borrowing in accordance with Section 2.07.

“Interest Payment Date” means (a) with respect to any ABR Loan or Canadian Prime Rate Loan (other than a Protective Advance), the last day of each March, June, September and December, (b) with respect to any Eurodollar or CDOR Rate Loan, the last day of the Interest Period applicable to the Borrowing of which such Loan is a part and, in the case of a Eurodollar or CDOR Rate Borrowing with an Interest Period of more than three-months’ duration, each day prior to the last day of such Interest Period that occurs at intervals of three-months’ duration after the first day of such Interest Period and (c) with respect to any Protective Advance, the day that such Loan is required to be repaid.

“Interest Period” means, with respect to any Eurodollar or CDOR Rate Borrowing, the period commencing on the date of such Borrowing and ending on the numerically corresponding day in the calendar month that is one, three or (except in the case of CDOR Rate Borrowings) six months thereafter or, if available from all participating Lenders, 12 months thereafter, in each case as the applicable Borrower may elect; provided that (i) if any Interest Period would end on a day other than a Business Day, such Interest Period shall be extended to the next succeeding Business Day unless such next succeeding Business Day would fall in the next calendar month, in which case such Interest Period shall end on the next preceding Business Day, (ii) any Interest Period pertaining to a Eurodollar or CDOR Rate Borrowing that commences on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the last calendar month of such Interest Period) shall end on the last Business Day of the last calendar month of such Interest Period, (iii) no tenor that has been removed from this definition pursuant to Section 2.13(f) shall be available and (iv) any Interest Period that would otherwise end after the Maturity Date will end on the Maturity Date. For purposes hereof, the date of a Borrowing initially shall be the date on which such Borrowing is made and thereafter shall be the effective date of the most recent conversion or continuation of such Borrowing.

“Interpolated Rate” means, (A) with respect to any Eurodollar Loan for any Interest Period or clause (c) of the definition of the term “Alternate Base Rate”, a rate per annum (rounded upward to the next 1/100th of 1%) determined by the Administrative Agent (which determination shall be conclusive and binding absent manifest error) to be equal to the rate that results from interpolating on a linear basis between (a) the applicable LIBO Screen Rate for the longest period (for which such LIBO Screen Rate is available) that is shorter than the Interest Period for such Eurodollar Loan and (b) the applicable LIBO Screen Rate for the shortest period (for which such LIBO Screen Rate is available) that is longer than the Interest Period for such Eurodollar Loan, in each case at approximately 11:00 a.m., London time, two Business Days prior to the commencement of such Interest Period and (B) with respect to any CDOR Rate Loan for any Interest Period, a rate per annum (rounded upward to the next 1/100th of 1% (with 0.005% being rounded up)) determined by the Administrative Agent (which determination shall be conclusive and binding absent manifest error) to be equal to the rate that results from interpolating on a linear basis between (a) the applicable CDO Screen Rate for the longest period (for which such CDO Screen Rate is available) that is shorter than the Interest Period for such CDOR Rate Loan and (b) the applicable CDO Screen Rate for the shortest period (for which such CDO Screen Rate is available) that is longer than the Interest Period for such CDOR Rate Loan, in each case at or about approximately 10:00 a.m., Toronto time, on the applicable date of determination two Business Days prior to the commencement of such Interest Period. Notwithstanding the foregoing, if any Interpolated Rate shall be less than zero, such rate shall be deemed to be zero for purposes of this Agreement.

“Inventory” has the meaning specified in the UCC.

“Investment” has the meaning set forth in Section 5.17.

“IRS” means the United States Internal Revenue Service.

“ISDA Definitions” means the 2006 ISDA Definitions published by the International Swaps and Derivatives Association, Inc. or any successor thereto, as amended or supplemented from time to time, or any successor definitional booklet for interest rate derivatives published from time to time by the International Swaps and Derivatives Association, Inc. or such successor thereto.

“ISP” means, with respect to any Letter of Credit, the “International Standby Practices 1998” published by the Institute of International Banking Law & Practice, Inc. (or such later version thereof as may be in effect at the time of issuance).

“Issuing Bank” means, as applicable, (a) with respect to Letters of Credit to be participated in under the Revolving Commitments, (i) JPMorgan Chase Bank, N.A., in its capacity as an issuer of Letters of Credit hereunder, (ii) Goldman Sachs Bank USA, in its capacity as an issuer of Letters of Credit hereunder, (iii) Bank of America, N.A., in its capacity as an issuer of Letters of Credit (denominated in US Dollars only) hereunder, (iv) Citibank, N.A., in its capacity as an issuer of Letters of Credit hereunder, (v) HSBC Bank USA, N.A., in its capacity as an issuer of Letters of Credit hereunder, (vi) Wells Fargo Bank, National Association, in its capacity as an issuer of Letters of Credit hereunder, (vii) Barclays Bank PLC, in its capacity as an issuer of Letters of Credit (standby only) hereunder, (viii) any other Revolving Lender or Affiliate of a Revolving Lender designated by the Company (with such Revolving Lender’s consent) as an Issuing Bank with respect to such Letters of Credit in a written notice to the Administrative Agent and (ix) their respective successors in such capacity as provided in Section 2.05(i) and (b) with respect to Letters of Credit to be participated in under the Commitments of any other Class, (i) any Lender of such Class or Affiliate of a Lender of such Class named as such in the Incremental Facility Agreement pursuant to which such Commitments were established, (ii) any other Lender of such Class or Affiliate of a Lender of such Class designated by the Company (with such Lender’s consent) as an Issuing Bank with respect to such Letters of Credit in a written notice to the Administrative Agent and (iii) its respective successors in such capacity as provided in Section 2.05(i). Any Issuing Bank may, in its discretion, arrange for one or more Letters of Credit to be issued by or through Affiliates of such Issuing Bank, in which case the term “Issuing Bank” shall include any such Affiliate with respect to Letters of Credit issued by such Affiliate.

“ITA” means the *Income Tax Act* (Canada).

“Judgment Currency” has the meaning set forth in Section 8.18(b).

“LC Commitment” means, with respect to any Issuing Bank, the maximum permitted amount of LC Exposure that may be attributable to Letters of Credit issued by such Issuing Bank. Each Issuing Bank’s LC Commitment shall be equal to (x) the amount set forth in clause (i) of the third sentence of Section 2.05(b) divided by (y) the number of Issuing Banks at such time, or such other amount as agreed by such Issuing Bank and the Company; provided that from and after the Effective Date, no Issuing Bank’s LC Commitment shall be increased without such Issuing Bank’s consent.

“LC Disbursement” means a payment made by any Issuing Bank pursuant to a Letter of Credit.

“LC Exposure” means, with respect to any Class as at any date of determination, the aggregate amount available to be drawn under all outstanding Letters of Credit of such Class plus the aggregate of all LC Disbursements in respect of Letters of Credit of such Class that have not yet been reimbursed by or on behalf of the applicable Borrowers at such time. For purposes of computing the amount available to be drawn under any Letter of Credit, the amount of such Letter of Credit shall be determined in accordance with Section 1.06. For all purposes of this Agreement, if on any date of determination a Letter of Credit has expired by its terms but any amount may still be drawn thereunder by reason of the operation of any rule of law or standard practices to which any Letter of Credit is subject (including Rules 3.13 and 3.14 of the ISP and Article 36 of the UCP), such Letter of Credit shall be deemed to be “outstanding” in the amount so remaining available to be drawn. The LC Exposure with respect to any Class of any Lender of such Class at any time shall be its Applicable Percentage in respect of such Class of the total LC Exposure in respect of such Class at such time, subject to adjustment pursuant to any LC Exposure Reallocation. An LC Exposure Reallocation permitted hereunder shall be effective upon election by the Company as provided in Section 2.19, and shall be rescinded with respect to any Lender that is a Defaulting Lender at the time it ceases to be a Defaulting Lender or at the time its applicable Commitment is assigned pursuant to Section 2.18(b) or terminated pursuant to Section 2.18(c).

“LC Exposure Reallocation” means an adjustment to the LC Exposure of each Lender of any applicable Class that is a non-Defaulting Lender, to take account of a Lender or Lenders of such Class being or becoming a Defaulting Lender, that increases the LC Exposure of each Lender of such Class that is not a Defaulting Lender to equal its Applicable Percentage in respect of such Class (determined as though the Commitment of each Lender of such Class that is a Defaulting Lender were reduced to zero) of the total LC Exposure in respect of such Class, in order to support its ratable share of the LC Exposure of such Class of the relevant Defaulting Lender or Defaulting Lenders. In the event of an LC Exposure Reallocation (a) the LC Exposure of the relevant Lender that is a Defaulting Lender shall not be decreased, but (b) the LC Exposure of each Lender of the applicable Class that is not a Defaulting Lender shall be increased as provided above, and such Lender’s increased LC Exposure of such Class shall apply for all purposes of this Agreement, including for purposes of determining its Credit Exposure and participation fees payable with respect to its LC Exposure. Notwithstanding any other provision of this Agreement, an LC Exposure Reallocation shall not be permitted if, after giving effect thereto, the Credit Exposure of any Lender of such Class shall exceed its Commitment of such Class.

“Lenders” means the Persons listed on Schedule 2.01 and any other Person that shall have become a party hereto (i) pursuant to an accession agreement as contemplated in Section 2.08(d), (ii) pursuant to an Assignment and Assumption as contemplated in Section 8.04(b), other than any such Person that ceases to be a party hereto pursuant to an Assignment and Assumption or (iii) pursuant to an Incremental Facility Agreement. Unless the context otherwise requires, the term “Lenders” includes the Administrative Agent in its capacity as lender of Protective Advances.

“Letter of Credit” means any letter of credit issued pursuant to this Agreement (and shall be deemed to include all Existing Letters of Credit) and shall include, if applicable, any bankers’ acceptance resulting from any such letter of credit, so long as such banker’s acceptance matures within the period provided for in Section 2.05(c).

“Liabilities” means any losses, claims (including intraparty claims), demands, damages or liabilities of any kind.

“LIBO Rate” means, with respect to any Eurodollar Borrowing for any Interest Period, the London interbank offered rate as administered by ICE Benchmark Administration (or any other Person that takes over the administration of such rate for US Dollars) for a period equal in length to such Interest Period as displayed on pages LIBOR01 or LIBOR02 of the Reuters screen that displays such rate (or, in the event such rate does not appear on a Reuters page or screen, on any successor or substitute page on such screen that displays such rate, or on the appropriate page of such other information service that publishes such rate from time to time as selected by the Administrative Agent in its reasonable discretion; in each case the “LIBO Screen Rate”) at approximately 11:00 a.m., London time, two Business Days prior to the commencement of such Interest Period; provided that if the LIBO Screen Rate shall be less than zero, such rate shall be deemed to be zero for the purposes of this Agreement; provided further that if the LIBO Screen Rate shall not be available at such time for such Interest Period with respect to US Dollars then the LIBO Rate shall be the Interpolated Rate.

“Lien” means, with respect to any asset, any mortgage, deed of trust, lien, pledge, hypothecation, encumbrance, charge or security interest in, on or of such asset.

“Loan Documents” means this Agreement and the Collateral Documents.

“Loan Parties” means the Borrowers and the Subsidiary Loan Parties.

“Loans” means the loans (including Protective Advances) made by the Lenders to the Borrowers pursuant to this Agreement.

“Material Adverse Effect” means a material adverse effect on (a) the business, financial position or results of operations of the Company and the Consolidated Subsidiaries, taken as a whole, (b) the ability of any Borrower to perform any of its obligations under this Agreement or (c) the rights of or benefits available to the Lenders under this Agreement or the Collateral Agreements.

“Material Indebtedness” means Indebtedness (other than the Loans and Letters of Credit), or obligations in respect of one or more Hedging Agreements, of any one or more of the Company and its Consolidated Subsidiaries in an aggregate principal amount exceeding \$100,000,000. For purposes of determining Material Indebtedness, the “principal amount” of the obligations of the Company or any Consolidated Subsidiary in respect of any Hedging Agreement at any time shall be the maximum aggregate amount (giving effect to any netting agreements) that the Company or such Consolidated Subsidiary would be required to pay if such Hedging Agreement were terminated at such time.

“Material Subsidiary” means any (i) Designated Real Estate Subsidiary or (ii) Consolidated Subsidiary that (a) is a wholly-owned Domestic Subsidiary or a wholly-owned Canadian Subsidiary and (b) is not an Excluded Subsidiary.

“Maturity Date” means August 3, 2026.

“Maximum Borrowing Amount” means, at any time, the lesser of (a) the Aggregate Commitments at such time and (b) the Borrowing Base at such time.

“Moody’s” means Moody’s Investors Service, Inc.

“Mortgage” means a mortgage, deed of trust, assignment of leases and rents or other security document granting a Lien on any Mortgaged Property in favor of the Collateral Agent to secure the Obligations. Each Mortgage shall be in form and substance reasonably satisfactory to the Administrative Agent.

“Mortgaged Property” means each parcel of real property (together with any adjoining or other parcels of real property integral to the operation of any facility owned by any Loan Party that shall be subject to a Mortgage; provided that such additional parcels of real property shall not constitute Mortgaged Property if the applicable Loan Party is unable to deliver a Mortgage encumbering such additional parcels despite using commercially reasonable efforts to deliver them) located in the United States of America owned in fee by a Loan Party, and the improvements thereto.

“Multiemployer Plan” means a multiemployer plan as defined in Section 4001(a)(3) of ERISA.

“Net Orderly Liquidation Value” means, with respect to Inventory of any Person, the orderly liquidation value thereof as identified in the most recent field examination or Inventory appraisal conducted pursuant to Section 5.23, as applicable, net of all costs of liquidation thereof.

“Non-ABL Priority Collateral” means, at any time, all the following assets that constitute Collateral, whether now owned or hereafter acquired and wherever located: (a) all real property, related appurtenant rights and Fixtures and interests therein (including both fee and leasehold interests) (x) located outside the United States of America and (y) located in the United States of America if Eligible Real Property is not included in the Borrowing Base at such time; (b) all Equipment; (c) all Intellectual Property (other than any computer programs and any support and information relating thereto that constitute Inventory); (d) all Equity Interests and other Investment Property (other than Investment Property constituting ABL Priority Collateral under clause (d) or (g) of the definition of such term); (e) all Commercial Tort Claims; (f) all insurance policies relating to Non-ABL Priority Collateral, but, for the avoidance of doubt, excluding business interruption insurance and credit insurance with respect to any Accounts; (g) except to the extent constituting ABL Priority Collateral under clause (g) of the definition of such term, all Documents, all General Intangibles, all Instruments and all Letter-of-Credit Rights; (h) all other Collateral not constituting ABL Priority Collateral; (i) all collateral and guarantees given by any other Person with respect to any of the foregoing, and all Supporting Obligations (including Letter-of-Credit Rights) with respect to any of the foregoing; (j) all books and Records to the extent relating to any of the foregoing; and (k) all products and Proceeds of the foregoing. Notwithstanding the foregoing, the term “Non-ABL Priority Collateral” shall not include any assets referred to in clauses (a) through (e) of the definition of the term “ABL Priority Collateral”. Capitalized terms used in this definition but not defined herein have the meanings assigned to them in the Collateral Agreements.

“Non-Consenting Lender” means any Lender that withholds its consent to any proposed amendment, modification or waiver that cannot become effective without the consent of such Lender under Section 8.02 or Section 8.02A, and that has been consented to by the Required Lenders (or (a) in circumstances where Section 8.02 does not require the consent of the Required Lenders as a result of clause (ii) of the second proviso in Section 8.02(b), a majority in interest of the Lenders of the affected Class or (b) in circumstances where Section 8.02A does not require the consent of the Required Lenders, the Supermajority Lenders).

“NYFRB” means the Federal Reserve Bank of New York.

“NYFRB Rate” means, for any day, the greater of (a) the Federal Funds Effective Rate in effect on such day and (b) the Overnight Bank Funding Rate in effect on such day (or for any day that is not a Business Day, for the immediately preceding Business Day); provided that if none of such rates are published for any day that is a Business Day, the term “NYFRB Rate” shall mean the rate for a federal funds transaction quoted at 11:00 a.m., New York City time, on such day received by the Administrative Agent from a Federal funds broker of recognized standing selected by it; provided, further, that if any of the aforesaid rates shall be less than zero, such rate shall be deemed to be zero for purposes of this Agreement.

“OA Payment Obligations” has the meaning assigned to such term in the definition of “Open Account Agreement”.

“Obligations” has the meaning set forth in the Collateral Agreements.

“OFAC” means the U.S. Department of Treasury’s Office of Foreign Asset Control.

“Open Account Agreement” means any agreement between or among a Lender, any of its Affiliates or any other Person and the Company or any Subsidiary, as identified to the Collateral Agent as an “Open Account Agreement” for purposes of this Agreement by the Company from time to time, pursuant to which the Company or such Subsidiary has committed to pay such Lender, its Affiliates or such Person (a) amounts on account of any account receivable purchased by such Lender, its Affiliates or such Person from certain vendors of the Company and its Consolidated Subsidiaries, (b) amounts on account of any account payable of the Company or such Subsidiary owing to certain of its vendors that such Lender, its Affiliates or such Person has paid on behalf of the Company or such Subsidiary (including, for the avoidance of doubt, any so called “payment undertaking” or “corporate payment undertaking”-based buyer-centric supply chain finance programs), (c) the amount of any overdrafts created by such Lender, its Affiliates or such Person to pay vendors other than those referred to in clauses (a) and (b) above and (d) certain processing fees thereunder (the obligations to pay the amounts referred to in clauses (a), (b), (c) and (d), collectively, the “OA Payment Obligations”).

“Other Taxes” means any and all present or future recording, stamp, documentary, intangible filing, excise, property or similar taxes, charges or levies imposed by the United States of America or any political subdivision thereof arising from any payment made under, from the execution, delivery, performance, enforcement or registration of, or from the registration, receipt or perfection of a security interest under, or otherwise with respect to, this Agreement or any other Loan Document.

“Overnight Bank Funding Rate” means, for any day, the rate comprised of both overnight federal funds and overnight Eurodollar borrowings by U.S.-managed banking offices of depository institutions, as such composite rate shall be determined by the NYFRB as set forth on the Federal Reserve Bank of New York’s Website from time to time, and published on the next succeeding Business Day by the NYFRB as an overnight bank funding rate (from and after such date as the NYFRB shall commence to publish such composite rate).

“Participant Register” has the meaning set forth in Section 8.04(c)(iii).

“Patriot Act” has the meaning set forth in Section 8.15.

“Payment” has the meaning set forth in Section 7.03.

“Payment Conditions” means:

(a) in respect of any Restricted Payment to be made in reliance on such conditions, on a pro forma basis, on each of the 30 days immediately preceding such Restricted Payment, and projected on a reasonable basis for each of the 30 days succeeding such Restricted Payment, either (i) both (x) the ratio of Consolidated EBITDAR to Consolidated Fixed Charges for the most recent Test Period is greater than 1.00 to 1.00 and (y) Specified Excess Availability is greater than the greater of (A) \$120,000,000 and (B) 20% of the Maximum Borrowing Amount or (ii) Specified Excess Availability is greater than the greater of (A) \$200,000,000 and (B) 30% of the Maximum Borrowing Amount, and, in each case, the absence of an Event of Default; and

(b) in respect of any Investment to be made in reliance on such conditions, on a pro forma basis, on each of the 30 days immediately preceding such Investment, and projected on a reasonable basis for each of the 30 days succeeding such Investment, either (i) both (x) the ratio of Consolidated EBITDAR to Consolidated Fixed Charges for the most recent Test Period is greater than 1.00 to 1.00 and (y) Specified Excess Availability is greater than the greater of (A) \$80,000,000 and (B) 17.5% of the Maximum Borrowing Amount or (ii) Specified Excess Availability is greater than the greater of (A) \$160,000,000 and (B) 25% of the Maximum Borrowing Amount, and, in each case, the absence of an Event of Default.

“Payment Notice” has the meaning set forth in Section 7.03.

“Payment Intangibles” has the meaning specified in the UCC.

“PBGC” means the Pension Benefit Guaranty Corporation referred to and defined in ERISA and any successor entity performing similar functions.

“Permitted Discretion” means a determination made by the Collateral Agent in good faith and in the exercise of reasonable (from the perspective of a secured asset-based lender) business judgment in accordance with the Collateral Agent’s credit policies.

“Permitted Encumbrances” means:

- (a) Liens imposed by law for taxes that are not yet due;
 - (b) carriers’, warehousemen’s, mechanics’, materialmen’s, repairmen’s, landlord’s and other like Liens imposed by law, arising in the ordinary course of business and securing obligations that are not overdue by more than 30 days;
 - (c) pledges and deposits made in the ordinary course of business in compliance with workers’ compensation, unemployment insurance and other social security laws or regulations;
 - (d) deposits to secure the performance of bids, trade contracts, leases, statutory obligations, surety and appeal bonds, performance bonds and other obligations of a like nature, in each case in the ordinary course of business;
 - (e) judgment liens in respect of judgments that do not constitute an Event of Default under clause (i) of Section 6.01;
 - (f) easements, zoning restrictions, rights-of-way and similar encumbrances on real property imposed by law or arising in the ordinary course of business that do not secure any monetary obligations and do not materially detract from the value of the affected property or interfere with the ordinary conduct of business of the Company or any Subsidiary;
 - (g) Liens in favor of sellers of goods arising under Article 2 of the UCC or similar provisions of applicable law in the ordinary course of business, covering only the goods sold and securing only the unpaid purchase price for such goods and related expenses;
 - (h) Liens securing obligations in respect of trade letters of credit; provided that such Liens do not extend to any property other than the goods financed or paid for with such letters of credit, documents of title in respect thereof and proceeds thereof;
 - (i) Liens (i) arising by operation of law under Article 4 of the UCC in connection with collection of items provided for therein, and (ii) in favor of a banking or other financial institution arising as a matter of law or under customary general terms and conditions encumbering deposits or other funds maintained with a financial institution (including the right of set-off) and which are within the general parameters customary in the banking industry or arising pursuant to such banking institution’s general terms and conditions;
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(j) leases, licenses, subleases or sublicenses granted to others in the ordinary course of business which do not (i) interfere in any material respect with the business of the Company or any Consolidated Subsidiary, taken as a whole, or (ii) secure any Indebtedness;

(k) Liens arising out of conditional sale, title retention, consignment or similar arrangements for sale of goods entered into by the Company or any of its Consolidated Subsidiaries in the ordinary course of business permitted by this Agreement;

(l) Liens encumbering reasonable customary initial deposits and margin deposits and similar Liens attaching to commodity trading accounts or other brokerage accounts incurred in the ordinary course of business and not for speculative purposes;

(m) Liens that are contractual rights of set-off (i) relating to the establishment of depository relations with banks not given in connection with the issuance of Indebtedness, (ii) relating to pooled deposit or sweep accounts of the Company or any Subsidiary Loan Party to permit satisfaction of overdraft or similar obligations incurred in the ordinary course of business of the Company and the Subsidiary Loan Parties or (iii) relating to purchase orders and other agreements entered into with customers of the Company or any Subsidiary Loan Party in the ordinary course of business;

(n) Liens solely on any cash earnest money deposits made by the Company or any Subsidiary Loan Party in connection with any letter of intent or purchase agreement permitted hereunder;

(o) Liens arising from precautionary UCC filings regarding "true" operating leases or the consignment of goods to a Loan Party; and

(p) Liens on insurance proceeds incurred in the ordinary course of business in connection with the financing of insurance premiums;

provided that the term "Permitted Encumbrances" shall not include any Lien securing Indebtedness.

"Permitted Holders" means Leslie H. Wexner, all descendants of any of his grandparents, any spouse or former spouse of any of the foregoing, any descendant of any such spouse or former spouse, the estate of any of the foregoing, any trust for the benefit, in whole or in part, of one or more of the foregoing and any corporation, limited liability company, partnership or other entity Controlled by one or more of the foregoing.

“(Permitted Non-ABL Indebtedness)” means any Indebtedness of the Company or any other Loan Party permitted under Section 5.10(k) or (l).

“(Permitted Non-ABL Indebtedness Documents)” means any credit agreement, indenture or other agreement, instrument or other document evidencing or governing any Permitted Non-ABL Indebtedness or providing for any Guarantee or other right in respect thereof.

“(Person)” means any natural person, corporation, limited liability company, unlimited liability corporation, trust, joint venture, association, company, partnership, Governmental Authority or other entity.

“(Plan)” means any “employee pension benefit plan” as defined in Section 3(2) of the ERISA (other than a Multiemployer Plan) subject to the provisions of Title IV of ERISA or Section 412 of the Code or Section 302 of ERISA, and in respect of which the Company or any ERISA Affiliate is (or, if such plan were terminated, would under Section 4069 of ERISA be deemed to be) an “employer” as defined in Section 3(5) of ERISA.

“(PPSA)” means the *Personal Property Security Act* (Ontario), including the regulations thereto, provided that, if validity, perfection or the effect of perfection or non-perfection or the priority of any Lien created hereunder on the Collateral is governed by the personal property security legislation or other applicable legislation with respect to personal property security in effect in a jurisdiction other than Ontario, “PPSA” means the *Personal Property Security Act* or such other applicable legislation in effect from time to time in such other jurisdiction for purposes of the provisions hereof relating to such validity, perfection, effect of perfection or non-perfection or priority.

“(Pre-Closing Reorganization Transactions)” means each of transactions that collectively constitute the Restructuring (as defined in the Separation Agreement).

“(Prime Rate)” means the rate of interest last quoted by The Wall Street Journal as the “Prime Rate” in the U.S. or, if The Wall Street Journal ceases to quote such rate, the highest per annum interest rate published by the Board in Federal Reserve Statistical Release H.15 (519) (Selected Interest Rates) as the “bank prime loan” rate or, if such rate is no longer quoted therein, any similar rate quoted therein (as determined by the Administrative Agent) or any similar release by the Board (as determined by the Administrative Agent). Each change in the Prime Rate shall be effective from and including the date such change is publicly announced or quoted as being effective.

“(Protective Advance Exposure)” means, at any time, the sum of the principal amounts of all outstanding Protective Advances at such time. The Protective Advance Exposures of any Lender at any time shall be its Applicable Percentage of the total Protective Advance Exposures at such time, adjusted to give effect to any reallocation under Section 2.19 of the Protective Advance Exposures of Defaulting Lenders in effect at such time.

“(Protective Advances)” has the meaning set forth in Section 2.04(a).

“(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.

“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).

“QFC Credit Support” has the meaning set forth in Section 8.21.

“Qualifying Assets” means any and all assets directly owned by the Consolidated Subsidiaries that are Domestic Subsidiaries or Canadian Subsidiaries, other than (a) real property, including improvements thereto and fixtures, (b) aircraft and (c) investments in the Company or any of its Subsidiaries. The amount or value of any Qualifying Assets at any time shall be the book value thereof at such time determined in accordance with GAAP.

“Real Property Appraisal” means an appraisal report from an appraisal firm satisfactory to the Collateral Agent, complying with the requirements of FIRREA and dated no more than 60 days prior to the date of delivery to the Collateral Agent, in form and substance satisfactory to the Collateral Agent in its Permitted Discretion.

“Real Property Exclusion Notice” means a written notice to the Collateral Agent from the Company, signed by a Financial Officer of the Company and certifying (i) that the Company elects to exclude Eligible Real Property from the Borrowing Base and (ii) that either (x) the ratio of Consolidated EBITDAR to Consolidated Fixed Charges for the most recent Test Period is greater than 1.10 to 1.00 or (y) Specified Excess Availability is greater than \$240,000,000.

“Receivables Facility” means any of one or more transactions pursuant to which the Company or any of the Consolidated Subsidiaries sells or conveys Receivables Facility Assets to a Receivables Subsidiary that borrows or issues debt on a secured basis against Receivables Facility Assets.

“Receivables Facility Assets” means (a) Accounts that are excluded from Eligible Accounts pursuant to clause (g)(i) or (l) of the definition thereof and, in each case, any related assets and rights (including any collateral securing such Accounts, any contract rights in respect of such Accounts, proceeds collected on such Accounts, lockbox accounts into which such proceeds are collected and related records) customarily transferred in connection with similar receivables financing or securitization transactions and/or (b) Equity Interests issued by any Receivables Subsidiary.

“Receivables Facility Guarantee” means (i) any guarantee of performance and related indemnification entered into by the Company or any Consolidated Subsidiary in respect of the obligations of a seller or servicer of Receivables Facility Assets in a Receivables Facility or (ii) any other guarantee of performance entered into by the Company or any Consolidated Subsidiary which the Company has determined in good faith to be customary in a Receivables Facility.

“Receivables Subsidiary” means a Consolidated Subsidiary (x) formed as a special purpose entity for the purpose of facilitating or entering into one or more Specified Receivables Facilities and promptly identified in writing to the Administrative Agent as a Receivables Subsidiary and (y) engaged only in activities reasonably related or incidental to Specified Receivables Facilities (it being understood and agreed that any entity formed solely for the purpose of holding any bank account into which collections or other proceeds of Receivables Facility Assets are paid shall satisfy the requirement in clause (y) above).

“Recipient” means (a) the Administrative Agent, (b) any Lender and (c) any Issuing Bank, as applicable.

“Reference Time” with respect to any setting of the then-current Benchmark means (a) if such Benchmark is the Adjusted LIBO Rate, 11:00 a.m., London time, on the day that is two London banking days preceding the date of such setting and (b) if such Benchmark is the CDOR Rate, 10:15 a.m., Toronto time, on the day of such setting.

“Register” has the meaning set forth in Section 8.04.

“Registration Statement” means the registration statement filed with the SEC on June 21, 2021, as amended from time to time prior to the date hereof.

“Related Parties” means, with respect to any specified Person, such Person’s Affiliates and the respective directors, officers, employees, agents and advisors of such Person and such Person’s Affiliates.

“Relevant Governmental Body” means (i) with respect to a Benchmark Replacement in respect of Loans denominated in US Dollars, the Board and/or the NYFRB, or a committee officially endorsed or convened by the Board and/or the NYFRB or, in each case, any successor thereto and (ii) with respect to a Benchmark Replacement in respect of Loans denominated in CAD, (a) the Bank of Canada or any central bank or other supervisor which is responsible for supervising either (1) such Benchmark Replacement or (2) the administrator of such Benchmark Replacement or (b) any working group or committee officially endorsed or convened by (1) the Bank of Canada, (2) any central bank or other supervisor that is responsible for supervising either (A) such Benchmark Replacement or (B) the administrator of such Benchmark Replacement.

“Reports” means reports prepared by any Agent or another Person showing the results of appraisals, field examinations or audits pertaining to the assets of any Loan Party from information furnished by or on behalf of any Loan Party, which Reports (except where prepared for internal purposes of the Agents) shall be distributed to the Lenders by the Agents.

“Required Lenders” means, at any time, Lenders having Credit Exposures and unused Commitments representing more than 50% of the sum of the Aggregate Credit Exposure and total unused Commitments at such time.

“Required Real Property Documentation” means (x) the documentation described in clauses (ii), (iv), (v) and (vi) of the definition of “Eligible Real Property” and (y) a written notice to the Collateral Agent from the Company stating that the Company elects to include such Eligible Real Property in the Borrowing Base.

“Required Secured Parties” has the meaning set forth in the Collateral Agreements.

“Reserves” means any and all reserves which the Collateral Agent deems it appropriate, in its Permitted Discretion, to maintain (including, without limitation, reserves for excise tax collection and sales tax collection, transportation reserves, reserves for accrued and unpaid interest on the Obligations, volatility reserves, reserves for rent at locations leased by any Loan Party and for consignee’s, warehousemen’s and bailee’s charges, reserves for dilution of Accounts, reserves in respect of Inventory, reserves for customs charges and shipping charges related to any Inventory in transit, reserves for obligations related to any Hedging Agreement that is secured on a pari passu basis with the Obligations, reserves for contingent liabilities of any Loan Party, Gift Card Reserves, Specified OA Payment Obligation Reserves, reserves for uninsured losses of any Loan Party, reserves for uninsured, underinsured, un-indemnified or under-indemnified liabilities or potential liabilities with respect to any litigation and reserves for taxes, fees, assessments, and other governmental charges) with respect to the Collateral or any Loan Party. No Reserves may be taken or increased after the Effective Date based on circumstances, conditions, events or contingencies known to the Administrative Agent as of the Effective Date, and for which no Reserves were imposed on the Effective Date, unless such circumstances, conditions, events or contingencies shall have changed in any material adverse respect since the Effective Date as determined by the Collateral Agent in its Permitted Discretion. Notwithstanding any other provision of this Agreement to the contrary, (a) in no event shall Reserves (or changes in Reserves) with respect to any component of the Borrowing Base duplicate Reserves or adjustments already accounted for in determining eligibility criteria (including collection and/or advance rates) and (b) the amount of any such Reserve (or change in Reserve) shall be a reasonable quantification of the incremental dilution of the Borrowing Base attributable to the relevant contributing factors or shall have a reasonable relationship to the event, condition or other matter that is the basis for such Reserve or change.

“Resolution Authority” means an EEA Resolution Authority or, with respect to any U.K. Financial Institution, a U.K. Resolution Authority.

“Restricted Payment” means any dividend or other distribution (whether in cash, securities or other property) with respect to any Equity Interests in the Company or any Consolidated Subsidiary, or any payment (whether in cash, securities or other property), including any sinking fund or similar deposit, on account of the purchase, redemption, retirement, acquisition, cancellation or termination of any Equity Interests in the Company or any Consolidated Subsidiary; provided that a dividend, distribution or payment payable solely in Equity Interests (other than Disqualified Equity Interests) in the Company or applicable Consolidated Subsidiary shall not constitute a Restricted Payment.

“Revolving Commitment” means, with respect to each Revolving Lender, the commitment, if any, of such Revolving Lender to make Revolving Loans and to acquire participations in Letters of Credit and Protective Advances hereunder, expressed as an amount representing the maximum aggregate permitted amount of such Revolving Lender’s Revolving Exposure hereunder, as such commitment may be (a) reduced or increased from time to time pursuant to Section 2.08 and (b) reduced or increased from time to time pursuant to assignments by or to such Lender pursuant to Section 8.04. The initial amount of each Revolving Lender’s Revolving Commitment is set forth on Schedule 2.01, or in the Assignment and Assumption pursuant to which such Revolving Lender shall have assumed its Revolving Commitment, as applicable. The initial amount of the total Revolving Commitments is \$750,000,000.

“Revolving Exposure” means, with respect to any Revolving Lender at any time, the sum at such time, without duplication, of (a) the US Dollar Equivalents of the principal amounts of such Revolving Lender’s outstanding Revolving Loans and (b) the US Dollar Equivalent of the aggregate amount of such Revolving Lender’s LC Exposure and Protective Advance Exposures.

“Revolving Lender” means a Lender with a Revolving Commitment or, if the Revolving Commitments have terminated or expired, a Lender with Revolving Exposure.

“Revolving Loan” means a Loan made pursuant to Section 2.01(a)(i) or Section 2.01(a)(ii).

“S&P” means Standard & Poor’s Ratings Services.

“Sanctioned Country” means any country that is the subject of comprehensive territorial Sanctions (as of the date of this Agreement, Crimea, Cuba, Iran, North Korea and Syria).

“Sanctioned Person” means at any time (a) any Person named at such time on (i) the SDN List, (ii) the Sanctioned Entities List maintained by the U.S. Department of State, (iii) the consolidated list of persons, groups and entities subject to European Union financial sanctions maintained by the European Union External Action Committee, (iv) the Consolidated List of Financial Sanctions Targets in the UK maintained by Her Majesty’s Treasury of the United Kingdom, (v) the Compendium of United Nations Security Council Sanctions Lists and (vi) any Sanctions-related list of designated Persons maintained by the Government of Canada pursuant to, or as described in, any applicable Canadian Economic Sanctions and Export Control Laws, (b) any Person located, organized or resident in a Sanctioned Country, or (c) any Person 50% or more owned by any Person or Persons in (a) (i) of this definition.

“Sanctions” means any economic or financial sanctions or trade embargoes imposed, administered or enforced by OFAC, the U.S. Department of State, the European Union, the United Nations Security Council, Her Majesty’s Treasury or the Government of Canada.

“Secured Parties” has the meaning set forth in the Collateral Agreements.

“Separation Agreement” means the Separation and Distribution Agreement, dated as of August 2, 2021 between BBW and the Company.

“SOFR” means, with respect to any Business Day, a rate per annum equal to the secured overnight financing rate for such Business Day published by the SOFR Administrator on the immediately succeeding Business Day.

“SOFR Administrator” means the NYFRB (or a successor administrator of the secured overnight financing rate).

“Specified Date” means the date that is 180 days after the Maturity Date.

“Specified Event of Default” means an Event of Default (a) arising under clause (a) of Section 6.01, whether at stated maturity, upon acceleration or otherwise, (b) arising with respect to any Loan Party under clause (e) of Section 6.01, (c) resulting from the Company’s failure to comply with Section 5.01(a)(iii) or from any representation or warranty contained in any Borrowing Base Certificate proving to have been incorrect in any material respect in a manner adverse to the interests of the Lenders when made or deemed made or (d) resulting from the Company’s failure to comply with Section 5.06 or 5.22.

“Specified Excess Availability” means, at any time, the sum of (a) Excess Availability at such time, plus (b) Suppressed Availability at such time.

“Specified OA Payment Obligation Reserves” means, at any time, an amount (to the extent positive) equal to (x) the aggregate amount owing to the counterparty or lender (together with its Affiliates) under any Open Account Agreement with respect to OA Payment Obligations at such time minus (y) 5% of the Maximum Borrowing Amount at such time.

“Specified Receivables Facility” means any Receivables Facility that meets the following conditions: (a) the Company shall have determined in good faith that such Receivables Facility (including financing terms, covenants, termination events and other provisions) is in the aggregate economically fair, reasonable and beneficial to the Company; (b) all sales or other conveyances of Receivables Facility Assets by the Company or applicable Consolidated Subsidiary to any Receivables Subsidiary are made for fair market value; (c) the financing terms, covenants, termination events and other provisions thereof shall be on market terms and may include Standard Receivables Undertakings; (d) the obligations under such Receivables Facility shall not be guaranteed by, or secured by assets of, the Company or any of its Consolidated Subsidiaries, other than a Receivables Subsidiary (it being agreed that the foregoing shall not prohibit Standard Receivables Undertakings, or precautionary financing statements or similar filings, in respect of Receivables Facility Assets); and (e) the aggregate amount of such Receivables Facility, together with all other Specified Receivables Facilities, shall not exceed the greater of (x) \$120,000,000 and (y) 60% of the aggregate Accounts excluded from Eligible Accounts pursuant to clauses (g)(i) and (l) of the definition thereof.

“Spot Rate” for a currency means the arithmetic average of the spot rates of exchange determined by the Administrative Agent or the Issuing Bank, 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 foreign currency exchange operations in respect of such currency are then being conducted, at or about such time as the Administrative Agent or the Issuing Bank shall elect after determining that such rates shall be the basis for determining the Exchange Rate, on such date for the purchase of US Dollars for delivery two Business Days later; provided that the Administrative Agent or the Issuing Bank may obtain such spot rate from another financial institution designated by the Administrative Agent or the Issuing Bank 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 if at the time of any such determination, for any reason, no such spot rate is being quoted, the Administrative Agent or the Issuing Bank may use any reasonable method it deems appropriate to determine such rate, and such determination shall be conclusive absent manifest error.

“Standard Receivables Undertakings” means any Receivables Facility Guarantee and/or any representations, warranties, covenants and indemnities entered into by the Company or any Consolidated Subsidiary which the Company has determined in good faith to be customary in a Receivables Facility, including, without limitation, those relating to the servicing of the assets of a Receivables Subsidiary.

“Statutory Reserve Percentage” means for any day the percentage (expressed as a decimal) that is in effect on such day, as prescribed by the Board, for determining the maximum reserve requirement for a member bank of the Federal Reserve System for eurocurrency funding (currently referred to as “Eurocurrency Liabilities” in Regulation D of the Board). Such reserve percentage shall include those imposed pursuant to such Regulation D. The Statutory Reserve Percentage shall be adjusted automatically on and as of the effective date of any change in any reserve percentage.

“subsidiary” means, with respect to any Person (the “parent”) at any date, any corporation, limited liability company, partnership, association or other entity the accounts of which would be consolidated with those of the parent in the parent’s consolidated financial statements if such financial statements were prepared in accordance with GAAP as of such date, as well as any other corporation, limited liability company, partnership, association or other entity (a) of which securities or other ownership interests representing more than 50% of the equity or more than 50% of the ordinary voting power or, in the case of a partnership, more than 50% of the general partnership interests are, as of such date, owned, controlled or held, or (b) that is, as of such date, otherwise Controlled, by the parent or one or more subsidiaries of the parent or by the parent and one or more subsidiaries of the parent.

“Subsidiary” means any subsidiary of the Company.

“Subsidiary Loan Party” means, at any time, any Material Subsidiary that is a party to a Collateral Agreement and has satisfied the Collateral and Guarantee Requirement at such time. A Consolidated Subsidiary that has satisfied the Collateral and Guarantee Requirement shall cease to be a Subsidiary Loan Party at such time as its Guarantee of the Obligations, and the security interests in its assets securing the Obligations, in each case under the applicable Collateral Agreement, are released, subject to reinstatement as a Subsidiary Loan Party if and when it subsequently satisfies the Collateral and Guarantee Requirement.

“Supermajority Lenders” means, at any time, Lenders having Credit Exposures and unused Commitments representing at least 66.7% of the sum of the Aggregate Credit Exposure and total unused Commitments at such time.

“Supported QFC” has the meaning set forth in Section 8.21.

“Suppressed Availability” means, at any time, an amount, if positive, by which the Borrowing Base at such time exceeds the Aggregate Commitments at such time; provided that Suppressed Availability at any time shall not exceed 2.5% of the Aggregate Commitments at such time.

“Taxes” means any and all present or future taxes, levies, imposts, duties, deductions, charges or withholdings imposed by any Governmental Authority, including any interest, additions to tax or penalties applicable thereto.

“Term Loan Credit Agreement” means that certain First Lien Credit Agreement, dated as of August 2, 2021, among the Company, the financial institutions party thereto from time to time and JPMorgan Chase Bank, N.A. as administrative agent.

“Term SOFR” means, for the applicable Corresponding Tenor as of the applicable Reference Time, the forward-looking term rate based on SOFR that has been selected or recommended by the Relevant Governmental Body.

“Term SOFR Notice” means a notification by the Administrative Agent to the Lenders and the Borrower of the occurrence of a Term SOFR Transition Event.

“Term SOFR Transition Event” means the determination by the Administrative Agent that (a) Term SOFR has been recommended for use by the Relevant Governmental Body, (b) the administration of Term SOFR is administratively feasible for the Administrative Agent and (c) a Benchmark Transition Event or an Early Opt-in Election, as applicable, has previously occurred resulting in a Benchmark Replacement in accordance with Section 2.13 that is not Term SOFR.

“Test Date” means the date of any Borrowing hereunder (other than a Borrowing made hereunder solely for the purpose of paying maturing commercial paper of the applicable Borrower) or the date of any issuance, amendment or extension of any Letter of Credit; provided that any such date shall not be a “Test Date” if, on such date, (a) if both rating agencies shall have a Credit Rating then in effect, the Credit Ratings are Baa3 and BBB- or better or (b) if only one rating agency shall have a Credit Rating then in effect, the Credit Rating from such rating agency is Baa3 or BBB- or better.

“Test Period” means, for any date of determination under this Agreement, the then most recently ended period of four consecutive fiscal quarters of the Company.

“Transactions” means the execution, delivery and performance by each Loan Party of the Loan Documents to which it is to be a party, the borrowing of Loans, the use of the proceeds thereof and the issuance of Letters of Credit hereunder.

“Type”, when used in reference to any Loan or Borrowing, refers to whether the rate of interest on such Loan, or on the Loans comprising such Borrowing, is determined by reference to CDOR Rate, the LIBO Rate, the Alternate Base Rate or the Canadian Prime Rate.

“UCC” means the Uniform Commercial Code as from time to time in effect in the State of New York; provided, however, that, at any time, if by reason of mandatory provisions of law, any or all of the perfection or priority of the Secured Parties’ security interest in any item or portion of the Collateral is governed by the Uniform Commercial Code as in effect in a jurisdiction other than the State of New York, the term “UCC” shall mean the Uniform Commercial Code as in effect, at such time, in such other jurisdiction for purposes of the provisions hereof relating to such perfection or priority and for the purposes of definitions relating to such provisions.

“UCP” means the Uniform Customs and Practice for Documentary Credits (2007 Revision, International Chamber of Commerce Publication No. 600), as from time to time in effect.

“U.K. 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 Regulatory Authority) or any Person falling within 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.

“U.K. Resolution Authority” means the Bank of England or any other public administrative authority having responsibility for the resolution of any U.K. Financial Institution.

“Unadjusted Benchmark Replacement” means the applicable Benchmark Replacement excluding the related Benchmark Replacement Adjustment.

“Unfunded Liabilities” means, with respect to any Plan at any time, the amount (if any) by which (a) the present value of all benefits under such Plan exceeds (b) the fair market value of all assets of such Plan allocable to such benefits, all determined as of the then most recent valuation date for such Plan, but only to the extent that such excess represents a potential liability of the Company or any ERISA Affiliate to the PBGC or any other Person under Title IV of ERISA.

“Unrestricted Subsidiary” means any Subsidiary listed on Schedule 1.01(b) or designated as an Unrestricted Subsidiary in a written notice sent at any time after the date of this Agreement by the Company to the Administrative Agent which is engaged (a) primarily in the business of making or discounting loans, making advances, extending credit or providing financial accommodation to, or purchasing the obligations of, others; (b) primarily in the business of insuring property against loss and subject to regulation as an insurance company by any Governmental Authority; (c) exclusively in the business of owning or leasing, and operating, aircraft and/or trucks; (d) primarily in the ownership, management, leasing, development or operation of real estate, other than parcels of real estate with respect to which 51% or more of the rentable space is used by the Company or a Consolidated Subsidiary in the normal course of business; or (e) primarily as a carrier transporting goods in both intrastate and interstate commerce; provided that (i) the Company may by notice to the Administrative Agent change the designation of any Subsidiary described in subparagraphs (a) through (e) above, but may do so only once during the term of this Agreement, (ii) the designation of a Subsidiary as an Unrestricted Subsidiary more than 30 days after the creation or acquisition of such Subsidiary where such Subsidiary was not specifically so designated within such 30 days shall be deemed to be the only permitted change in designation and (iii) immediately after the Company designates any Subsidiary whether now owned or hereafter acquired or created as an Unrestricted Subsidiary or changes the designation of a Subsidiary from an Unrestricted Subsidiary to a Consolidated Subsidiary, the Company and all Consolidated Subsidiaries would be in compliance with all of the provisions of this Agreement.

“Upfront Payments” has the meaning set forth in Section 2.08.

“U.S. Person” means any Person that is a “United States Person” as defined in Section 7701(a)(30) of the Code.

“U.S. Special Resolution Regime” has the meaning set forth in Section 8.21.

“US Dollar Equivalent” means, on any date of determination, (a) with respect to any amount in US Dollars, such amount and (b) with respect to any amount in Canadian Dollars, the equivalent in US Dollars of such amount, determined by the Administrative Agent pursuant to Section 1.05 using the Exchange Rate with respect to such currency at the time in effect for such amount under the provisions of such Section.

“US Dollars”, “USD” or “\$” means the lawful money of the United States of America.

“Utilization” means, on any day, an amount equal to (i) the Aggregate Credit Exposure on such day, divided by (ii) the Aggregate Commitments in effect on such day.

“VS Transaction” means (i) the Separation of the Spin Business (each as defined in the Registration Statement) from BBW as described in the Registration Statement, (ii) the Distribution (as defined in the Separation Agreement), (iii) the payment of the Special Cash Payment (as defined in the Separation Agreement), (iv) the consummation of the other ancillary transactions described in the Separation Agreement and the Registration Statement and (v) the payment of fees and expenses incurred in connection with the foregoing.

“Withdrawal Liability” means liability to a Multiemployer Plan as a result of a complete or partial withdrawal from such Multiemployer Plan, as such terms are defined in Part I of Subtitle E of Title IV of ERISA.

“Withholding Agent” means any Loan Party and the Administrative Agent.

“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 U.K. 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 such 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.

SECTION 1.02. Classification of Loans and Borrowings. For purposes of this Agreement, Loans may be classified and referred to by Class (e.g., a “Revolving Loan”) or by Type (e.g., a “Eurodollar Loan”) or by Class and Type (e.g., a “Eurodollar Revolving Loan”). Borrowings also may be classified and referred to by Class (e.g., a “Revolving Borrowing”) or by Type (e.g., a “Eurodollar Borrowing”) or by Class and Type (e.g., a “Eurodollar Revolving Borrowing”).

SECTION 1.03. Terms Generally. (a) The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words “include”, “includes” and “including” shall be deemed to be followed by the phrase “without limitation”. The word “will” shall be construed to have the same meaning and effect as the word “shall”. Unless the context requires otherwise (a) any definition of or reference to any agreement, instrument or other document herein shall be construed as referring to such agreement, instrument or other document as from time to time amended, supplemented or otherwise modified (subject to any restrictions on such amendments, supplements or modifications set forth herein), (b) any reference herein to any Person shall be construed to include such Person’s successors and assigns, (c) the words “herein”, “hereof” and “hereunder”, and words of similar import, shall be construed to refer to this Agreement in its entirety and not to any particular provision hereof, (d) all references herein to Articles, Sections, Exhibits and Schedules shall be construed to refer to Articles and Sections of, and Exhibits and Schedules to, this Agreement and (e) the words “asset” and “property” shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, securities, accounts and contract rights.

(b) All terms used in this Agreement which are defined in Article 8 or Article 9 of the UCC and which are not otherwise defined herein shall have the same meanings herein as set forth therein, provided that terms used herein which are defined in the UCC on the date hereof shall continue to have the same meaning notwithstanding any replacement or amendment of such statute except as the Administrative Agent may otherwise determine, and when used to define a category or categories of the Collateral which is subject to the PPSA, such terms shall include the equivalent category or categories of property set forth in the applicable PPSA. Notwithstanding the foregoing, and where the context so requires, (i) any term defined in this Agreement by reference to the “Code”, the “UCC” or the “Uniform Commercial Code” shall also have any extended, alternative or analogous meaning given to such term in the applicable PPSA, in all cases for the extension, preservation or betterment of the security and rights of the Collateral, (ii) all references in this Agreement to Article 8 of the UCC shall be deemed to refer also to applicable Canadian securities transfer laws (including, without limitation, the *Securities Transfer Act, 2006* (Ontario)) and (iii) all references in this Agreement to a financing statement, continuation statement, amendment or termination statement shall be deemed to refer also to the analogous documents used under applicable Canadian personal property security laws, including, without limitation, where applicable, financing change statements.

(c) For purposes of any Collateral located in the Province of Quebec or charged by any deed of hypothec (or any other Loan Document) and for all other purposes pursuant to which the interpretation or construction of a Loan Document may be subject to the laws of the Province of Quebec or a court or tribunal exercising jurisdiction in the Province of Quebec, (i) “personal property” shall be deemed to include “movable property”, (ii) “real property” shall be deemed to include “immovable property”, (iii) “tangible property” shall be deemed to include “corporeal property”, (iv) “intangible property” shall be deemed to include “incorporeal property”, (v) “security interest” and “mortgage” shall be deemed to include a “hypothec”, (vi) all references to filing, registering or recording under the UCC or the PPSA or otherwise shall be deemed to include publication by registration under the Civil Code of Québec, (vii) all references to “perfection of” or “perfected” Liens shall be deemed to include a reference to the “opposability” of such Liens to third parties, (viii) any “right of offset”, “right of setoff” or similar expression shall be deemed to include a “right of compensation”, (ix) “goods” shall be deemed to include “corporeal movable property” other than chattel paper, documents of title, instruments, money and securities, (x) an “agent” shall be deemed to include a “mandatary”, (xi) “construction liens” shall be deemed to include “legal hypothecs in favor of persons having taken part in the construction or renovation of an immovable”, (xii) “joint and several” shall be deemed to include “solidary”, (xiii) “gross negligence or willful misconduct” shall be deemed to be “intentional or gross fault”, (xiv) “beneficial ownership” shall be deemed to include “ownership on behalf of another as mandatary”, (xv) “easement” shall be deemed to include “servitude”, (xvi) “priority” shall be deemed to include “prior claim” or “ranking”, as applicable, (xvii) “survey” shall be deemed to include “certificate of location and plan”, (xviii) “state” shall be deemed to include “province”, (xix) “fee simple title” and “fee interest” shall be deemed to include “absolute ownership”, (xx) “accounts” shall be deemed to include “claims”, (xxi) “leasehold interest” shall be deemed to include “rights resulting from a lease”, (xxii) “lease” shall be deemed to include a “lease” or a “contract of leasing (crédit-bail)”, as applicable, and (xxiii) “deposit account” shall be deemed to include a “financial account” (within the meaning of Article 2713.6 of the Civil Code of Québec).

SECTION 1.04. Accounting Terms; GAAP. Except as otherwise expressly provided herein, all terms of an accounting or financial nature shall be construed in accordance with GAAP, as in effect from time to time; provided that (a) for purposes of determining compliance with any provision of this Agreement, accounting for leases shall be made in accordance with GAAP as in effect prior to January 1, 2019 without giving effect to any change in accounting for leases resulting from Accounting Standards Codification Topic 842, Leases, (b) all terms of an accounting or financial nature used herein shall be construed, and all computations of amounts and ratios referred to herein shall be made, without giving effect to any election under Accounting Standards Codification Topic 825, Financial Instruments, or any successor thereto, to value any Indebtedness of the Company or any Subsidiary at “fair value”, as defined therein and (c) if the Company notifies the Administrative Agent that the Company requests an amendment to any provision hereof to eliminate the effect of any change occurring after the date hereof in GAAP or in the application thereof on the operation of such provision (or if the Administrative Agent notifies the Company that the Required Lenders request an amendment to any provision hereof for such purpose), regardless of whether any such notice is given before or after such change in GAAP or in the application thereof, then such provision shall be interpreted on the basis of GAAP as in effect and applied immediately before such change shall have become effective until such notice shall have been withdrawn or such provision amended in accordance herewith.

SECTION 1.05. Exchange Rates. The Administrative Agent shall determine the US Dollar Equivalent of all Borrowings denominated in Canadian Dollars as of the date of any Borrowing Request, as of the date of the delivery of any Borrowing Base Certificate, as of the date of each Interest Election Request in respect thereof (or, if an Interest Election Request has not been made within three months since the last date of determination, the three month anniversary of the last date of determination) and as of any date determined by the Administrative Agent, in each case using the Exchange Rate for such currency in relation to US Dollars in effect on the date that is two Business Days prior to the applicable date, and each such amount shall, except as provided in the last sentence of this Section, be the US Dollar Equivalent of such Borrowing until the next required calculation thereof pursuant to this sentence. The Administrative Agent shall determine the US Dollar Equivalent of all Letters of Credit denominated in Canadian Dollars as of the date any Letter of Credit is requested pursuant to Section 2.05(b), a request is made to amend any Letter of Credit to increase its available balance or to extend such Letter of Credit or such Letter of Credit is paid by the Issuing Bank, as of the date of the delivery of any Borrowing Base Certificate and as of any date determined by the Administrative Agent, in each case using the Exchange Rate for such currency in relation to US Dollars in effect on the date that is two Business Days prior to such date, as the case may be, and each such amount shall, except as provided in the last sentence of this Section, be the US Dollar Equivalent of such Letter of Credit until the next required calculation thereof pursuant to this sentence. The Administrative Agent shall notify the Company and the Lenders of each calculation of the US Dollar Equivalent of each Borrowing. Borrowings of the applicable Class denominated in Canadian Dollars will reduce availability for Borrowings of such Class denominated in US Dollars based on the Exchange Rate with respect to Canadian Dollars at the time in effect for each such Borrowing. For purposes of (x) determining the Borrowing Base or (y) any dollar basket limitation in Sections 5.08(b)(ix), Sections 5.10(i), (j) and (k), Sections 5.13(f) and Section 5.17(a), the amount of any component of the Borrowing Base or any amount of Indebtedness, Investment, or Lien, applicable, in currencies other than US Dollars shall be translated into US Dollars at currency exchange rates in effect on the date of such determination, and, solely in the case of clause (y), such limitation or cap therein shall not be deemed to have been exceeded if such excess amount is solely as a result of currency fluctuations occurring after the time such Indebtedness, Investment or Lien is incurred or made.

SECTION 1.06. Letter of Credit Amounts. Unless otherwise specified herein, the amount of a Letter of Credit at any time shall be deemed to be the stated maximum amount that is, or at any time thereafter may become, available for drawing under of such Letter of Credit.

SECTION 1.07. Divisions. For all purposes under the Loan 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 and acquired on the first date of its existence by the holders of its Equity Interests at such time.

SECTION 1.08. Interest Rates; LIBOR Notification. The interest rate on a Loan denominated in US Dollars or Canadian Dollars may be derived from an interest rate benchmark that is, or may in the future become, the subject of regulatory reform. Regulators have signaled the need to use alternative benchmark reference rates for some of these interest rate benchmarks and, as a result, such interest rate benchmarks may cease to comply with applicable laws and regulations, may be permanently discontinued, and/or the basis on which they are calculated may change. The London interbank offered rate (“LIBOR”) is intended to represent the rate at which contributing banks may obtain short-term borrowings from each other in the London interbank market. On March 5, 2021, the U.K. Financial Conduct Authority (“FCA”) publicly announced that: (a) immediately after December 31, 2021, publication of the 1-week and 2-month US Dollar LIBOR settings will permanently cease; and immediately after June 30, 2023, the overnight, 1-month, 3-month, 6-month and 12-month US Dollar LIBOR settings will cease to be provided or, subject to the FCA’s consideration of the case, be provided on a synthetic basis and no longer be representative of the underlying market and economic reality they are intended to measure and that representativeness will not be restored. There is no assurance that dates announced by the FCA will not change or that the administrator of LIBOR and/or regulators will not take further action that could impact the availability, composition, or characteristics of LIBOR or the currencies and/or tenors for which LIBOR is published. Each party to this agreement should consult its own advisors to stay informed of any such developments. Public and private sector industry initiatives are currently underway to identify new or alternative reference rates to be used in place of LIBOR. Upon the occurrence of a Benchmark Transition Event, a Term SOFR Transition Event or an Early Opt-in Election, Section 2.13(b) and (c) provide a mechanism for determining an alternative rate of interest. The Administrative Agent will promptly notify the Company, pursuant to Section 2.13(e), of any change to the reference rate upon which the interest rate on Eurodollar or CDOR Rate Loans is based. However, the Administrative Agent does not warrant or accept any responsibility for, and shall not have any liability with respect to, the administration, submission, performance or any other matter related to the Adjusted LIBO Rate or the CDOR Rate or with respect to any alternative or successor rate thereto, or replacement rate thereof (including, without limitation, (i) any such alternative, successor or replacement rate implemented pursuant to Section 2.13(b) or (c), whether upon the occurrence of a Benchmark Transition Event, a Term SOFR Transition Event or an Early Opt-in Election, and (ii) the implementation of any Benchmark Replacement Conforming Changes pursuant to Section 2.13(d)), including without limitation, whether the composition or characteristics of any such alternative, successor or replacement reference rate will be similar to, or produce the same value or economic equivalence of, the Adjusted LIBO Rate or the CDOR Rate, as applicable, or have the same volume or liquidity as did the London interbank offered rate or the Canadian Dollar offered rate, as applicable, prior to its discontinuance or unavailability. The Administrative Agent may select information sources or services in its reasonable discretion to ascertain the Adjusted LIBO Rate or the CDOR Rate, any component thereof, or any successor rate thereto, in each case pursuant to the terms of this Agreement, and shall have no liability to any Loan Party, 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.

ARTICLE II

The Credits

SECTION 2.01. Commitments. (a) Subject to the terms and conditions set forth herein, (i) each Revolving Lender agrees to make Revolving Loans denominated in US Dollars to the Company and any Additional Borrower borrowing in US Dollars, (ii) each Revolving Lender agrees to make Revolving Loans denominated in Canadian Dollars to any Additional Borrower borrowing in Canadian Dollars and (iii) Lenders of any other Class agree to make Loans of such Class to the applicable Borrower in US Dollars or Canadian Dollars, as applicable, in each case from time to time during the Availability Period in an aggregate principal amount that (after giving effect to the making of such Loans and any other Loans being made or Letters of Credit being issued on the same date and any concurrent repayment of Loans and reimbursement of LC Disbursements) will not result in (A) such Lender's Credit Exposure of the applicable Class exceeding such Lender's Commitment of such Class, (B) the total Credit Exposures of the applicable Class exceeding the total Commitments of such Class or any other limitation set forth in the applicable Incremental Facility Agreement, (C) the Aggregate Credit Exposure exceeding the Maximum Borrowing Amount and (D) the total Loans denominated in Canadian Dollars exceeding the CAD Sublimit.

(b) Within the foregoing limits and subject to the terms and conditions set forth herein, the Borrowers may borrow, prepay and reborrow Loans.

SECTION 2.02. Loans and Borrowings. (a) Each Loan (other than a Protective Advance) shall be made as part of a Borrowing consisting of Loans of the same Class, Type and currency made by the Lenders ratably in accordance with their respective Commitments of the applicable Class. The failure of any Lender to make any Loan required to be made by it shall not relieve any other Lender of its obligations hereunder; provided that the Commitments of the Lenders are several and no Lender shall be responsible for any other Lender's failure to make Loans as required.

(b) Subject to Section 2.13, (i) each Borrowing denominated in US Dollars shall be comprised entirely of ABR Loans or Eurodollar Loans as the applicable Borrowers may request in accordance herewith and (ii) each Borrowing denominated in Canadian Dollars shall be comprised entirely of Canadian Prime Rate Loans or CDOR Rate Loans as the applicable Borrowers may request in accordance herewith. Each Protective Advance shall be an ABR Loan. Each Lender at its option may make any Loan or issue any Letter of Credit by causing any domestic or foreign branch or Affiliate of such Lender to make such Loan or issue such Letter of Credit; provided that any exercise of such option shall not affect the obligation of the applicable Borrower to repay such Loan in accordance with the terms of this Agreement.

(c) At the commencement of each Interest Period for any Eurodollar or CDOR Rate Borrowing, such Borrowing shall be in an aggregate amount that is an integral multiple of \$1,000,000 and not less than \$5,000,000 (or in the case of Loans denominated in Canadian Dollars, an integral multiple of CAD1,000,000 and not less than CAD5,000,000). At the time that each ABR or Canadian Prime Rate Borrowing is made, such Borrowing shall be in an aggregate amount that is an integral multiple of \$1,000,000 and not less than \$5,000,000 (or in the case of Loans denominated in Canadian Dollars, an integral multiple of CAD1,000,000 and not less than CAD5,000,000); provided that (i) an ABR or Canadian Prime Rate Borrowing may be in an aggregate amount that is equal to (A) the lesser of the entire unused balance of the Commitments of the applicable Class and the amount of Excess Availability, (B) an aggregate amount that is required to finance the repayment of a Protective Advance as contemplated by Section 2.04(a) or (C) an aggregate amount that is required to finance the reimbursement of an LC Disbursement as contemplated by Section 2.05(e) or to provide cash collateral as contemplated by Section 2.19 and (ii) each Protective Advance may be in such principal amount as shall be determined by the Administrative Agent pursuant to Section 2.04. Borrowings of more than one Class or Type may be outstanding at the same time; provided that there shall not at any time be more than a total of 12 Eurodollar or CDOR Rate Borrowings outstanding.

SECTION 2.03. Requests for Borrowings. To request a Borrowing, the applicable Borrower shall notify the Administrative Agent of such request by telephone (a) in the case of a Eurodollar or CDOR Rate Borrowing, not later than 11:00 a.m., New York City time, three Business Days before the date of the proposed Borrowing, (b) in the case of a Canadian Prime Rate Borrowing, not later than 11:00 a.m., New York City time, one Business Day before the date of the proposed Borrowing and (c) in the case of an ABR Borrowing, not later than 11:00 a.m., New York City time, on the date of the proposed Borrowing. Each such telephonic Borrowing Request shall be irrevocable and shall be confirmed promptly by hand delivery or telecopy to the Administrative Agent of a written Borrowing Request in a form approved by the Administrative Agent and signed by the applicable Borrower. Each such telephonic and written Borrowing Request shall specify the following information in compliance with Section 2.02:

- (i) the name of the applicable Borrower;
 - (ii) whether such Borrowing is to be a Revolving Borrowing or a Borrowing of another Class;
 - (iii) the currency in which such Borrowing is to be denominated (which shall be a currency in which the requesting Borrower is entitled to make Borrowings under this Agreement);
 - (iv) the aggregate amount (expressed in the currency in which such Borrowing is to be denominated) of the requested Borrowing;
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- (v) the date of such Borrowing, which shall be a Business Day;
- (vi) whether such Borrowing is to be an ABR, Canadian Prime Rate, Eurodollar or CDOR Rate Borrowing;
- (vii) in the case of a Eurodollar or CDOR Rate Borrowing, the initial Interest Period to be applicable thereto, which shall be a period contemplated by the definition of the term "Interest Period"; and
- (viii) the location and number of the applicable Borrower's account to which funds are to be disbursed, which shall comply with the requirements of Section 2.06.

If no election as to the Type of Borrowing is specified, then the requested Borrowing shall be (i) in the case of a Loan denominated in US Dollars, an ABR Borrowing and (ii) in the case of a Loan denominated in Canadian Dollars, a Canadian Prime Rate Borrowing. If no Interest Period is specified with respect to any requested Eurodollar or CDOR Rate Borrowing, then the applicable Borrower shall be deemed to have selected an Interest Period of one month's duration. Promptly following receipt of a Borrowing Request in accordance with this Section, the Administrative Agent shall advise each Lender of the details thereof and of the amount of such Lender's Loan to be made as part of the requested Borrowing.

SECTION 2.04. Protective Advances. (a) Subject to the limitations set forth below, the Administrative Agent is authorized by the Company and the Lenders, from time to time during the Availability Period, in the Administrative Agent's sole discretion (but with no obligation), to make Loans in US Dollars to the Company, on behalf of all Lenders, which the Administrative Agent, in its Permitted Discretion, deems necessary or desirable (i) to preserve or protect the Collateral or any portion thereof, (ii) to enhance the likelihood of, or maximize the amount of, repayment of the Loans and other Obligations or (iii) to pay any other amount chargeable to or required to be paid by the Borrowers pursuant to the terms of this Agreement, including payments of reimbursable expenses (including costs, fees, and expenses described in Section 8.03) and other sums payable under the Loan Documents (any such Loans are herein referred to as "Protective Advances"); provided that the aggregate principal amount of Protective Advances outstanding at any time shall not exceed \$50,000,000; provided further that the making of any Protective Advance shall not cause the Aggregate Credit Exposure to exceed the Aggregate Commitments. Protective Advances may be made when a Default exists or the conditions precedent set forth in Section 4.02 are not otherwise satisfied. The Protective Advances shall be secured by the Liens created by the Collateral Documents and shall constitute Obligations. The Company shall be required to repay (or, subject to the satisfaction of the conditions precedent set forth in Section 4.02, refinance with the proceeds of a Borrowing) each Protective Advance within 45 days after such Protective Advance is made. Without affecting Protective Advances already made, the Administrative Agent's authorization to make future Protective Advances may be revoked at any time by the Required Lenders. Any such revocation must be in writing and shall become effective prospectively upon the Administrative Agent's receipt thereof. At any time that there is sufficient Excess Availability and the conditions precedent set forth in Section 4.02 have been satisfied, the Administrative Agent may request, on behalf of the Company, the Lenders to make ABR Loans to repay any Protective Advance. At any other time the Administrative Agent may require the Lenders to acquire participations in any Protective Advance as described in Section 2.04(b).

(b) The Administrative Agent may by notice given not later than 12:00 noon, New York City time, on any Business Day require the Lenders to acquire participations on such Business Day in all or a portion of the Protective Advances outstanding. Such notice shall specify the aggregate principal amount of Protective Advances in which the Lenders will be required to participate and each Lender's Applicable Percentage of such Protective Advances. Each Lender hereby absolutely and unconditionally agrees to pay, promptly upon receipt of notice as provided above (and in any event, if such notice is received by 12:00 noon, New York City time, on a Business Day, no later than 2:00 p.m., New York City time on such Business Day and if received after 12:00 noon, New York City time, on a Business Day, no later than 10:00 a.m., New York City time, on the immediately succeeding Business Day), to the Administrative Agent such Lender's Applicable Percentage of such Protective Advances. Each Lender acknowledges and agrees that its obligation to acquire participations in Protective Advances pursuant to this paragraph is absolute and unconditional and shall not be affected by any circumstance whatsoever, including nonsatisfaction of any of the conditions precedent set forth in Section 4.02, the occurrence and continuance of a Default or any reduction or termination of the Commitments, and that each such payment shall be made without any offset, abatement, withholding or reduction whatsoever. Each Lender shall comply with its obligation under this paragraph by wire transfer of immediately available funds, in the same manner as provided in Section 2.06 with respect to Loans made by such Lender (and Section 2.06 shall apply, mutatis mutandis, to the payment obligations of the Lenders pursuant to this paragraph). Any amounts received by the Administrative Agent from the Company (or other Person on behalf of the Company) in respect of a Protective Advance after receipt by the Administrative Agent of the proceeds of a sale of participations therein shall be promptly remitted by the Administrative Agent to the Lenders that shall have made their payments pursuant to this paragraph to the extent of their interests therein; provided that any such payment so remitted shall be repaid to the Administrative Agent if and to the extent such payment is required to be refunded to a Borrower for any reason. The purchase of participations in a Protective Advance pursuant to this paragraph shall not constitute a Loan and shall not relieve the Company of its obligation to repay such Protective Advance.

SECTION 2.05. Letters of Credit. (a) General. Subject to the terms and conditions set forth herein, a Borrower may request the issuance of Letters of Credit of any Class that provides for the issuance of Letters of Credit, in a form reasonably acceptable to the Administrative Agent and the applicable Issuing Bank, at any time and from time to time during the Availability Period, which Letter of Credit may be denominated in (x) in the case of the Company, US Dollars and (y) in the case of any Canadian Borrower, Canadian Dollars. In the event of any inconsistency between the terms and conditions of this Agreement and the terms and conditions of any form of letter of credit application or other agreement submitted by the applicable Borrower to, or entered into by the applicable Borrower with, an Issuing Bank relating to any Letter of Credit, the terms and conditions of this Agreement shall control. The parties hereto acknowledge and agree that (i) Letters of Credit may be issued to support obligations of Subsidiaries of the Borrowers as well as the Borrowers; (ii) Letters of Credit issued to support obligations of a Subsidiary may state that they are issued for such Subsidiary's account, and the applicable Borrower hereby acknowledges that the issuance of Letters of Credit for the account of its Subsidiaries inures to the benefit of such Borrower, and that such Borrower's business derives substantial benefits from the businesses of such Subsidiaries; and (iii) regardless of any such statement in any Letter of Credit, the applicable Borrower is the "account party" in respect of all Letters of Credit issued at its request and will be responsible for reimbursement of LC Disbursements as provided herein. Notwithstanding anything to the contrary contained in this Agreement, it is understood and agreed that, except as separately agreed between such Issuing Bank and the applicable Borrower, no Issuing Bank shall have an obligation hereunder to issue any commercial or trade Letter of Credit.

(b) Notice of Issuance, Amendment, Extension; Certain Conditions. To request the issuance of a Letter of Credit of any Class (or the amendment or extension of an outstanding Letter of Credit of any Class), the applicable Borrower shall hand deliver or telecopy (or transmit by electronic communication, if arrangements for doing so have been approved by the relevant Issuing Bank) to the relevant Issuing Bank and the Administrative Agent (reasonably in advance of the requested date of issuance, amendment or extension) a notice requesting the issuance of a Letter of Credit of such Class, or identifying the Letter of Credit of such Class to be amended or extended, and specifying the name of the requesting Borrower, the date of issuance, amendment or extension (which shall be a Business Day), the date on which such Letter of Credit is to expire (which shall comply with paragraph (c) of this Section), the Class and amount of such Letter of Credit, the currency in which such Letter of Credit shall be denominated (which shall be a currency in which the requesting Borrower is entitled to make Borrowings of such Class under this Agreement), the name and address of the beneficiary thereof and such other information as shall be necessary to prepare, amend or extend such Letter of Credit. If requested by the relevant Issuing Bank, the applicable Borrower also shall submit a letter of credit application on such Issuing Bank's standard form in connection with any request for a Letter of Credit. A Letter of Credit shall be issued, amended or extended only if (and upon issuance, amendment or extension of each Letter of Credit the applicable Borrower shall be deemed to represent and warrant that), after giving effect to such issuance, amendment or extension (i) the LC Exposure shall not exceed \$100,000,000, (ii) the portion of the LC Exposure attributable to Letters of Credit issued by an Issuing Bank will not exceed such Issuing Bank's LC Commitment, (iii) no Lender's Credit Exposure of the applicable Class shall exceed its Commitment of such Class, (iv) the total Credit Exposures of the applicable Class shall not exceed the total Commitments of such Class or any other limitation set forth in the applicable Incremental Facility Agreement, (v) the Aggregate Credit Exposure shall not exceed the Maximum Borrowing Amount and (vi) the total Credit Exposures denominated in Canadian Dollars shall not exceed the CAD Sublimit.

(c) Expiration Date. Each Letter of Credit shall expire at or prior to the close of business on the earlier of (i) the date one year after the date of the issuance of such Letter of Credit (or, in the case of any extension thereof, one year after such extension); provided that a Letter of Credit may be subject to customary “evergreen” provisions pursuant to which the expiration date thereof shall be automatically extended for a period of up to one year (subject to clause (ii) of this sentence) unless notice to the contrary shall have been given by any Issuing Bank in respect thereof by a specified date, and (ii) the date that is five Business Days prior to the Maturity Date.

(d) Participations. By the issuance of a Letter of Credit of any Class (or an amendment to a Letter of Credit of any Class increasing the amount thereof) and without any further action on the part of the relevant Issuing Bank or the Lenders of such Class, such Issuing Bank hereby grants to each Lender of such Class, and each Lender of such Class hereby acquires from such Issuing Bank, a participation in such Letter of Credit equal to such Lender’s Applicable Percentage with respect to such Class of the aggregate amount available to be drawn under such Letter of Credit, subject to any LC Exposure Reallocation. In consideration and in furtherance of the foregoing, each Lender of any Class hereby absolutely and unconditionally agrees to pay to the Administrative Agent, for the account of such Issuing Bank, such Lender’s Applicable Percentage in respect of such Class of each LC Disbursement made by such Issuing Bank in respect of a Letter of Credit of such Class and not reimbursed by the applicable Borrower on the date due as provided in paragraph (e) of this Section, or of any reimbursement payment required to be refunded to the applicable Borrower for any reason, subject to any LC Exposure Reallocation. Each Lender of any applicable Class acknowledges and agrees that its obligation to acquire participations pursuant to this paragraph in respect of Letters of Credit of such Class is absolute and unconditional and shall not be affected by any circumstance whatsoever, including any amendment or extension of any such Letter of Credit or the occurrence and continuance of a Default or reduction or termination of the Commitments, and that each such payment shall be made without any offset, abatement, withholding or reduction whatsoever.

(e) Reimbursement. Upon receipt from the beneficiary of any Letter of Credit of any Class of any notice of a drawing under such Letter of Credit, the Issuing Bank shall notify the Company, the applicable Borrower and the Administrative Agent thereof. The applicable Borrower shall reimburse such LC Disbursement by paying to the Administrative Agent an amount equal to such LC Disbursement in the currency in which such LC Disbursement was made not later than 12:00 noon, New York City time, on the next Business Day after the date that the applicable Borrower shall have received notice of such LC Disbursement; provided that the applicable Borrower may, subject to the conditions to borrowing set forth herein, request in accordance with Section 2.03 that such payment be financed with an ABR or Canadian Prime Rate Borrowing of the applicable Class in an equivalent amount, and, to the extent so financed, the applicable Borrower’s obligation to make such payment shall be discharged and replaced by the resulting ABR or Canadian Prime Rate Borrowing. If the applicable Borrower fails to make such payment when due, the Administrative Agent shall notify each Lender of the applicable Class of the applicable LC Disbursement, the payment then due from the applicable Borrower in respect thereof and such Lender’s Applicable Percentage thereof (subject to any LC Exposure Reallocation). Promptly following receipt of such notice, each Lender of the applicable Class shall pay to the Administrative Agent its Applicable Percentage (subject to any LC Exposure Reallocation) of the payment then due from the applicable Borrower, in the same manner as provided in Section 2.06 with respect to Loans made by such Lender and in the applicable currency (and Section 2.06 shall apply, mutatis mutandis, to the payment obligations of the Lenders) and within the same timeframe as provided after a request for a Borrowing in Section 2.03, and the Administrative Agent shall promptly pay such Issuing Bank the amounts so received by it from the Lenders of such Class. Promptly following receipt by the Administrative Agent of any payment from the applicable Borrower pursuant to this paragraph, the Administrative Agent shall distribute such payment to such Issuing Bank or, to the extent that Lenders of the applicable Class have made payments pursuant to this paragraph to reimburse such Issuing Bank, then to such Lenders and such Issuing Bank as their interests may appear. Any payment made by a Lender pursuant to this paragraph to reimburse such Issuing Bank for any LC Disbursement (other than the funding of ABR or Canadian Prime Rate Loans as contemplated above) shall not constitute a Loan and shall not relieve the applicable Borrower of its obligation to reimburse such LC Disbursement.

(f) **Obligations Absolute.** The applicable Borrower's obligation to reimburse LC Disbursements as provided in paragraph (e) of this Section shall be absolute, unconditional and irrevocable, and shall be performed strictly in accordance with the terms of this Agreement under any and all circumstances whatsoever and irrespective of (i) any lack of validity or enforceability of any Letter of Credit or any other term or provision in this Agreement, (ii) any draft or other document presented under a Letter of Credit proving to be forged, fraudulent or invalid in any respect or any statement therein being untrue or inaccurate in any respect, (iii) payment by any Issuing Bank under a Letter of Credit against presentation of a draft or other document that does not comply with the terms of such Letter of Credit, or (iv) any other event or circumstance whatsoever, whether or not similar to any of the foregoing, that might, but for the provisions of this Section, constitute a legal or equitable discharge of, or provide a right of setoff against, the applicable Borrower's obligations hereunder. Neither the Administrative Agent, the Lenders nor any Issuing Bank, nor any of their Related Parties, shall have any liability or responsibility by reason of or in connection with the issuance or transfer of any Letter of Credit or any payment or failure to make any payment thereunder (irrespective of any of the circumstances referred to in the preceding sentence), or any error, omission, interruption, loss or delay in transmission or delivery of any draft, notice or other communication under or relating to any Letter of Credit (including any document required to make a drawing thereunder), any error in interpretation of technical terms or any consequence arising from causes beyond the control of any Issuing Bank; provided that the foregoing shall not be construed to excuse any Issuing Bank from liability to the applicable Borrower to the extent of any direct damages (as opposed to consequential, special, indirect and punitive damages, claims in respect of which are hereby waived by the applicable Borrower to the extent permitted by applicable law) suffered by the applicable Borrower that are caused by such Issuing Bank's failure to exercise care when determining whether drafts and other documents presented under a Letter of Credit comply with the terms thereof or such Issuing Bank's failure to make an LC Disbursement under a Letter of Credit upon presentation to it of documents strictly complying with such Letter of Credit. The parties hereto expressly agree that, in the absence of gross negligence or willful misconduct on the part of any Issuing Bank (as finally determined by a court of competent jurisdiction), such Issuing Bank shall be deemed to have exercised care in each such determination. In furtherance of the foregoing and without limiting the generality thereof, the parties agree that, with respect to documents presented which appear on their face to be in substantial compliance with the terms of a Letter of Credit, such Issuing Bank may, in its sole discretion, either accept and make payment upon such documents without responsibility for further investigation, regardless of any notice or information to the contrary, or refuse to accept and make payment upon such documents if such documents are not in strict compliance with the terms of such Letter of Credit.

(g) Disbursement Procedures. Any Issuing Bank shall, within the period of time stipulated by the terms and conditions of the applicable Letter of Credit, examine all documents purporting to represent a demand for payment under such Letter of Credit. After such examination, such Issuing Bank shall promptly notify the Administrative Agent and the applicable Borrower by telephone (confirmed by telecopy) of such demand for payment and whether such Issuing Bank has made or will make an LC Disbursement thereunder; provided that any failure to give or delay in giving such notice shall not relieve such Borrower of its obligation to reimburse such Issuing Bank and the applicable Lenders with respect to any such LC Disbursement.

(h) Interim Interest. If any Issuing Bank shall make any LC Disbursement, then, unless the applicable Borrower shall reimburse such LC Disbursement in full on the later of (i) the date when such LC Disbursement is made and (ii) the date upon which such Borrower receives notice of such LC Disbursement pursuant to paragraph (g) above (such later date, the "Interest Commencement Date"), the unpaid amount thereof shall bear interest, for each day from and including the Interest Commencement Date to but excluding the date that reimbursement of such LC Disbursement is due pursuant to paragraph (e) of this Section, at the rate provided in Section 2.12 with respect to (x) in the case of LC Disbursements denominated in US Dollars, ABR Loans and (y) in the case of LC Disbursements denominated in Canadian Dollars, Canadian Prime Rate Loans, and, if not so reimbursed on the date due pursuant to paragraph (e) of this Section, then from and including such date so due to but excluding the date that such Borrower reimburses such LC Disbursement, at the rate provided in Section 2.12(g) with respect to such Loans. Interest accrued pursuant to this paragraph shall be for the account of such Issuing Bank, except that interest accrued on and after the date of payment by any Lender pursuant to paragraph (e) of this Section, to reimburse such Issuing Bank shall be for the account of such Lender to the extent of such payment.

(i) Replacement of an Issuing Bank. Any Issuing Bank may be replaced at any time by written agreement among the Company and the successor Issuing Bank. The Company shall notify the Administrative Agent, the replaced Issuing Bank and the Lenders of any such replacement of any Issuing Bank. At the time any such replacement shall become effective, the applicable Borrowers shall pay all unpaid fees payable by the applicable Borrowers that have accrued for the account of any replaced Issuing Bank pursuant to Section 2.11(b). From and after the effective date of any such replacement, (i) the successor Issuing Bank shall have all the rights and obligations of an Issuing Bank under this Agreement with respect to Letters of Credit to be issued thereafter and (ii) references herein to the term "Issuing Bank" shall be deemed to refer to such successor or to any previous Issuing Bank, or to such successor and all previous Issuing Banks, as the context shall require. After the replacement of any Issuing Bank hereunder, the replaced Issuing Bank shall remain a party hereto and shall continue to have all the rights and obligations of an Issuing Bank under this Agreement with respect to Letters of Credit issued by it prior to such replacement, but shall not be required to issue additional Letters of Credit.

(j) Cash Collateralization. If any Event of Default shall occur and be continuing, on the Business Day that the Company receives notice from the Administrative Agent or a majority in interest of the Lenders (or, if the maturity of the Loans has been accelerated, Lenders with LC Exposure representing greater than 50% of the total LC Exposure) demanding the deposit of cash collateral pursuant to this paragraph, each applicable Borrower shall deposit in an account with the Administrative Agent, in the name of the Administrative Agent and for the benefit of the Lenders of each applicable Class, an amount in cash equal to the portion of the LC Exposure attributable to outstanding Letters of Credit of such Class issued for the account of such Borrower as of such date plus any accrued and unpaid interest thereon, which shall be deposited in the applicable currencies; provided that the obligation to deposit such cash collateral shall become effective immediately, and such deposit shall become immediately due and payable, without demand or other notice of any kind, upon the occurrence of any Event of Default with respect to the Borrowers described in clause (e) of Section 6.01. The applicable Borrower also shall deposit cash collateral pursuant to this paragraph as and to the extent required by Section 2.19(a). Each such deposit shall be held by the Administrative Agent as collateral for the payment and performance of the obligations of such Borrower under this Agreement. The Administrative Agent shall have exclusive dominion and control, including the exclusive right of withdrawal, over such account. Other than any interest earned on the investment of such deposits, which investments shall be made at the option and sole discretion of the Administrative Agent and at the applicable Borrower's risk and expense, such deposits shall not bear interest. Interest or profits, if any, on such investments shall (i) in the case of cash collateral deposited pursuant to the first sentence of this Section 2.05(j), accumulate in such account and (ii) in the case of cash collateral deposited pursuant to Section 2.19(a), be remitted to the applicable Borrower promptly by the Administrative Agent unless an Event of Default has occurred and is continuing. Cash collateral deposited by any Borrower pursuant to the first sentence of this Section 2.05(j) (and interest and profits in respect thereof accumulated in such account pursuant to clause (i) of the preceding sentence) shall be applied by the Administrative Agent to reimburse any Issuing Bank for LC Disbursements in respect of Letters of Credit of the applicable Class issued for the account of such Borrower for which it has not been reimbursed and, to the extent not so applied, shall be held for the satisfaction of the reimbursement obligations of such Borrower for the LC Exposure relating to Letters of Credit of such Class issued for the account of such Borrower that are outstanding at such time or, if the maturity of the Loans has been accelerated (but subject to the consent of Lenders with LC Exposure representing greater than 50% of the total LC Exposure and, in the case of cash collateral required by Section 2.19(a), the consent of the Issuing Banks with outstanding Letters of Credit), be applied to satisfy other obligations of such Borrower under this Agreement. Cash collateral deposited pursuant to Section 2.19(a) in respect of any Lender that is a Defaulting Lender shall be applied by the Administrative Agent to such Defaulting Lender's Applicable Percentage in respect of the applicable Class of any LC Disbursements of such Class for which it has not been reimbursed. If any Borrower is required to provide an amount of cash collateral hereunder as a result of the occurrence of an Event of Default or pursuant to Section 2.19(a), such amount (to the extent not applied as aforesaid) shall be returned to such Borrower within three Business Days after all Events of Default have been cured or waived or such amount is no longer required in order to comply with Section 2.19(a) (and no Event of Default has occurred and is continuing), as applicable.

(k) Applicability of ISP and UCP; Limitation of Liability. Unless otherwise expressly agreed by the applicable Issuing Bank when a Letter of Credit is issued (i) the rules of the ISP shall be stated therein to apply to each Letter of Credit that is a standby Letter of Credit, and (ii) the rules of the UCP shall apply to each Letter of Credit that is a commercial Letter of Credit. Notwithstanding the foregoing, the applicable Issuing Bank shall not be responsible to any Borrower for, and the Issuing Bank's rights and remedies against the Borrowers shall not be impaired by, any action or inaction of such Issuing Bank with respect to its obligations under a Letter of Credit expressly required under any law, order, or practice that is expressly required to be applied to such Letter of Credit, including the law of a jurisdiction, or any order of a Governmental Authority of a jurisdiction, where the Issuing Bank or the beneficiary of such Letter of Credit is located, the practice stated in the ISP or UCP, as applicable, or, unless expressly provided otherwise by the terms of such Letter of Credit, the decisions, opinions, practice statements, or official commentary of the ICC Banking Commission, the Bankers Association for Finance and Trade (BAFT), or the Institute of International Banking Law & Practice applicable to letters of credit of the same type as such Letter of Credit, whether or not any Letter of Credit expressly provides that it is governed by such law or practice.

(l) Existing Letters of Credit. Upon the Effective Date, each Existing Letter of Credit shall be deemed a Letter of Credit issued hereunder for all purposes under this Agreement without need for any further action by the Company or any other Person.

SECTION 2.06. Funding of Borrowings. (a) Each Lender shall make each Loan to be made by it hereunder on the proposed date thereof by wire transfer of immediately available funds (i) in the case of CDOR Rate Loans and ABR Loans by 12:00 noon, New York City time, (ii) in the case of Eurodollar Loans by 12:00 noon, London time and (iii) in the case of Canadian Prime Rate loans, 3:00 p.m., New York City time, to the account of the Administrative Agent most recently designated by it for such purpose by notice to the Lenders; provided that Protective Advances shall be made as provided in Section 2.04. The Administrative Agent will make such Loans available to the applicable Borrower by promptly crediting the amounts so received, in like funds, to an account of the applicable Borrower maintained with the Administrative Agent in New York City and designated by the applicable Borrower in the applicable Borrowing Request; provided that (i) ABR or Canadian Prime Rate Loans made to finance (A) the repayment of a Protective Advance as provided in Section 2.04(a) shall be applied by the Administrative Agent for such purpose and (B) the reimbursement of an LC Disbursement as provided in Section 2.05(e) shall be remitted by the Administrative Agent to the applicable Issuing Bank and (ii) the proceeds of any Protective Advance shall be retained by the Administrative Agent and applied, on behalf of the Company, for the purpose for which such Protective Advance has been made.

(b) Unless the Administrative Agent shall have received notice from a Lender prior to the proposed date of any Borrowing (or, in the case of a Borrowing that is being made on same-day notice, prior to the time at which such Borrowing is required to be funded) 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 paragraph (a) of this Section and may, in reliance upon such assumption, make available to the applicable 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 applicable Borrower severally agree to pay to the Administrative Agent forthwith on demand such corresponding amount with interest thereon, for each day from and including the date such amount is made available to the applicable Borrower to but excluding the date of payment to the Administrative Agent, at (i) in the case of such Lender, the greater of (A) (x) the Federal Funds Effective Rate in the case of Loans denominated in US Dollars and (y) the rate reasonably determined by the Administrative Agent to be the cost of funding such amount, in the case of Loans denominated in Canadian Dollars and (B) a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation or (ii) in the case of the applicable Borrower, the greater of the interest rate applicable to the Loans of the other Lenders included in the applicable Borrowing and a rate determined by the Administrative Agent to equal its cost of funds for funding such amount. If such Lender pays such amount to the Administrative Agent, then such amount shall constitute such Lender's Loan included in such Borrowing.

SECTION 2.07. Interest Elections. (a) Each Borrowing initially shall be of the Type specified in the applicable Borrowing Request and, in the case of a Eurodollar or CDOR Rate Borrowing, shall have an initial Interest Period as specified in such Borrowing Request. Thereafter, the applicable Borrower may elect to convert such Borrowing to a different Type or to continue such Borrowing and, in the case of a Eurodollar or CDOR Rate Borrowing, may elect Interest Periods therefor, all as provided in this Section. The applicable Borrower may elect different options with respect to different portions of the affected Borrowing, in which case each such portion shall be allocated ratably among the Lenders holding the Loans comprising such Borrowing, and the Loans comprising each such portion shall be considered a separate Borrowing. This Section shall not apply to Protective Advances, which may not be converted or continued.

(b) To make an election pursuant to this Section, the applicable Borrower shall notify the Administrative Agent of such election by telephone by the time that a Borrowing Request would be required under Section 2.03 if such Borrower were requesting a Borrowing of the Type resulting from such election to be made on the effective date of such election. Each such telephonic Interest Election Request shall be irrevocable and shall be confirmed promptly by hand delivery or teletype to the Administrative Agent of a written Interest Election Request in a form approved by the Administrative Agent and signed by the applicable Borrower. Notwithstanding any other provision of this Section, no Borrower may (i) change the currency of any Borrowing or (ii) elect an Interest Period that does not comply with Section 2.03.

(c) Each telephonic and written Interest Election Request shall specify the following information in compliance with Section 2.03:

(i) the Borrowing to which such Interest Election Request applies and, if different options are being elected with respect to different portions thereof, the portions thereof to be allocated to each resulting Borrowing (in which case the information to be specified pursuant to clauses (iii) and (iv) below shall be specified for each resulting Borrowing);

(ii) the effective date of the election made pursuant to such Interest Election Request, which shall be a Business Day;

(iii) whether the resulting Borrowing is to be an ABR or Canadian Prime Rate Borrowing or a Eurodollar or CDOR Rate Borrowing; and

(iv) if the resulting Borrowing is to be a Eurodollar or CDOR Rate Borrowing, the Interest Period to be applicable thereto after giving effect to such election, which shall be a period contemplated by the definition of the term "Interest Period".

If any such Interest Election Request requests a Eurodollar or CDOR Rate Borrowing but does not specify an Interest Period, then the applicable Borrower shall be deemed to have selected an Interest Period of one month's duration.

(d) Promptly following receipt of an Interest Election Request, the Administrative Agent shall advise each participating Lender of the applicable Class of the details thereof and of such Lender's portion of each resulting Borrowing.

(e) If the applicable Borrower fails to deliver a timely Interest Election Request with respect to a Eurodollar or CDOR Rate Borrowing prior to the end of the Interest Period applicable thereto, then, unless such Borrowing is repaid as provided herein, at the end of such Interest Period such Borrowing shall be converted to (x) in the case of a Loan denominated in US Dollars, an ABR Borrowing and (y) in the case of a Loan denominated in Canadian Dollars, a Canadian Prime Rate Borrowing.

SECTION 2.08. Termination, Reduction and Increase of Commitments; Incremental Revolving Commitments. (a) Unless previously terminated, the Commitments shall terminate on the Maturity Date.

(b) The Company may at any time terminate, or from time to time reduce, the Commitments of any Class; provided that (i) each reduction of the Commitments of any Class shall be in an amount that is an integral multiple of \$1,000,000 and not less than \$5,000,000 or, in each case, the US Dollar Equivalent thereof at any such time, (ii) the Company shall not terminate or reduce the Revolving Commitments or the Commitments of any other Class if after giving effect to any concurrent prepayment of the Loans or Protective Advances in accordance with Section 2.10 and, if applicable, reimbursement of LC Disbursements in accordance with Section 2.05(e), (A) the total Revolving Exposures or total Credit Exposures of any other Class, as applicable, would exceed the total Revolving Commitments or the total Commitments of such Class, as applicable, or (B) the Aggregate Credit Exposure would exceed the Maximum Borrowing Amount and (iii) the Company shall not terminate or reduce the Commitments if, after giving effect to any concurrent prepayment of the Loans in accordance with Section 2.10 and, if applicable, reimbursement of LC Disbursements in accordance with Section 2.05(e), the Aggregate Credit Exposure would exceed the Aggregate Commitments.

(c) The Company shall notify the Administrative Agent of any election to terminate or reduce the Commitments of any Class under paragraph (b) of this Section at least three Business Days prior to the effective date of such termination or reduction, specifying such election and the effective date thereof. Promptly following receipt of any notice, the Administrative Agent shall advise the Lenders of the contents thereof. Each notice delivered by the Company pursuant to this Section shall be irrevocable; provided that a notice of termination of the Commitments of any Class delivered by the Company may state that such notice is conditioned upon the effectiveness of other credit facilities, in which case such notice may be revoked by the Company (by notice to the Administrative Agent on or prior to the specified effective date) if such condition is not satisfied. Any termination or reduction of the Commitments of any Class shall be permanent. Each reduction of the Commitments of any Class (other than a termination of the Commitment of a Defaulting Lender pursuant to Section 2.18(c)) shall be made ratably among the Lenders in accordance with their respective Commitments of such Class.

(d) So long as no Event of Default is continuing or would result therefrom, the Company may, by written notice to the Administrative Agent, executed by the Company and one or more financial institutions (any such financial institution referred to in this Section being called an “Increasing Lender”), which may include any Lender, as such Lender elects or declines in its sole discretion, cause Commitments of the Increasing Lenders of any Class to become effective (or, in the case of an Increasing Lender that is an existing Lender, cause its Commitment in respect of any Class to be increased, as the case may be) in an amount for each Increasing Lender set forth in such notice; provided that (i) the aggregate amount of all Commitments hereunder, after giving effect to new Commitments, increases in existing Commitments pursuant to this paragraph and all Incremental Revolving Commitments, shall not exceed \$1,000,000,000, (ii) each Increasing Lender, if not already a Lender hereunder, shall be subject to the approval of the Administrative Agent (which approval shall not be unreasonably withheld) and (iii) each Increasing Lender, if not already a Lender hereunder, shall become a party to this Agreement by completing and delivering to the Administrative Agent a duly executed accession agreement in a form reasonably satisfactory to the Administrative Agent and the Company. New Commitments and increases in Commitments pursuant to this Section shall become effective on the date specified in the applicable notices delivered pursuant to this Section. Following any extension of a new Commitment in respect of any Class or increase of a Lender’s Commitment in respect of any Class pursuant to this paragraph, any Loans of such Class outstanding prior to the effectiveness of such increase or extension shall continue outstanding until the ends of the respective Interest Periods applicable thereto, and shall then be repaid or refinanced with new Loans of such Class made pursuant to Section 2.01. Following any increase in the Commitments of any Class pursuant to this paragraph, the Company will use its reasonable best efforts to ensure that, to the extent there are outstanding Loans of such Class, each Lender’s outstanding Loans of such Class will be in accordance with such Lender’s pro rata portion of the Commitments of such Class.

(e) In addition, so long as no Event of Default is continuing or would result therefrom, the Company may on one or more occasions, by written notice to the Administrative Agent, request the establishment of Incremental Revolving Commitments; provided that (i) Incremental Revolving Loans are to be denominated only in US Dollars and Canadian Dollars, (ii) the aggregate amount of all the Incremental Revolving Commitments then being requested shall not be less than \$25,000,000 or the US Dollar Equivalent thereof at any such time and (iii) the aggregate amount of all Commitments hereunder, after giving effect to new Commitments pursuant to this paragraph and the immediately preceding paragraph (and any concurrent reduction in any Class of Commitments pursuant to Section 2.08(b)), shall not exceed \$1,000,000,000. Each such notice shall specify (A) the date on which the Company proposes that the Incremental Revolving Commitments shall be effective, which shall be a date not less than 10 Business Days after the date on which such notice is delivered to the Administrative Agent, (B) the amount of the Incremental Revolving Commitments being requested and (C) the Borrower(s) or Additional Borrower(s), as applicable (it being agreed that (x) any Lender approached to provide any Incremental Revolving Commitment may elect or decline, in its sole discretion, to provide such Incremental Revolving Commitment and (y) any Person that the Company proposes to become an Incremental Lender, if such Person is not then a Lender, must be an Eligible Assignee and must be approved by the Administrative Agent and each Issuing Bank in respect of the Class of such Incremental Revolving Commitments (such approvals not to be unreasonably withheld)).

(f) The Incremental Revolving Commitments shall be effected pursuant to one or more Incremental Facility Agreements executed and delivered by the Company, each Incremental Lender providing such Incremental Revolving Commitments, each Issuing Bank designated therein to issue Letters of Credit under such Incremental Revolving Commitments and the Administrative Agent. Each Incremental Facility Agreement may, without the consent of any Revolving Lender, effect such amendments to this Agreement and the other Loan Documents as may be necessary or appropriate, in the opinion of the Administrative Agent, to give effect to the provisions of this Section with respect to the Incremental Revolving Commitments. The Incremental Revolving Loans will have terms and conditions substantially identical to the Revolving Loans (other than with respect to pricing and maturity) and will otherwise be on terms and subject to conditions reasonably satisfactory to the Administrative Agent.

(g) Each Incremental Facility Agreement shall specify the terms of the Incremental Revolving Loans to be made thereunder; provided that without the prior written consent of Lenders holding a majority in aggregate principal amount of then outstanding Loans, (i) the Incremental Revolving Loans shall mature no earlier than (and shall not require any mandatory commitment reductions prior to) the Maturity Date, (ii) the Incremental Revolving Loans shall constitute a separate tranche of Loans (which, at the Company's option, may be part of a tranche of "first in, last out" term loans or revolving commitments subject to customary terms and conditions reasonably satisfactory to the Administrative Agent) and (iii) if the interest rate spread applicable to any Incremental Revolving Loans denominated in US Dollars (which, for this purpose, shall be deemed to include all upfront or similar fees and any pricing "floor" applicable to the Incremental Revolving Loans, but excluding any underwriting, arrangement, structuring or similar fees that are not generally shared with the Lenders (collectively, "Upfront Payments"), in each case paid to the Incremental Lenders in respect of the Incremental Revolving Commitments) exceeds (x) in cases other than in respect of "first in, last out" facilities, the interest rate spread applicable to Loans of another Class denominated in US Dollars (taking into account any Upfront Payments paid in respect of Loans of such other Classes) by more than 0.50%, then the interest rate spread applicable to the Loans of such other Class denominated in US Dollars shall be increased so it equals the interest rate applicable to such Incremental Revolving Loans less 0.50% and (y) in the case of any "first in, last out" facility, the interest rate spread exceeds the interest rate spread applicable to Loans of another Class denominated in US Dollars (taking into account any Upfront Payments paid in respect of Loans of such other Classes) by more than 1.50%, then the interest rate spread applicable to the Loans of such other Class denominated in US Dollars shall be increased so it equals the interest rate applicable to such "first in, last out" facility less 1.50%.

SECTION 2.09. Repayment of Loans; Evidence of Indebtedness. (a) The applicable Borrower hereby unconditionally promises to pay (i) to the Administrative Agent for the account of each Lender the then unpaid principal amount of each Revolving Loan on the Maturity Date and (ii) to the Administrative Agent the then unpaid principal amount of each Protective Advance on the earlier of the Maturity Date and demand by the Administrative Agent in respect of such Protective Advance.

(b) Each Lender shall maintain in accordance with its usual practice an account or accounts evidencing the indebtedness of the applicable Borrower to such Lender resulting from each Loan made by such Lender, including the amounts of principal and interest payable and paid to such Lender from time to time hereunder.

(c) The Administrative Agent shall maintain accounts in which it shall record (i) the amount of each Loan made hereunder, the Class and Type thereof and the Interest Period applicable thereto, (ii) the amount of any principal or interest due and payable or to become due and payable from the applicable Borrower to each Lender hereunder and (iii) the amount of any sum received by the Administrative Agent hereunder for the account of the Lenders and each Lender's share thereof.

(d) The entries made in the accounts maintained pursuant to paragraph (b) or (c) of this Section shall be prima facie evidence of the existence and amounts of the obligations recorded therein; provided that the failure of any Lender or the Administrative Agent to maintain such accounts or any error therein shall not in any manner affect the obligation of the applicable Borrower to repay the Loans in accordance with the terms of this Agreement.

(e) Any Lender may request that Loans made by it be evidenced by a promissory note. In such event, the applicable Borrower shall prepare, execute and deliver to such Lender a promissory note payable to such Lender (and its registered assigns) and in a form approved by the Administrative Agent. Thereafter, the Loans evidenced by such promissory note and interest thereon shall at all times (including after assignment pursuant to Section 8.04) be represented by one or more promissory notes in such form payable to the payee named therein (and its registered assigns).

(f) On each Business Day while a Cash Dominion Period is in effect, the Administrative Agent shall apply any and all funds credited to the ABL Collection Account on such Business Day or the immediately preceding Business Day (in the Permitted Discretion of the Administrative Agent), first, to prepay any Protective Advances that may be outstanding, second, to prepay the Borrowings and unreimbursed LC Disbursements and, third, to cash collateralize outstanding LC Exposure in the manner provided in Section 2.05(j) (to the extent such LC Exposure shall not have been theretofore cash collateralized in accordance with such Section). The Borrowers hereby direct the Administrative Agent to apply the funds credited to the ABL Collection Account as set forth above and authorize the Administrative Agent to determine the order of application of such funds as among the individual Protective Advances or Borrowings and unreimbursed LC Disbursements. Each prepayment of a Borrowing shall be applied ratably to the Loans included in such Borrowing. For the avoidance of doubt, funds used to prepay Borrowings or unreimbursed LC Disbursements may be reborrowed, subject to the terms and conditions set forth herein.

SECTION 2.10. Prepayment of Loans. (a) The Borrowers shall have the right at any time and from time to time to prepay any Borrowing in whole or in part, subject to prior notice in accordance with paragraph (c) of this Section. In the event and on such occasion that (i) the total Revolving Exposures exceeds the total Revolving Commitments, (ii) the total Credit Exposures of any other Class exceeds the total Commitments of such Class or (iii) the Aggregate Credit Exposure exceeds the lesser of (A) the sum of (1) the Borrowing Base then in effect and (2) the Protective Advance Exposures and (B) the Aggregate Commitments then in effect, the Company shall, on the third Business Day after notice thereof from the Administrative Agent has been delivered to the Company, first, prepay any Protective Advances that may be outstanding and, second, prepay such outstanding Borrowing or Borrowings of the applicable Class as the Company may elect in an aggregate amount equal to the amount of such excess; provided that if the total Credit Exposures of any Class exceeds the total Commitments of such Class solely as a result of currency fluctuations, the Company shall not be required to prepay the excess until such time as the total Credit Exposures of such Class exceeds 105% of the total Commitments of such Class, in which case such excess shall be paid on the third Business Day after notice from the Administrative Agent is delivered to the Company.

(b) [reserved].

(c) The applicable Borrower shall notify the Administrative Agent by telephone (confirmed by telecopy) of any prepayment hereunder (i) in the case of prepayment of a Eurodollar, CDOR Rate or Canadian Prime Rate Borrowing, not later than 11:00 a.m., New York City time, one Business Day before the date of prepayment and (ii) in the case of prepayment of an ABR Borrowing, not later than 11:00 a.m., New York City time, on the date of prepayment. Each such notice shall be irrevocable and shall specify the prepayment date and the principal amount of each Borrowing or portion thereof to be prepaid and the applicable currency of such Borrowing; provided that, if a notice of prepayment is given in connection with a conditional notice of termination of the Commitments as contemplated by Section 2.08, then such notice of prepayment may be revoked if such notice of termination is revoked in accordance with Section 2.08. Promptly following receipt of any such notice relating to a Borrowing, the Administrative Agent shall advise the participating Lenders of the contents thereof. Each partial prepayment of any Borrowing shall be in an amount that would be permitted in the case of an advance of a Borrowing of the same Class and Type as provided in Section 2.02. Each prepayment of a Borrowing (other than a prepayment of the Loans of a Defaulting Lender pursuant to Section 2.18(c)) shall be applied ratably to the Loans included in the prepaid Borrowing. Prepayments shall be accompanied by accrued interest to the extent required by Section 2.12.

SECTION 2.11. Fees. (a) The Company agrees to pay to the Administrative Agent for the account of each Lender a commitment fee in US Dollars, which shall accrue on the daily unused amount of the Commitment of such Lender during the period from and including the Effective Date to but excluding the date on which such Commitment terminates at a rate per annum equal to the applicable rate set forth in the table below based on Average Utilization during the most recently ended fiscal quarter of the Company, with each change in such rate effective on the first day of the first month immediately following the last day of such fiscal quarter; provided that prior to the end of the first full fiscal quarter of the Company after the Effective Date, the commitment fee shall accrue at 0.30% per annum.

Average Utilization	Commitment Fee
≥ 50.0%	0.25%
< 50.0%	0.30%

Accrued commitment fees shall be payable in arrears on the last day of March, June, September and December of each year and on the Maturity Date, commencing on the first such date to occur after the date hereof. All commitment fees shall be computed on the basis of a year of 360 days and shall be payable for the actual number of days elapsed (including the first day but excluding the last day). For purposes of computing commitment fees, the Commitment of a Lender shall be deemed to be used to the extent of the outstanding Loans and LC Exposure of such Lender (and the Protective Advance Exposures of such Lender shall constitute unused Commitments for such purpose).

(b) Each Borrower agrees to pay (i) to the Administrative Agent for the account of each Lender of any Class a participation fee with respect to its participations in Letters of Credit of such Class issued for the account of such Borrower, which shall accrue at the Applicable Rate on the daily amount of the LC Exposure of such Class (excluding any portion thereof attributable to unreimbursed LC Disbursements of such Class) during the period from and including the Effective Date to but excluding the later of the date on which such Lender's Commitment of such Class terminates and the date on which such Lender ceases to have any LC Exposure of such Class, and (ii) to the relevant Issuing Bank a fronting fee, which shall accrue at the rate or rates per annum separately agreed upon between the applicable Borrower and such Issuing Bank on the daily amount of the portion of the LC Exposure (excluding any portion thereof attributable to unreimbursed LC Disbursements) attributable to outstanding Letters of Credit issued by such Issuing Bank for the account of such Borrower during the period from and including the Effective Date to but excluding the later of the date of termination of the Commitments and the date on which there ceases to be any LC Exposure in respect of Letters of Credit issued for the account of such Borrower, as well as such Issuing Bank's standard fees with respect to the issuance, amendment or extension of any Letter of Credit or processing of drawings thereunder. Participation and fronting fees accrued through and including the last day of March, June, September and December of each year shall be payable on the third Business Day following such last day, commencing on the first such date to occur after the Effective Date; provided that all such fees shall be payable on the date on which the Commitments terminate and any such fees accruing after the date on which the Commitments terminate shall be payable on demand. Any other fees payable by any Borrower to any Issuing Bank pursuant to this paragraph shall be payable within 10 days after demand. All participation and fronting fees shall be computed on the basis of a year of 360 days and shall be payable for the actual number of days elapsed (including the first day but excluding the last day). In addition to the fees referred to above, each Issuing Bank (i) may collect customary drawing fees from beneficiaries of Letters of Credit issued by it and (ii) may require that Letters of Credit issued by it contain customary provisions for such drawing fees.

(c) The Company agrees to pay to the Administrative Agent, for its own account and for the account of the initial Lenders, fees in the amounts and at the times separately agreed upon between the Company and the Administrative Agent.

(d) All fees payable by the Borrowers hereunder shall be paid in US Dollars on the dates due, in immediately available funds, to the Administrative Agent (or to the relevant Issuing Bank, in the case of fees payable by the Borrowers to it) for distribution to the parties entitled thereto. Fees paid by the Borrowers shall not be refundable under any circumstances.

SECTION 2.12. Interest. (a) The Loans comprising each ABR Borrowing and each Protective Advance shall bear interest at the Alternate Base Rate plus the Applicable Rate.

(b) The Loans comprising each Canadian Prime Rate Borrowing shall bear interest at the Canadian Prime Rate plus the Applicable Rate.

(c) The Loans comprising each CDOR Rate Borrowing shall bear interest at the CDOR Rate for the Interest Period in effect for such Borrowing plus the Applicable Rate.

(d) The Loans comprising each Eurodollar Borrowing shall bear interest at the LIBO Rate for the Interest Period in effect for such Borrowing plus the Applicable Rate.

(e) [Reserved.]

(f) [Reserved.]

(g) Notwithstanding the foregoing, if any principal of or interest on any Loan or any fee or other amount payable by the applicable Borrower hereunder is not paid when due, whether at stated maturity, upon acceleration or otherwise, such overdue amount shall bear interest, after as well as before judgment, at a rate per annum equal to (i) in the case of overdue principal of any Loan, 2% plus the rate otherwise applicable to such Loan as provided in the preceding paragraphs of this Section or (ii) in the case of any other amount, 2% plus the rate applicable to ABR Loans as provided in paragraph (a) of this Section.

(h) (i) For so long as any Lender maintains reserves against "Eurocurrency liabilities" (or any other category of liabilities which includes deposits by reference to which the interest rate on Eurodollar Loans is determined or any category of extensions of credit or other assets which includes loans by a non-United States office of any Lender to United States residents), and as a result the cost to such Lender (or its lending office for Eurodollar Loans) of making or maintaining its Eurodollar Loans is increased, then such Lender may require the applicable Borrower to pay, contemporaneously with each payment of interest on any Eurodollar Loan of such Lender, additional interest on such Eurodollar Loan for the Interest Period of such Eurodollar Loan at a rate per annum up to but not exceeding the excess of (A) (x) the applicable LIBO Rate divided by (y) one minus the Statutory Reserve Percentage over (B) the rate specified in the preceding clause (x).

(ii) Any Lender wishing to require payment of additional interest (x) shall so notify the applicable Borrower and the Administrative Agent, in which case such additional interest on the Eurodollar Loans of such Lender shall be payable to such Lender at the place indicated in such notice with respect to each Interest Period commencing at least three Business Days after the giving of such notice and (y) shall furnish to the applicable Borrower at least five Business Days prior to each date on which interest is payable on the Eurodollar Loans an officer's certificate setting forth the amount to which such Lender is then entitled under this Section (which shall be consistent with such Lender's good-faith estimate of the level at which the related reserves are maintained by it). Each such certificate shall be accompanied by such information as the applicable Borrower may reasonably request as to the computation set forth therein.

(i) Accrued interest on each Loan shall be payable in arrears on each Interest Payment Date for such Loan and, in the case of a Revolving Loan or a Protective Advance, upon termination of the Commitments; provided that (i) interest accrued pursuant to paragraph (g) of this Section and interest accrued on any Protective Advance shall be payable on demand, (ii) in the event of any repayment or prepayment of any Loan (other than a prepayment of an ABR or Canadian Prime Rate Loan prior to the end of the Availability Period), accrued interest on the principal amount repaid or prepaid shall be payable on the date of such repayment or prepayment and (iii) in the event of any conversion of any Eurodollar or CDOR Rate Loan prior to the end of the current Interest Period therefor, accrued interest on such Loan shall be payable on the effective date of such conversion.

(j) All interest hereunder shall be computed on the basis of a year of 360 days, except that (i) interest computed by reference to the Alternate Base Rate at times when the Alternate Base Rate is based on the Prime Rate and (ii) interest on Borrowings denominated in Canadian Dollars shall each be computed on the basis of a year of 365 days (or 366 days in a leap year), and in each case shall be payable for the actual number of days elapsed (including the first day but excluding the last day). The applicable Alternate Base Rate, Canadian Prime Rate, CDOR Rate or LIBO Rate shall be determined by the Administrative Agent, and such determination shall be conclusive absent manifest error.

(k) For purposes of disclosure pursuant to the *Interest Act* (Canada), the annual rates of interest or fees to which the rates of interest or fees provided in this Agreement and the other Loan Documents (and stated herein or therein, as applicable, to be computed on the basis of 360 days or any other period of time less than a calendar year) are equivalent are the rates so determined multiplied by the actual number of days in the applicable calendar year and divided by 360 or such other period of time, respectively.

(1) If any provision of this Agreement or of any of the other Loan Documents would obligate any Canadian Loan Party to make any payment of interest or other amount payable to the Lenders in an amount or calculated at a rate which would be prohibited by law or would result in a receipt by the Lenders of interest at a criminal rate (as such terms are construed under the *Criminal Code* (Canada)) then, notwithstanding such provisions, such amount or rate shall be deemed to have been adjusted with retroactive effect to the maximum amount or rate of interest, as the case may be, as would not be so prohibited by law or so result in a receipt by the Lenders of interest at a criminal rate, such adjustment to be effected, to the extent necessary, as follows: (1) firstly, by reducing the amount or rate of interest required to be paid to the Lenders under this Section, and (2) thereafter, by reducing any fees, commissions, premiums and other amounts required to be paid to the Lenders which would constitute "interest" for purposes of Section 347 of the *Criminal Code* (Canada). Notwithstanding the foregoing, and after giving effect to all adjustments contemplated thereby, if the Lenders shall have received an amount in excess of the maximum permitted by that section of the *Criminal Code* (Canada), the Canadian Loan Parties shall be entitled, by notice in writing to the Administrative Agent, to obtain reimbursement from the Lenders in an amount equal to such excess and, pending such reimbursement, such amount shall be deemed to be an amount payable by the Lenders to the Borrower. Any amount or rate of interest referred to in this Section shall be determined in accordance with generally accepted actuarial practices and principles as an effective annual rate of interest over the term that the applicable Loan remains outstanding on the assumption that any charges, fees or expenses that fall within the meaning of "interest" (as defined in the *Criminal Code* (Canada)) shall, if they relate to a specific period of time, be pro-rated over that period of time and otherwise be pro-rated over the period from the closing date to the Maturity Date and, in the event of a dispute, a certificate of a Fellow of the Canadian Institute of Actuaries appointed by the Administrative Agent shall be conclusive for the purposes of such determination.

SECTION 2.13. Alternate Rate of Interest. (a) If prior to the commencement of any Interest Period for a Eurodollar or CDOR Rate Borrowing:

(i) the Administrative Agent determines (which determination shall be conclusive absent manifest error), that adequate and reasonable means do not exist for ascertaining the Adjusted LIBO Rate or the CDOR Rate (including because the LIBO Screen Rate or the CDO Screen Rate, as applicable, is not available or published on a current basis) for such Interest Period; or

(ii) the Administrative Agent is advised by the Required Lenders that the Adjusted LIBO Rate or the CDOR Rate for such Interest Period will not adequately and fairly reflect the cost to such Lenders (or Lender) of making or maintaining their Loans (or its Loan) included in such Borrowing for such Interest Period;

then the Administrative Agent shall give notice thereof to the Company and the Lenders by telephone or telecopy as promptly as practicable thereafter, but not later than 10:00 a.m. (London time, or in the case of a CDOR Rate Borrowing, New York City time) on the first day of such Interest Period, and, until the Administrative Agent notifies the Company and the Lenders that the circumstances giving rise to such notice no longer exist, (A) any Interest Election Request that requests the conversion of any Borrowing to, or continuation of any Borrowing as, an affected Eurodollar or CDOR Rate Borrowing shall be ineffective, (B) any affected Eurodollar Borrowing that is requested to be continued shall be converted to an ABR Borrowing on the last day of the Interest Period applicable thereto, (C) any affected CDOR Rate Borrowing that is requested to be continued shall be converted to a Canadian Prime Rate Borrowing on the last day of the Interest Period applicable thereto and (D) if any Borrowing Request requests an affected Eurodollar or CDOR Rate Borrowing, then, unless the applicable Borrower notifies the Administrative Agent by 2:00 p.m. (London time, or in the case of a CDOR Rate Borrowing, New York City time) on the date of such Borrowing that it elects not to borrow on such date, such Borrowing shall (1) in the case of a Borrowing denominated in US Dollars, be deemed a request for an ABR Borrowing or (2) in the case of a Borrowing denominated in Canadian Dollars, be deemed a request for a Canadian Prime Rate Borrowing.

(b) Notwithstanding anything to the contrary herein or in any other Loan Document, if a Benchmark Transition Event or an Early Opt-in Election, as applicable, and its related Benchmark Replacement Date have occurred prior to the Reference Time in respect of any setting of the then-current Benchmark, then (x) if a Benchmark Replacement is determined in accordance with clause (1) or (2) of the definition of "Benchmark Replacement" with respect to US Dollars for such Benchmark Replacement Date, such Benchmark Replacement will replace such Benchmark for all purposes hereunder and under any Loan Document in respect of such Benchmark setting and subsequent Benchmark settings without any amendment to, or further action or consent of any other party to, this Agreement or any other Loan Document and (y) if a Benchmark Replacement is determined in accordance with clause (3) of the definition of "Benchmark Replacement" with respect to US Dollars or CAD for such Benchmark Replacement Date, such Benchmark Replacement will replace such Benchmark for all purposes hereunder and under any Loan Document in respect of any Benchmark setting at or after 5:00 p.m. (New York City time) on the fifth (5th) Business Day after the date notice of such Benchmark Replacement is provided to the Lenders without any amendment to, or further action or consent of any other party to, this Agreement or any other Loan Document so long as the Administrative Agent has not received, by such time, written notice of objection to such Benchmark Replacement from Lenders comprising the Required Lenders.

(c) Notwithstanding anything to the contrary herein or in any other Loan Document and subject to the proviso below in this paragraph, with respect to a Loan denominated in US Dollars, if a Term SOFR Transition Event and its related Benchmark Replacement Date have occurred prior to the Reference Time in respect of any setting of the then-current Benchmark, then the applicable Benchmark Replacement will replace the then-current Benchmark for all purposes hereunder or under any Loan Document in respect of such Benchmark setting and subsequent Benchmark settings, without any amendment to, or further action or consent of any other party to, this Agreement or any other Loan Document; provided that, this clause (c) shall not be effective unless the Administrative Agent has delivered to the Lenders and the Borrower a Term SOFR Notice. For the avoidance of doubt, the Administrative Agent shall not be required to deliver a Term SOFR Notice after the occurrence of a Term SOFR Transition Event and may do so in its sole discretion.

(d) In connection with the implementation of a Benchmark Replacement, the Administrative Agent will have the right to make Benchmark Replacement Conforming Changes from time to time and, notwithstanding anything to the contrary herein or in any other Loan Document, any amendments implementing such Benchmark Replacement Conforming Changes will become effective without any further action or consent of any other party to this Agreement or any other Loan Document.

(e) The Administrative Agent will promptly notify the Borrower and the Lenders of (i) any occurrence of a Benchmark Transition Event or an Early Opt-in Election, as applicable, (ii) the implementation of any Benchmark Replacement, (iii) the effectiveness of any Benchmark Replacement Conforming Changes, (iv) the removal or reinstatement of any tenor of a Benchmark pursuant to clause (f) below and (v) the commencement or conclusion of any Benchmark Unavailability Period. 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 2.13, 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 Agreement or any other Loan Document, except, in each case, as expressly required pursuant to this Section 2.13.

(f) Notwithstanding anything to the contrary herein or in any other Loan Document, at any time (including in connection with the implementation of a Benchmark Replacement), (i) if the then-current Benchmark is a term rate (including the Adjusted LIBO Rate or the CDOR Rate) and either (a) 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 (b) 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 or will be no longer representative, then the Administrative Agent may modify the definition of "Interest Period" for any Benchmark settings at or after such time to remove such unavailable or non-representative tenor and (ii) if a tenor that was removed pursuant to clause (i) above either (a) is subsequently displayed on a screen or information service for a Benchmark (including a Benchmark Replacement) or (b) is not, or is no longer, subject to an announcement that it is or will no longer be representative for a Benchmark (including a Benchmark Replacement), then the Administrative Agent may modify the definition of "Interest Period" for all Benchmark settings at or after such time to reinstate such previously removed tenor.

(g) Upon the Company's receipt of notice of the commencement of a Benchmark Unavailability Period, any Borrower may revoke any request for a Borrowing of, conversion to or continuation of affected Eurodollar or CDOR Rate Loans to be made, converted or continued during any Benchmark Unavailability Period and, failing that, such Borrower will be deemed to have converted (x) any request for a Borrowing of, conversion to or continuation of affected Eurodollar Loans into a request for a Borrowing of or conversion to ABR Loans and (y) any request for a Borrowing of, conversion to or continuation of affected CDOR Rate Loans into a request for a Borrowing of or conversion to Canadian Prime Rate Loans. During any Benchmark Unavailability Period or at any time that a tenor for the then-current Benchmark is not an Available Tenor, (x) with respect to US Dollars, the component of ABR based upon the then-current Benchmark or such tenor for such Benchmark, as applicable, will not be used in any determination of ABR and (y) with respect to CAD, the component of the Canadian Prime Rate based upon the then-current Benchmark or such tenor for such Benchmark, as applicable, will not be used in any determination of the Canadian Prime Rate. Furthermore, if any Eurodollar Loan or CDOR Rate Loan is outstanding on the date of the Borrower's receipt of notice of the commencement of a Benchmark Unavailability Period with respect to the Adjusted LIBO Rate or the CDOR Rate, as applicable, then until such time as the applicable Benchmark Replacement is implemented pursuant to this Section 2.13, (i) in the case of a Eurodollar Loan, on the last day of the Interest Period applicable to such Loan (or the next succeeding Business Day if such day is not a Business Day), such Loan shall be converted by the Administrative Agent to, and shall constitute, an ABR Loan and (ii) in the case of a CDOR Rate Loan, such Loan shall, on the last day of the Interest Period applicable to such Loan (or the next succeeding Business Day if such day is not a Business Day), such Loan shall be converted by the Administrative Agent to, and shall constitute, a Canadian Prime Rate Loan.

SECTION 2.14. Increased Costs. (a) If any Change in Law shall:

(i) impose, modify or deem applicable any reserve, special deposit or similar requirement against assets of, deposits with or for the account of, or credit extended by, any Lender (except any such reserve requirement reflected in the Statutory Reserve Percentage) or any Issuing Bank; or

(ii) impose on any Lender or any Issuing Bank or the London or Canadian interbank market any other condition affecting this Agreement or Eurodollar or CDOR Rate Loans made by such Lender or any Letter of Credit or participation therein (other than an imposition or change in Indemnified Taxes, Other Taxes or Excluded Taxes, or any Change in Law relating to capital or liquidity requirements or the rate of return on capital, with respect to which Section 2.16 and paragraph (b) of this Section, respectively, shall apply);

and the result of any of the foregoing shall be to increase the cost to such Lender or such other Recipient of making or maintaining, or reduce the amount receivable by any Lender with respect to, any Eurodollar or CDOR Rate Loan (or of maintaining its obligation to make any such Loan) or to increase the cost to such Lender or such Issuing Bank of participating in, issuing or maintaining any Letter of Credit or Protective Advance, then the Company will pay to such Lender or such Issuing Bank, as the case may be, such additional amount or amounts as will compensate such Lender or such Issuing Bank, as the case may be, for such additional costs incurred or reduction suffered.

(b) If any Lender or any Issuing Bank determines that any Change in Law regarding capital requirements has or would have the effect of reducing the rate of return on such Lender's or such Issuing Bank's capital or on the capital of such Lender's or such Issuing Bank's holding company, if any, as a consequence of this Agreement or the Loans made by, or participations in Letters of Credit or Protective Advances held by, such Lender, or the Letters of Credit issued by such Issuing Bank, to a level below that which such Lender or such Issuing Bank or such Lender's or such Issuing Bank's holding company could have achieved but for such Change in Law (taking into consideration such Lender's or such Issuing Bank's policies and the policies of such Lender's or such Issuing Bank's holding company with respect to capital adequacy), then from time to time the Company will pay to such Lender or such Issuing Bank, as the case may be, such additional amount or amounts as will compensate such Lender or such Issuing Bank or such Lender's or such Issuing Bank's holding company for any such reduction suffered.

(c) A certificate of a Lender or an Issuing Bank setting forth the amount or amounts necessary to compensate such Lender or such Issuing Bank or its holding company, as the case may be, as specified in paragraph (a) or (b) of this Section shall be delivered to the Company and shall be conclusive absent manifest error. The Company shall pay such Lender or such Issuing Bank, as the case may be, the amount shown as due on any such certificate within 15 days after receipt thereof.

(d) Failure or delay on the part of any Lender or any Issuing Bank to demand compensation pursuant to this Section shall not constitute a waiver of such Lender's or such Issuing Bank's right to demand such compensation; provided that the Company shall not be required to compensate a Lender or an Issuing Bank pursuant to this Section for any increased costs or reductions incurred more than 180 days prior to the date that such Lender or such Issuing Bank, as the case may be, notifies the Company of the Change in Law giving rise to such increased costs or reductions and of such Lender's or such Issuing Bank's intention to claim compensation therefor; provided further that, if the Change in Law giving rise to such increased costs or reductions is retroactive, then the 180-day period referred to above shall be extended to include the period of retroactive effect thereof.

SECTION 2.15. Break Funding Payments. In the event of (a) the payment of any principal of any Eurodollar or CDOR Rate Loan other than on the last day of an Interest Period applicable thereto (including as a result of an Event of Default), (b) the conversion of any Eurodollar or CDOR Rate Loan other than on the last day of the Interest Period applicable thereto, (c) the failure to borrow, convert, continue or prepay any Eurodollar or CDOR Rate Loan on the date specified in any notice delivered pursuant hereto (regardless of whether such notice may be revoked under Section 2.10(c) and is revoked in accordance therewith) or (d) the assignment of any Eurodollar or CDOR Rate other than on the last day of the Interest Period applicable thereto as a result of a request by a Borrower pursuant to Section 2.18, then, in any such event, the applicable Borrower shall compensate each Lender for the loss, cost and expense attributable to such event which, in the reasonable judgment of such Lender, such Lender (or an existing or prospective participant in a related Loan) incurred, including any loss incurred in obtaining, liquidating or employing deposits from third parties, but excluding loss of margin for the period after any such payment. A certificate of any Lender setting forth any amount or amounts that such Lender is entitled to receive pursuant to this Section shall be delivered to the applicable Borrowers and shall be conclusive absent manifest error. The applicable Borrower shall pay such Lender the amount shown as due on any such certificate within 15 days after receipt thereof.

SECTION 2.16. Taxes. (a) Each payment by any Loan Party under any Loan Document shall be made without withholding for any Taxes, unless such withholding is required by any law. If any Withholding Agent determines, in its sole discretion exercised in good faith, that it is so required to withhold Taxes, then such Withholding Agent may so withhold and shall timely pay the full amount of withheld Taxes to the relevant Governmental Authority in accordance with applicable law. If such Taxes are Indemnified Taxes, then the amount payable by such Loan Party shall be increased as necessary so that, net of such withholding (including such withholding applicable to additional amounts payable under this Section), the applicable Recipient receives the amount it would have received had no such withholding been made.

(b) In addition, the Loan Parties shall pay any Other Taxes to the relevant Governmental Authority in accordance with applicable law.

(c) Each Loan Party shall jointly and severally indemnify each Recipient within 15 days after written demand therefor, for the full amount of any Indemnified Taxes paid by such Recipient on or with respect to any payment by or on account of any obligation of any Loan Party hereunder (including Indemnified Taxes imposed or asserted on or attributable to amounts payable under this Section) and any reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority; provided, that the Loan Parties shall not be obligated to make payment to such Recipient for penalties, interest or expenses attributable to the gross negligence or willful misconduct of such Recipient. A certificate as to the amount of such payment or liability delivered to the applicable Loan Party by a Recipient, or by the Administrative Agent on behalf of another Recipient, shall be conclusive absent manifest error.

(d) Each Lender shall severally indemnify the Administrative Agent, within 10 days after written demand therefor, for the full amount of any Taxes (but, in the case of any Indemnified Taxes, only to the extent that the Loan Parties have not already indemnified the Administrative Agent for such Indemnified Taxes and without limiting the obligation of the Loan Parties to do so) attributable to such Lender that are paid or payable by the Administrative Agent in connection with any Loan Document and any reasonable expenses arising therefrom or with respect thereto, whether or not such Excluded Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate setting forth and explaining in reasonable detail the amount of such payment or liability delivered to a Lender by the Administrative Agent shall be conclusive absent manifest error.

(e) As soon as practicable after any payment of Indemnified Taxes or Other Taxes by a Loan Party to a Governmental Authority, the Company shall deliver to the Administrative Agent the original or a certified copy of a receipt issued by such Governmental Authority evidencing such payment, a copy of the return reporting such payment or other evidence of such payment reasonably satisfactory to the Administrative Agent.

(f) (A) Any Foreign Lender that is entitled to an exemption from, or reduction of withholding Tax under the law of the United States of America, or any treaty to which the United States of America is a party, with respect to payments under this Agreement or any other Loan Document shall deliver to the Company (with a copy to the Administrative Agent), on or prior to the date of this Agreement (or, in the case of any Lender that becomes a party to this Agreement pursuant to an Assignment and Assumption, on or about the date on which such Lender becomes a Lender under this Agreement) either (a) two properly executed originals of Form W-8ECI or Form W-8BEN or Form W-8BEN-E, as applicable (or any successor forms) prescribed by the IRS or other documents satisfactory to the Company and the Administrative Agent, as the case may be, certifying (i) that all payments to be made to such Foreign Lender under the Loan Documents are exempt from United States withholding Taxes because such payments are effectively connected with the conduct by such Lender of a trade or business within the United States and are included in such Lender's gross income or (ii) that all payments to be made to such Foreign Lender under the Loan Documents are completely exempt from Taxes or are subject to such Taxes at a reduced rate by an applicable Tax treaty, (b)(i) a certificate executed by such Lender certifying that such Lender is not a "bank" within the meaning of Section 881(c)(3)(A) of the Code and that such Lender qualifies for the portfolio interest exemption under Section 881(c) of the Code, and (ii) two properly executed originals of IRS Form W-8BEN or Form W-8BEN-E, as applicable (or any successor form) or (c) in the case of a Foreign Lender that is not the beneficial owner of payments made under this Agreement (including a partnership or a participating Lender) (i) an IRS Form W-8IMY on behalf of itself and (ii) the relevant forms prescribed in this paragraph (f)(A) that would be required of each such beneficial owner or partner of such partnership if such beneficial owner or partner were a Lender; provided, however, that if the Lender is a partnership and one or more of its partners are claiming the exemption for portfolio interest under Section 881(c) of the Code, such Lender may provide a certificate described in clause (b)(i) on behalf of such partners, in each case, certifying such Lender's entitlement to an exemption from, or reduction of, U.S. federal withholding Tax with respect to payments of interest to be made hereunder or under this Agreement or any other Loan Document. In the case of a Foreign Lender claiming the benefits of an income tax treaty to which the United States is a party, the IRS Form W-8BEN or Form W-8BEN-E, as applicable, shall (x) with respect to payments of interest under the Loan Documents, establish an exemption from U.S. federal withholding Tax pursuant to the "interest" article of such tax treaty and (y) with respect to any other applicable payments under the Loan Documents, establish an exemption from U.S. federal withholding Tax pursuant to the "business profits" or "other income" article of such tax treaty. Each Lender that is not a Foreign Lender shall deliver to the Company (with a copy to the Administrative Agent) two properly executed originals IRS Form W-9 (or any successor form). Each Lender agrees (but only to the extent it is legally entitled to do so) to provide the Company (with a copy to the Administrative Agent) with new forms prescribed by the IRS upon the expiration or obsolescence of any previously delivered form, after the occurrence of any event requiring a change in the most recent forms delivered by it to the Company and the Administrative Agent, or at any other time reasonably requested by the Company or promptly notify the Company or the Administrative Agent in writing of its legal inability to do so.

(B) If a payment made to a Lender under any Loan 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 Withholding Agent, at the time or times prescribed by law and at such time or times reasonably requested by the Withholding 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 Withholding Agent as may be necessary for the Withholding Agent to comply with its obligations under FATCA, to determine that such Lender has or has not complied with such Lender's obligations under FATCA and, as necessary, to determine the amount to deduct and withhold from such payment. Solely for purposes of this Section 2.16(f)(B), "FATCA" shall include any amendments made to FATCA after the date of this Agreement.

(C) Any Lender that is entitled to an exemption from, or reduction of withholding Tax under the laws of a country other than the United States of America, or any treaty to which such country is a party, with respect to payments under this Agreement or any other Loan Document shall deliver to the Company (with a copy to the Administrative Agent), at the time or times reasonably requested by the Company or the Administrative Agent, (A) such properly completed and duly executed documentation prescribed by applicable laws as will permit the Company or the Administrative Agent, as the case may be, to establish such Lender's entitlement to any available exemption from, or reduction of, applicable Taxes (other than United States Taxes), and (B) such other documentation and reasonably requested information as will permit the Company or the Administrative Agent, as the case may be, to determine, if applicable, the required rate of withholding or deduction for any applicable Taxes and any required information reporting requirements, in each case, in respect of any payments to be made to such Lender pursuant to any Loan Document. The completion, execution and submission of any documentation contemplated by this Section 2.16(f)(C) shall not be required if in the Lender's judgment such completion, execution or submission would subject such Lender to any material unreimbursed cost or expense or would materially prejudice the legal or commercial position of such Lender. Each Lender shall deliver to the Company and the Administrative Agent two further original copies of any previously delivered form or certification (or any applicable successor form) on or before the date that any such form or certification expires or becomes obsolete or inaccurate and promptly after the occurrence of any event requiring a change in the most recent form previously delivered by it to the Company or the Administrative Agent, or promptly notify the Company and the Administrative Agent that it is unable to do so. Each Lender shall promptly notify the Administrative Agent at any time it determines that it is no longer in a position to provide any previously delivered form or certification under this Section 2.16(f)(C) to the Company or the Administrative Agent. Notwithstanding any other provision of this Section 2.16(f)(C), a Lender or Agent shall not be required to deliver any form pursuant to this Section 2.16(f)(C) that it is not legally able to deliver.

(g) If the Administrative Agent or a Lender determines, in its sole discretion, that it has received a refund of any Taxes as to which it has been indemnified by a Loan Party or with respect to which a Loan Party has paid additional amounts pursuant to this Section, it shall pay over such refund to the Loan Party (but only to the extent of indemnity payments made, or additional amounts paid, by the Loan Party under this Section with respect to the Taxes giving rise to such refund), net of all out-of-pocket expenses of the Administrative Agent or such Lender and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund); provided, that the Loan Party, upon the request of the Administrative Agent or such Lender, agrees to repay the amount paid over to the Loan Party (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) to the Administrative Agent or such Lender in the event the Administrative Agent or such Lender is required to repay such refund to such Governmental Authority. This Section shall not be construed to require the Administrative Agent or any Lender to make available its tax returns (or any other information relating to its taxes which it deems confidential) to the Loan Party or any other Person.

(h) [Reserved.]

(i) [Reserved.]

(j) Each party's obligations under this Section 2.16 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 this Agreement and any other Loan Document.

SECTION 2.17. Payments Generally; Pro Rata Treatment; Sharing of Set-offs. (a) Each Borrower shall make each payment required to be made by it hereunder (whether of principal, interest, fees or reimbursement of LC Disbursements, or of amounts payable under Section 2.14, 2.15 or 2.16, or otherwise) on the date when due, in immediately available funds, without set-off or counterclaim, and each Borrower agrees to instruct its bank which will be transmitting such funds with respect to such payments not later than 10:00 A.M. (New York City time) on the date when due. All such payments shall be made to the Administrative Agent at its offices at 383 Madison Avenue, New York, New York, except payments to be made directly to an Issuing Bank as expressly provided herein and except that payments pursuant to Sections 2.14, 2.15, 2.16 and 8.03 shall be made directly to the Persons entitled thereto. The Administrative Agent shall distribute any such payments received by it for the account of any other Person to the appropriate recipient promptly following receipt thereof. If any payment hereunder shall be due on a day that is not a Business Day, the date for payment shall be extended to the next succeeding Business Day, and, in the case of any payment accruing interest, interest thereon shall be payable for the period of such extension. Payments of principal and interest on any Loan shall be in the currency in which such Loan is denominated. Reimbursement of LC Disbursement and interest thereon shall be paid in the currency in which such LC Disbursement was made. All other payments hereunder shall be made in US Dollars.

(b) If at any time insufficient funds are received by and available to the Administrative Agent to pay fully all amounts of principal, unreimbursed LC Disbursements, interest and fees then due from an applicable Borrower hereunder, such funds shall be applied (i) first, towards payment of interest and fees then due from such Borrower hereunder, ratably among the parties entitled thereto in accordance with the amounts of such interest and fees then due to such parties by such Borrower, and (ii) second, towards payment of principal and unreimbursed LC Disbursements then due from such Borrower hereunder, ratably among the parties entitled thereto in accordance with the amounts of principal and unreimbursed LC Disbursements then due to such parties by such Borrower.

(c) If any Lender shall, by exercising any right of set-off or counterclaim or otherwise, obtain payment in respect of any principal of or interest on any of its (i) Revolving Loans or participations in LC Disbursements in respect of Letters of Credit or Protective Advances or (ii) Loans or participations in LC Disbursements or Protective Advances of any other Class resulting in such Lender receiving payment of a greater proportion of the aggregate amount of its (i) Revolving Loans and participations in LC Disbursements and Protective Advances or (ii) Loans and participations in LC Disbursements and Protective Advances of any other Class and, in each case, accrued interest thereon than the proportion received by any other Lender of the applicable Class, then the Lender receiving such greater proportion shall purchase (for cash at face value) participations in the (i) Revolving Loans and participations in LC Disbursements in respect of Letters of Credit and Protective Advances or (ii) Loans and participations in LC Disbursements and Protective Advances of any other Class of other Lenders of the applicable Class to the extent necessary so that the benefit of all such payments shall be shared by the Lenders of the applicable Class ratably in accordance with the aggregate amount of principal of and accrued interest on their respective (i) Revolving Loans and participations in LC Disbursements in respect of Letters of Credit and Protective Advances or (ii) Loans and participations in LC Disbursements and Protective Advances of any other Class; provided that (i) if any such participations are purchased and all or any portion of the payment giving rise thereto is recovered, such participations shall be rescinded and the purchase price restored to the extent of such recovery, without interest, and (ii) the provisions of this paragraph shall not be construed to apply to any payment made by a Borrower pursuant to and in accordance with the express terms of this Agreement or any payment obtained by a Lender as consideration for the assignment of or sale of a participation in any of its Loans or participations in LC Disbursements or Protective Advances to any assignee or participant, other than to the Company or any Subsidiary or Affiliate thereof (as to which the provisions of this paragraph shall apply). The Borrowers consent to the foregoing and agree, to the extent they may effectively do so under applicable law, that any Lender acquiring a participation pursuant to the foregoing arrangements may exercise against the Borrowers rights of set-off and counterclaim with respect to such participation as fully as if such Lender were a direct creditor of the Borrowers in the amount of such participation.

(d) Unless the Administrative Agent shall have received notice from the applicable Borrower prior to the date on which any payment is due to the Administrative Agent for the account of any Lenders or any Issuing Bank hereunder that such Borrower will not make such payment, the Administrative Agent may assume that such Borrower has made such payment on such date in accordance herewith and may, in reliance upon such assumption, distribute to the applicable Lenders or such Issuing Bank, as the case may be, the amount due. In such event, if such Borrower has not in fact made such payment, then each of the applicable Lenders or such Issuing Bank, 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 Bank 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 (A) (x) the Federal Funds Effective Rate in the case of Loans denominated in US Dollars and (y) the rate reasonably determined by the Administrative Agent to be the cost of funding such amount, in the case of Loans denominated in Canadian Dollars and (B) a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation.

(e) If any Lender shall fail to make any payment required to be made by it pursuant to Section 2.05(d) or (e), 2.06(b) or 2.17(d), then the Administrative Agent may, in its discretion (notwithstanding any contrary provision hereof), apply any amounts thereafter received by the Administrative Agent for the account of such Lender to satisfy such Lender's obligations under such Sections until all such unsatisfied obligations are fully paid.

SECTION 2.18. Mitigation Obligations; Replacement of Lenders. (a) If any Lender requests compensation under Section 2.14 or 2.21, or additional interest under Section 2.12(h) or if a Borrower is required to pay any additional amount to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 2.16 or 2.21, then such Lender shall use reasonable efforts to designate a different 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 2.12(h), 2.14, 2.16 or 2.21, as the case may be, in the future and (ii) would not subject such Lender to any unreimbursed cost or expense and would not otherwise be disadvantageous to such Lender. The applicable Borrower hereby agrees to pay all reasonable costs and expenses incurred by any Lender in connection with any such designation or assignment.

(b) If any Lender requests compensation under Section 2.14 or 2.21, or additional interest under Section 2.12(h), or if a Borrower is required to pay any additional amount to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 2.16 or 2.21, or if any Lender becomes a Defaulting Lender, then the Company may, at its sole expense and effort, upon notice to such Lender and the Administrative Agent, require such Lender to assign and delegate, without recourse (in accordance with and subject to the restrictions contained in Section 8.04), all its interests, rights and obligations under this Agreement to an Eligible Assignee that shall assume such obligations (which assignee may be another Lender, if a Lender accepts such assignment); provided that (i) the Company shall have received the prior written consent of the Administrative Agent (and, if a Commitment is being assigned, the Issuing Banks), which consents shall not unreasonably be withheld, (ii) such Lender shall have received payment of an amount equal to the outstanding principal of its Loans and participations in LC Disbursements and Protective Advances, accrued interest thereon, accrued fees and all other amounts, in each case payable to it by the applicable Borrower hereunder, from the assignee (to the extent of such outstanding principal and accrued interest and fees) or the applicable Borrower (in the case of all other amounts) and (iii) in the case of any such assignment resulting from a claim for compensation under Section 2.14 or 2.21, additional interest under Section 2.12(h) or payments required to be made pursuant to Section 2.16 or 2.21, such assignment will result in a material reduction in such compensation or payments. A Lender shall not be required to make any such assignment and delegation if, prior thereto, as a result of a waiver by such Lender or otherwise, the circumstances entitling the applicable Borrower to require such assignment and delegation cease to apply.

(c) If any Lender becomes a Defaulting Lender, then, and at any time thereafter while such Lender continues to be a Defaulting Lender, the Company may, in its sole discretion, terminate the Commitment of such Lender and prepay all Loans of such Lender then outstanding, together with interest thereon to the date of such prepayment; provided that such termination and prepayment shall be permitted only if, after giving effect thereto (including the adjustment of Credit Exposures of the Lenders to give effect to the allocation of LC Exposure in accordance with the Applicable Percentages of the Lenders after giving effect thereto), no Lender's Credit Exposure shall exceed its Commitment.

(d) In connection with any proposed amendment, modification or waiver of or with respect to any provision of this Agreement (a "Proposed Change") requiring the consent of all Lenders, if the consent of the Required Lenders to such Proposed Change is obtained, but the consent to such Proposed Change of other Lenders whose consent is required is not obtained, then the Company may, at its sole expense and effort, upon notice to each Non-Consenting Lender and the Administrative Agent, require each Non-Consenting Lender to assign and delegate, without recourse (in accordance with and subject to the restrictions contained in Section 8.04) all its interests, rights and obligations under this Agreement to an Eligible Assignee that shall assume such obligations (which assignee may be another Lender, if a Lender accepts such assignment); provided that (i) the Company shall have received the prior written consent of the Administrative Agent, which consent shall not be unreasonably withheld, (ii) such Non-Consenting Lender shall have received payment of an amount equal to the outstanding principal of its Loans and participations in LC Disbursements and Protective Advances, accrued interest thereon, accrued fees and all other amounts, in each case payable to it by the Company hereunder, from the assignee (to the extent of such outstanding principal and accrued interest and fees) or the Company (in the case of all other amounts) and (iii) the Company shall not be permitted to require any Non-Consenting Lender to make any such assignment unless all Non-Consenting Lenders are required to make such assignments and, as a result thereof, the Proposed Change will become effective.

SECTION 2.19. Defaulting Lenders. Notwithstanding any other provision of this Agreement to the contrary, if any Lender becomes a Defaulting Lender then the following provisions shall apply for so long as such Lender is a Defaulting Lender:

(a) if any Protective Advance Exposures in respect of any Class exists at the time a Lender of such Class is a Defaulting Lender the Protective Advance Exposures of such Defaulting Lender shall be reallocated among the non-Defaulting Lenders at such time in accordance with their respective Applicable Percentages but only to the extent that after giving effect to any such reallocation, (i) the Credit Exposure of each non-Defaulting Lender of such Class would not exceed its Commitments of such Class and (ii) the total Credit Exposure of all non-Defaulting Lenders of such Class would not exceed the total Commitments of such Lenders of such Class; provided that if such reallocation cannot, or can only partially, be effected, the Company shall within one Business Day following notice by the Administrative Agent prepay the portion of such Defaulting Lender's Protective Advance Exposures that has not been reallocated; provided, further, that the conditions set forth in Section 4.02 are satisfied at the time of such reallocation (and, unless the Company shall have otherwise notified the Administrative Agent at such time, the Company shall be deemed to have represented and warranted that such conditions are satisfied at such time);

(b) if any LC Exposure in respect of any Class exists at the time a Lender of such Class is a Defaulting Lender the Company shall within three Business Days following notice by the Administrative Agent either (i) cash collateralize such Defaulting Lender's LC Exposure of such Class in accordance with the procedures set forth in Section 2.05(j) for so long as such Defaulting Lender's LC Exposure of such Class is outstanding, (ii) elect, by notice to the Administrative Agent, an LC Exposure Reallocation with respect to such Defaulting Lender's LC Exposure of such Class, provided that the conditions set forth in Section 4.02 are satisfied at the time of such reallocation (and, unless the Company shall have otherwise notified the Administrative Agent at such time, the Company shall be deemed to have represented and warranted that such conditions are satisfied at such time) or (iii) comply with a combination of clauses (i) and (ii) above with respect to such Defaulting Lender's LC Exposure of such Class;

(c) no Issuing Bank shall be required to issue, amend or increase any Letter of Credit of any Class unless the Company provides cash collateral or elects an LC Exposure Reallocation (or a combination thereof) in accordance with clause (b) above in respect of such Defaulting Lender's LC Exposure of such Class in respect thereof;

(d) no commitment fees or participation fees shall accrue for the account of or be payable to such Defaulting Lender; and

(e) the Commitment and Credit Exposure of such Defaulting Lender shall not be included in determining whether the Required Lenders, the Supermajority Lenders or any other requisite Lenders have taken or may take any action hereunder or under any other Loan Document (including any consent to any amendment, waiver or other modification pursuant to Section 8.02 or Section 8.02A); provided that any amendment, waiver or other modification requiring the consent of all Lenders or all Lenders affected thereby shall, except as otherwise provided in Section 8.02, require the consent of such Defaulting Lender in accordance with the terms hereof.

It is understood that, if the Commitment of a Defaulting Lender is assigned pursuant to Section 2.18(b) or terminated pursuant to Section 2.18(c), the provisions of this Section 2.19 shall cease to apply in respect of such Defaulting Lender and its Commitment.

SECTION 2.20. Additional Borrowers; Borrowing Subsidiary Terminations.

(a) After the Effective Date, the Company may designate any wholly-owned Domestic Subsidiary or Canadian Subsidiary acceptable to the Lenders of any Class of Commitments and the Administrative Agent as an Additional Borrower in respect of such Class by delivery to the Administrative Agent of (i) an Additional Borrower Agreement executed by such Subsidiary and the Company, substantially in the form of Exhibit B-1 hereto (each, an "Additional Borrower Agreement") and (ii) a favorable written opinion (addressed to the Administrative Agent and the Lenders) of counsel of such Subsidiary or Subsidiaries (which opinion shall be reasonably satisfactory to the Administrative Agent). Upon the written acceptance of the Additional Borrower Agreement by the Administrative Agent and all the Lenders of the applicable Class, in each applicable Lender's sole discretion, such Subsidiary shall for all purposes of this Agreement be an Additional Borrower with respect to such Class and a party to this Agreement.

(b) If the Company wishes to terminate a Borrowing Subsidiary, the Company may execute and deliver to the Administrative Agent, at least ten Business Days prior to effectiveness, a Borrowing Subsidiary Termination substantially in the form of Exhibit B-2 hereto (each, a "Borrowing Subsidiary Termination") with respect to any Borrowing Subsidiary, and such Subsidiary shall cease to be a Borrowing Subsidiary and a party to this Agreement. Notwithstanding the foregoing, no Borrowing Subsidiary Termination will become effective as to any Borrowing Subsidiary at a time when any principal of or interest on any Loan to such Borrowing Subsidiary shall be outstanding hereunder. Promptly following receipt of any Additional Borrower Agreement or Borrowing Subsidiary Termination, the Administrative Agent shall send a copy thereof to each Lender.

SECTION 2.21. Canadian Borrower Costs.

(a) If the cost to any Lender of making or maintaining any Loan to any Additional Borrower that is a Canadian Borrower is increased, or the amount of any sum received or receivable by any Lender (or its lending office) from any such Canadian Borrower is reduced, by an amount deemed in good faith by such Lender to be material, by reason of the fact that such Additional Borrower is organized under the laws of, or principally conducts its business in, a jurisdiction or jurisdictions outside the United States of America, the Company shall indemnify such Lender for such increased cost or reduction within 30 days after demand by such Lender (with a copy to the Administrative Agent). A certificate of such Lender claiming compensation under this subsection (a) and setting forth the additional amount or amounts to be paid to it hereunder, together with calculations in reasonable detail supporting such amounts, shall be conclusive in the absence of clearly demonstrable error.

(b) Each Lender will promptly notify the Company and the Administrative Agent of any event of which it has knowledge that will entitle such Lender to additional interest or payments pursuant to paragraph (a) above, but in any event within 45 days after such Lender obtains actual knowledge thereof; provided that (i) if any Lender fails to give such notice within 45 days after it obtains actual knowledge of such an event, such Lender shall, with respect to compensation payable pursuant to this Section in respect of any costs resulting from such event, only be entitled to payment under this Section for costs incurred from and after the date 45 days prior to the date that such Lender does give such notice and (ii) each Lender will designate a different applicable lending office, if, in the judgment of such Lender, such designation will avoid the need for, or reduce the amount of, such compensation and will not be otherwise disadvantageous to such Lender or to the Company or any Borrower.

(c) The foregoing provisions of this Section shall not apply to Taxes imposed on or with respect to payments made by the Borrowers hereunder or Other Taxes, which Taxes shall be governed in each case solely by Section 2.16.

ARTICLE III

Representations and Warranties

The Company represents and warrants to the Lenders that:

SECTION 3.01. Corporate Existence and Power. Each Loan Party is duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization and has all corporate or other organizational power and authority required to carry on its business as now conducted.

SECTION 3.02. Corporate and Governmental Authorization; No Contravention. The Transactions to be entered into by each Loan Party (a) are within such Loan Party's corporate or other organizational power, (b) have been duly authorized by all necessary corporate or other organizational action, (c) require no action by or in respect of, or filing with, any governmental body, agency or official (other than the filing of reports with the Securities and Exchange Commission and filings necessary to satisfy the Collateral and Guarantee Requirement) and (d) do not contravene, or constitute a default under, (i) any provision of applicable law or regulation, (ii) the certificate of incorporation, bylaws or other organizational documents of such Loan Party or (iii) any agreement, judgment, injunction, order, decree or other instrument binding upon such Loan Party, in each case of clauses (c), (d)(i) and (d)(iii) where the failure to take such action, make such filing or contravention or default would reasonably be expected to have a Material Adverse Effect.

SECTION 3.03. Binding Effect. This Agreement has been duly executed and delivered by the Borrowers and constitutes, and each Collateral Agreement (at such times as the Collateral and Guarantee Requirement is required to be satisfied) has been duly executed and delivered by the Company and each Material Subsidiary party thereto and constitutes, a valid and binding obligation of the Company (and such Material Subsidiary, if applicable), enforceable in accordance with its terms, subject to applicable bankruptcy, insolvency and other similar laws affecting creditors' rights generally, concepts of reasonableness and general principles of equity, regardless of whether considered in a proceeding in equity or at law.

SECTION 3.04. Financial Information. (a) The consolidated balance sheet of the Company and the Subsidiaries and the related consolidated statements of income, shareholders' equity and cash flows as of and for (i) Fiscal Year 2020, reported on by Ernst & Young LLP and set forth in the Registration Statement, a copy of which has been delivered to each of the Lenders, and (ii) the first fiscal quarter of Fiscal Year 2021, certified by a Financial Officer, in each case fairly present, in conformity with GAAP (except, in the case of the financial statements referred to in clause (ii) above, for normal year-end adjustments and the absence of footnotes), the consolidated financial position of the Company and the Subsidiaries as of such date and their consolidated results of operations and cash flows for such Fiscal Year or portion of such Fiscal Year, as applicable.

(b) From January 30, 2021 to the date hereof or any Test Date, as applicable, there has been no material adverse change in the business, financial position or results of operations of the Company and the Consolidated Subsidiaries, considered as a whole.

SECTION 3.05. Litigation and Environmental Matters. (a) Except for the Disclosed Matters, there is no action, suit or proceeding pending against, or to the knowledge of the Company threatened against or affecting, the Company or any Consolidated Subsidiaries before any court or arbitrator or any governmental body, agency or official in which there is, in the good faith judgment of the Company (which shall be conclusive), a reasonable possibility of an adverse decision, which would reasonably be expected to have a Material Adverse Effect.

(b) Except with respect to any matters that, individually or in the aggregate, are not reasonably expected in the good faith judgment of the Company (which shall be conclusive) to have a Material Adverse Effect of the type referred to in clause (a) of the definition thereof, neither the Company nor any of the Consolidated Subsidiaries (i) has failed to comply with any Environmental Law or to obtain, maintain or comply with any permit, license or other approval required under any Environmental Law, (ii) has become subject to any Environmental Liability, (iii) has received notice of any claim with respect to any Environmental Liability or (iv) knows of any basis for any Environmental Liability.

(c) Since the date of this Agreement, there has been no change in the status of the Disclosed Matters that, individually or in the aggregate in the good faith judgment of the Company (which shall be conclusive), has resulted in a Material Adverse Effect.

SECTION 3.06. Anti-Corruption Laws and Sanctions. The Company has implemented and maintains in effect policies and procedures designed to promote compliance by the Company, its Subsidiaries and their respective directors, officers, employees and agents (acting in their capacity as such) with the FCPA, the U.K. Bribery Act 2010 and applicable Sanctions, and the Company and each of its Subsidiaries, to the knowledge of the Company, is in compliance with all Anti-Corruption Laws, applicable Sanctions, and, to the extent applicable, the USA Patriot Act, in all material respects. None of the Company or any Subsidiary, or, to the knowledge of the Company, any director, officer, employee or agent with respect to the facility of the Company or any Subsidiary, is a Sanctioned Person. This Section applies, other than to the extent that such representation and warranty would result in a violation of Council Regulation (EC) No 2271/96, as amended (or any implementing law or regulation in any member state of the European Union or the United Kingdom).

SECTION 3.07. Subsidiaries. (a) Each of the Consolidated Subsidiaries is a corporation, limited liability company or partnership duly organized, validly existing and, to the extent applicable, in good standing under the laws of its jurisdiction of organization, and has all requisite power and authority required to carry on its business as now conducted except to the extent that the failure of any such Consolidated Subsidiary to be so organized, existing or in good standing or to have such power and authority is not reasonably expected by the Company to have a Material Adverse Effect.

(b) Schedule 3.07 hereto completely and accurately sets forth the names and jurisdictions of organization of each Consolidated Subsidiary that is a Domestic Subsidiary or a Canadian Subsidiary as of the Effective Date, indicating for each such Subsidiary whether it is a Material Subsidiary as of the Effective Date.

SECTION 3.08. Not an Investment Company. None of the Borrowers or the Subsidiary Loan Parties is required to register as an “investment company” under (and within the meaning of) the Investment Company Act of 1940, as amended.

SECTION 3.09. ERISA. (a) The Company and its ERISA Affiliates (i) have fulfilled their material obligations, whether or not waived, under the minimum funding standards of Section 302 of ERISA and Section 412 of the Code with respect to each Plan, (ii) are in compliance in all material respects with the presently applicable provisions of ERISA and the Code and (iii) have not incurred any liability in excess of \$100,000,000 to the PBGC or a Plan under Title IV of ERISA other than a liability to the PBGC for premiums under Section 4007 of ERISA; provided, that this sentence shall not apply to (x) any ERISA Affiliate as described in Section 414(m) of the Code (other than the Company or a Subsidiary) or any Plan maintained by such an ERISA Affiliate or (y) any Multiemployer Plan. The Company and its Subsidiaries have made all material payments to Multiemployer Plans which they have been required to make under the related collective bargaining agreement or applicable law. As of the Effective Date, the Company and its Subsidiaries do not contribute to or have an obligation to contribute to a Multiemployer Plan, nor have they contributed or had an obligation to contribute to a Multiemployer Plan in the preceding six years.

(b) Canadian Employee Benefit Plans. As of the Effective Date, none of the Canadian Pension Plans are Canadian Defined Benefit Pension Plans. All Canadian Pension Plans are duly registered under the ITA and applicable Canadian Pension Benefits Legislation and no event has occurred which would reasonably be expected to cause the loss of such registered status where the loss of such registered status could reasonably be expected to result in a Material Adverse Effect. The Canadian Pension Plans have each been administered, funded and invested in accordance with the terms of the particular plan, all applicable laws including, where applicable, the ITA and Canadian Pension Benefits Legislation, and the terms of all applicable collective bargaining agreements and employment contracts, except where the failure to do so could not reasonably be expected to result in a Material Adverse Effect. All material obligations of each of the Loan Parties (including fiduciary, funding, investment and administration obligations) required to be performed in connection with the Canadian Pension Plans and the funding agreements therefor have been performed on a timely basis, except where the failure to do so could not reasonably be expected to result in a Material Adverse Effect. There are no outstanding disputes concerning the assets of the Canadian Pension Plans except for such disputes which would not reasonably be expected to result in a Material Adverse Effect. All employee and employer payments, contributions (including “normal cost”, “special payments” and any other payments in respect of any funding deficiencies or shortfalls) or premiums required to be withheld, made, remitted or paid to or in respect of each Canadian Pension Plan and all other amounts that are due to the pension fund of any Canadian Pension Plan from any Loan Party or any of their respective Affiliates have been withheld, made, remitted or paid on a timely basis in accordance with the terms of such plans, any applicable collective bargaining agreement or employment contract and all applicable laws, except where the failure to do so could not reasonably be expected to result in a Material Adverse Effect. There has been no improper withdrawal or application of the assets of the Canadian Pension Plans as of the Effective Date.

SECTION 3.10. Taxes. The Company and its Consolidated Subsidiaries have filed all United States federal income tax returns and all other material tax returns which, in the opinion of the Company, are required to be filed by them and have paid all taxes due pursuant to such returns or pursuant to any assessment received by the Company or any Consolidated Subsidiary, except for assessments which are being contested in good faith by appropriate proceedings. The charges, accruals and reserves on the books of the Company and its Consolidated Subsidiaries in respect of taxes or other governmental charges are, in the opinion of the Company, adequate.

SECTION 3.11. Disclosure. The financial statements delivered pursuant to Section 5.01(a)(i) and (ii), the registration statements delivered pursuant to Section 5.01(a)(vii) (in each case in the form in which such registration statements were declared effective, as amended by any post-effective amendments thereto) and the reports on Forms 10-K, 10-Q and 8-K delivered pursuant to Section 5.01(a)(vii), do not, taken as a whole and in each case as of the date thereof, contain any material misstatement of fact or omit to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not materially misleading; provided that, with respect to projected financial information, the Company represents only that such information was prepared in good faith based upon assumptions believed to be reasonable at the time.

SECTION 3.12. Credit Card Agreements. Schedule 3.12 (as updated from time to time as permitted by Section 5.24) sets forth a list of all Credit Card Agreements to which any Loan Party is a party. A true and complete copy of each Credit Card Agreement listed in Schedule 3.12 has been delivered to the Collateral Agent, together with all material amendments, waivers and other modifications thereto; provided that the Private Label Credit Card Program Agreement dated as of June 1, 2018 between Victoria's Secret Stores, LLC, Lone Mountain Factoring, LLC, L Brands Direct Marketing, Inc., L Brands Direct Fulfillment, Inc., Far West Factoring, LLC, Puerto Rico Store Operations LLC and Comenity Bank shall be delivered only to a field appraiser or examiner in connection with a field examination or Inventory appraisal conducted pursuant to Section 5.23. All such Credit Card Agreements are in full force and effect, currently binding upon each Loan Party that is a party thereto and, to the knowledge of the Loan Parties, binding upon other parties thereto in accordance with their terms. The Loan Parties are in compliance in all material respects with each such Credit Card Agreement.

ARTICLE IV

Conditions

SECTION 4.01. Conditions Precedent to Effectiveness.

(a) The Administrative Agent (or its counsel) shall have received from the Company and each Lender either (i) a counterpart of this Agreement signed on behalf of such party or (ii) written evidence satisfactory to the Administrative Agent (which may include facsimile or other electronic transmission of a signed signature page of this Agreement) that such party has signed a counterpart of this Agreement.

(b) The Administrative Agent (or its counsel) shall have received from the Company and each Subsidiary Loan Party either (i) a counterpart of the applicable Collateral Agreement signed on behalf of such party or (ii) written evidence satisfactory to the Administrative Agent (which may include facsimile or other electronic transmission of a signed signature page of the US Collateral Agreement) that such party has signed a counterpart of the applicable Collateral Agreement.

(c) The Collateral and Guarantee Requirement shall have been satisfied with respect to clauses (b) and (h) of the definition thereof.

(d) The Administrative Agent shall have received a completed Perfection Certificate, in the form of Exhibit II to each Collateral Agreement, dated the Effective Date and signed by an authorized officer of the Company and each Subsidiary Loan Party.

(e) The Administrative Agent shall have received a written opinion dated the Effective Date of (i) Davis Polk & Wardwell LLP, New York counsel for the Loan Parties, (ii) Morris, Nichols, Arsht & Tunnell LLP, Delaware counsel for the Loan Parties, (iii) Osler Hoskin & Harcourt LLP, Canadian counsel for the Loan Parties and (iv) Stewart McKelvey, Nova Scotia counsel for the Loan Parties, in each case in form and substance reasonably satisfactory to the Administrative Agent and covering such matters relating to the Loan Parties, this Agreement, the Collateral Agreements and the other Loan Documents in effect on the date hereof as the Administrative Agent shall reasonably request. The Company hereby requests such counsel to deliver such opinion.

(f) The Administrative Agent shall have received such documents and certificates as the Administrative Agent or its counsel may reasonably request relating to the organization, existence and good standing of the Loan Parties, the authorization by the Loan Parties of the transactions contemplated hereby and any other legal matters relating to the Loan Parties or the transactions contemplated hereby, all in form and substance reasonably satisfactory to the Administrative Agent and its counsel.

(g) The Administrative Agent shall have received a Borrowing Base Certificate, dated the Effective Date and signed and certified as accurate and complete by the President, a Vice President, a Director or a Financial Officer of the Company.

(h) The Administrative Agent shall have received a certificate, dated the Effective Date and signed by the President, a Vice President, a Director or a Financial Officer of the Company, confirming the representations and warranties set forth in Article 3 of this Agreement.

(i) The Administrative Agent shall have received all fees and other amounts due and payable on or prior to the Effective Date, including (i) for the account of each Lender, an upfront fee in an amount equal to either (x) in the case of each Lender that is a Joint Lead Arranger and Joint Bookrunner (as identified on the cover page of this Agreement), 0.30%, and (y) in the case of each other Lender, an upfront fee in an amount equal to 0.25%, in each case of the aggregate principal amount of the Commitment of such Lender as set forth on Schedule 2.01 on the Effective Date and (ii) to the extent invoiced at least one Business Day prior to the Effective Date, reimbursement or payment of all out-of-pocket expenses required to be reimbursed or paid by the Borrowers under any Loan Document.

(j) (i) No later than three Business Days prior to the Effective Date, the Administrative Agent shall have received all documentation and other information reasonably requested by it or any Lender at least 10 Business Days prior to the Effective Date to satisfy the requirements of bank regulatory authorities under applicable “know your customer” and anti-money laundering rules and regulations, including the Patriot Act, and (ii) to the extent a Borrower qualifies as a “legal entity” under the Beneficial Ownership Regulation, no later than three Business Days prior to the Effective Date, any Lender that has requested at least 10 Business Days prior to the Effective Date a Beneficial Ownership Certification in relation to the Borrowers shall have received such Beneficial Ownership Certification.

(k) An Intercreditor Agreement shall have been duly executed and delivered by the Administrative Agent and the Term Loan Agent (as defined therein) and shall be in full force and effect and acknowledged by the Loan Parties.

(l) (x) The Pre-Closing Reorganization Transactions shall have occurred or shall occur substantially simultaneously with the initial funding of the Initial Term Loans (as defined in the Term Loan Credit Agreement) and (y) the Registration Statement shall have been declared effective by the Securities and Exchange Commission.

The Administrative Agent shall notify the Company and the Lenders of the Effective Date, and such notice shall be conclusive and binding.

SECTION 4.02. Each Credit Event. The obligation of each Lender to make a Loan on the occasion of any Borrowing, and of any Issuing Bank to issue, amend or extend any Letter of Credit, is subject to the satisfaction of the following conditions:

(a) The representations and warranties of the Company set forth in this Agreement shall be true and correct (i) in the case of representations and warranties that are qualified by materiality, in all respects and (ii) otherwise, in all material respects, and at such times as the Collateral and Guarantee Requirement is required to be satisfied, the representations and warranties of the Loan Parties as set forth in the Collateral Agreements shall be true and correct (i) in the case of representations and warranties that are qualified by materiality, in all respects and (ii) otherwise, in all material respects, in each case on and as of the date of such Borrowing or the date of issuance, amendment or extension of such Letter of Credit, as applicable (except to the extent that any such representation or warranty expressly relates to a specified date or dates, in which case such representation or warranty shall be true and correct in all material respects as of such specified date or dates).

(b) At the time of and immediately after giving effect to such Borrowing or the issuance, amendment or extension of such Letter of Credit, as applicable, no Default shall have occurred and be continuing.

(c) [reserved].

(d) At the time of such Borrowing or the issuance, amendment or extension of such Letter of Credit, as applicable, the Borrowing Base Certificate most recently delivered by the Company pursuant to Section 5.01(a)(iii) shall have been accurate in all material respects as of the date of such Borrowing Base Certificate.

Each Borrowing and each issuance, amendment or extension of a Letter of Credit shall be deemed to constitute a representation and warranty by the Borrowers on the date thereof as to the matters specified in paragraphs (a), (b) and (d) of this Section.

ARTICLE V

Covenants

The Company agrees that, so long as any Lender has any Commitment hereunder or any amount payable hereunder remains unpaid:

SECTION 5.01. Information. (a) The Company will deliver to the Administrative Agent and each of the Lenders:

(i) as soon as available and in any event within 90 days after the end of each Fiscal Year, the Annual Report of the Company on Form 10-K for such Fiscal Year, containing financial statements reported on in a manner acceptable to the Securities and Exchange Commission by Ernst & Young LLP or other independent public accountants of nationally recognized standing selected by the Company (without a “going concern” or like qualification, exception or statement and without any qualification or exception as to the scope of such audit);

(ii) as soon as available and in any event within 45 days after the end of each of the first three quarters of each Fiscal Year, a copy of the Company’s report on Form 10-Q for such quarter with the financial statements therein contained to be certified (subject to normal year-end adjustments) as to fairness of presentation, generally accepted accounting principles (except footnotes) and consistency, by a Financial Officer;

(iii) as soon as available but in any event within 15 Business Days after the end of each Fiscal Month, as of the last day of such Fiscal Month (or within three Business Days after the end of each week, as of the last day of such week, during any Enhanced Borrowing Base Reporting Period), a Borrowing Base Certificate and supporting information in connection therewith, together with any additional reports and supplemental documentation with respect to the Borrowing Base as the Collateral Agent may request in its Permitted Discretion;

(iv) simultaneously with the delivery of each set of financial statements referred to in clauses (i) and (ii) above, a certificate of a Financial Officer (1) setting forth in reasonable detail the calculations required to establish whether the Company was in compliance with the requirements of Section 5.06 on the date of such financial statements, (2) stating whether, to the best knowledge of such Financial Officer, any Default exists on the date of such certificate and, if any Default then exists, setting forth the details thereof and the action which the Company is taking or proposes to take with respect thereto, (3) stating that all Material Subsidiaries have satisfied the Collateral and Guarantee Requirement and (4) unless (x) if both rating agencies shall have a Credit Rating then in effect, the Credit Ratings are BBB- and Baa3 (in each case, with stable outlook) or better or (y) if only one rating agency shall have a Credit Rating then in effect, the Credit Rating from such rating agency is BBB- or Baa3 (in each case, with stable outlook) or better, stating the aggregate amount of Investments and Restricted Payments made in reliance on Section 5.17(c) and Section 5.18(c) during the preceding fiscal quarter and confirming that the applicable Payment Conditions were satisfied with respect to each such Investment or Restricted Payment;

(v) simultaneously with the delivery of each set of financial statements referred to in clause (i) above, a statement of the firm of independent public accountants which reported on such statements whether anything has come to their attention to cause them to believe that any Default existed on the date of such statements (insofar as such pertains to accounting matters);

(vi) promptly upon the mailing thereof to the stockholders of the Company generally, copies of all financial statements, reports and proxy statements so mailed;

(vii) promptly upon the filing thereof, copies of all registration statements (other than the exhibits thereto and any registration statements on Form S-8 or its equivalent) and reports on Forms 10-K, 10-Q and 8-K (or their equivalents) which the Company shall have filed with the Securities and Exchange Commission;

(viii) promptly following a request therefor, any documentation or other information that a 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 Patriot Act and the Beneficial Ownership Regulation;

(ix) within four Business Days of any executive officer of the Company or any Financial Officer obtaining knowledge of any condition or event recognized by such officer to be a Default, a certificate of a Financial Officer setting forth the details thereof and the action which the Company is taking or proposes to take with respect thereto;

(x) (1) if and when any executive officer of the Company or any Financial Officer obtains knowledge that any ERISA Affiliate (x) has given or is required to give notice to the PBGC of any “reportable event” (as defined in Section 4043 of ERISA) with respect to any Plan which would reasonably be expected to constitute grounds for a termination of such Plan under Title IV of ERISA, or knows that the plan administrator of any Plan has given or is required to give notice of any such reportable event, a copy of the notice of such reportable event given or required to be given to the PBGC, (y) has received notice of complete or partial Withdrawal Liability, a copy of such notice or (z) has received notice from the PBGC under Title IV of ERISA of an intent to terminate or appoint a trustee to administer any Plan, a copy of such notice or (2) the occurrence of any Canadian Pension Event that could reasonably be expected to have a Material Adverse Effect;

(xi) from time to time such additional information regarding the financial position or business of the Company and Subsidiaries as the Administrative Agent, at the request of any Lender, may reasonably request;

(xii) as soon as available and in any event within 30 days after the end of each Fiscal Year, a financial forecast for the Company and the Consolidated Subsidiaries for the subsequent Fiscal Year, including a consolidated balance sheet of the Company and its Consolidated Subsidiaries as of the end of such fiscal year and each fiscal quarter thereof and consolidated statements of income and cash flows of the Company and its Consolidated Subsidiaries for such fiscal year and each fiscal quarter thereof; and

(xiii) promptly after the furnishing thereof and to the extent not otherwise required to be furnished to the Lenders pursuant to any clause of this Section 5.01, copies of any material requests or material notices received by the Company or any Subsidiary Loan Party (other than in the ordinary course of business) or material statements or material reports furnished by the Company or any Subsidiary Loan Party pursuant to the terms of any Permitted Non-ABL Indebtedness Documents.

(b) Certificates delivered pursuant to this Section shall be signed manually or shall be copies of a manually signed certificate.

(c) The Company may provide for electronic delivery of the financial statements, certificates, reports and registration statements described in clauses (i), (ii), (iii), (iv), (v), (vi) and (vii) of paragraph (a) of this Section by posting such financial statements, certificates, reports and registration statements on Intralinks or any similar service approved by the Administrative Agent, or delivering such financial statements, certificates, reports and registration statements to the Administrative Agent for posting on Intralinks (or any such similar service). Furthermore, any items required to be furnished pursuant to Sections 5.01(a)(i), (ii), (vi) or (vii) shall be deemed to have been delivered on the date on which the Administrative Agent receives notice that the Company has filed such item with the Securities and Exchange Commission and is available on the EDGAR website on the Internet at www.sec.gov or any successor government website that is freely and readily available to the Administrative Agent without charge; provided that the Company shall give notice of any such filing to the Administrative Agent (who shall then give notice of any such filing to the Lenders). Notwithstanding the foregoing, the Company shall deliver paper or electronic copies of any such financial statement to the Administrative Agent if the Administrative Agent requests the Company to furnish such paper or electronic copies until written notice to cease delivering such paper or electronic copies is given by the Administrative Agent.

SECTION 5.02. Maintenance of Properties. The Company will, and will cause each Consolidated Subsidiary to, maintain and keep in good condition, repair and working order all properties used or useful in the conduct of its business and supply such properties with all necessary equipment and make all necessary repairs, renewals, replacements, betterments and improvements thereof, all as in the judgment of the Company may be necessary so that the business carried on in connection therewith may be properly and advantageously conducted at all times; provided that nothing in this Section shall prevent the Company or any Consolidated Subsidiary from discontinuing the operation and maintenance of any of such properties if such discontinuance is, in the judgment of the Company, desirable in the conduct of the business of the Company or such Consolidated Subsidiary, as the case may be, and not disadvantageous in any material respect to the Lenders.

SECTION 5.03. Maintenance of Insurance. Subject to the grace period in clause (g) of the definition of “Collateral and Guarantee Requirement”, the Company will, and will cause each Consolidated Subsidiary to, insure and keep insured, with reputable insurance companies, so much of its properties and such of its liabilities for bodily injury or property damage, to such an extent and against such risks (including fire), as companies engaged in similar businesses customarily insure properties and liabilities of a similar character; or, in lieu thereof, the Company will maintain, or cause each Consolidated Subsidiary to maintain, a system or systems of self-insurance which will be in accord with the customary practices of companies engaged in similar businesses in maintaining such systems.

SECTION 5.04. Preservation of Corporate Existence. Except pursuant to a transaction not prohibited by Section 5.12 or 5.13, each Loan Party shall preserve and maintain its corporate existence, rights, franchises and privileges in any State of the United States which it shall select as its jurisdiction of incorporation or organization, and qualify and remain qualified as a foreign corporation or foreign organization in each jurisdiction in which such qualification is necessary, except such jurisdictions, if any, where the failure to preserve and maintain its corporate or other organizational existence, rights, franchises and privileges, or qualify or remain qualified will not have a Material Adverse Effect on the business or property of such Loan Party.

SECTION 5.05. Inspection of Property, Books and Records. The Company will, and will cause each Consolidated Subsidiary to, make and keep books, records and accounts in which transactions are recorded as necessary to (a) permit preparation of the Company's consolidated financial statements in accordance with GAAP and (b) otherwise comply with the requirements of Section 13(b)(2) of the Securities Exchange Act of 1934 as in effect from time to time. At any reasonable time during normal business hours and from time to time, the Company will permit the Administrative Agent or any of the Lenders or any agents or representatives thereof at their expense (to the extent not in violation of applicable law) to examine and make copies of and abstracts from the records and books of account of, and visit the properties of, the Company and any Consolidated Subsidiaries and to discuss the affairs, finances and accounts of the Company and any Consolidated Subsidiaries with any of their respective officers or directors. Any information obtained pursuant to this Section or Section 5.01(a) shall be subject to Section 8.12.

SECTION 5.06. Fixed Charge Coverage Ratio. During any period (each, a "Covenant Period") (a)(i) commencing on any day when Specified Excess Availability is less than the greater of (x) \$70,000,000 and (y) 10% of the Maximum Borrowing Amount and (ii) ending after Specified Excess Availability has been greater than the amount set forth in clause (i) above for 30 consecutive calendar days or (b) during which a Specified Event of Default has occurred and is continuing, the Company will not permit the ratio of Consolidated EBITDAR to Consolidated Fixed Charges for any Test Period (commencing with the Test Period ended most recently prior to the commencement of such Covenant Period for which financial statements were required to be delivered pursuant to Section 5.01) to be less than 1.00 to 1.00.

SECTION 5.07. [Reserved.]

SECTION 5.08. Limitation on Liens. (a) [Reserved.]

(b) The Company will not, and will not permit any Subsidiary Loan Party to, create, incur, assume or permit to exist any Lien on any Collateral now owned or hereafter acquired by it, or assign or sell any income or revenues (including accounts receivable) or rights in respect of any thereof, except:

(i) Permitted Encumbrances;

(ii) any Lien on any property or asset of the Company or any Subsidiary Loan Party existing on the Effective Date and set forth in Schedule 5.08; provided that (i) such Lien shall not apply to any other property or asset of the Company or any Subsidiary Loan Party and (ii) such Lien shall secure only those obligations which it secures on the Effective Date and extensions, renewals and replacements thereof that do not increase the outstanding principal amount thereof;

(iii) Liens on fixed or capital assets acquired, constructed or improved by the Company or any Subsidiary Loan Party; provided that (i) such security interests secure Indebtedness permitted by clause (i) of Section 5.10, (ii) such security interests and the Indebtedness secured thereby are incurred prior to or within 120 days after such acquisition or the completion of such construction or improvement (or are incurred to extend, renew or replace security interests and Indebtedness previously incurred in compliance with this clause), (iii) the Indebtedness secured thereby does not exceed the cost of acquiring, constructing or improving such fixed or capital assets and (iv) such security interests shall not apply to any other property or assets of the Company or any Subsidiary Loan Party;

(iv) Liens granted on the Collateral pursuant to the Collateral Documents;

(v) precautionary or purported Liens evidenced by the filing of UCC financing statements or similar financing statements under applicable law relating solely to the sale of Receivables Facility Assets and related assets in connection with any Specified Receivables Facility;

(vi) Liens (including any precautionary UCC financing statements or similar financing statements under applicable law) on Receivables Facility Assets securing Specified Receivables Facilities;

(vii) licenses or sublicenses of, covenants not to sue under, or other rights to use any Intellectual Property granted in the ordinary course of business (including licenses or sublicenses by the Company or any Subsidiary Loan Party to any Foreign Subsidiary);

(viii) Liens securing Indebtedness incurred pursuant to Section 5.10(l);

(ix) other Liens on Non-ABL Priority Collateral securing Permitted Non-ABL Indebtedness in an aggregate principal amount not exceeding \$600,000,000; and

(x) second priority Liens on ABL Priority Collateral securing Permitted Non-ABL Indebtedness; provided that such second priority Liens are subject to an Intercreditor Agreement providing that such Liens rank junior in priority to the Liens on the ABL Priority Collateral securing the Obligations.

SECTION 5.09. Compliance with Laws. The Company will, and will cause each Consolidated Subsidiary to, comply in all material respects with all applicable laws, ordinances, rules, regulations and requirements of governmental authorities (including ERISA and the rules and regulations thereunder), except to the extent that (a) the necessity of compliance therewith is contested in good faith by appropriate proceedings or (b) the failure to so comply would not result in any Material Adverse Effect.

SECTION 5.10. Limitations on Indebtedness. The Company will not, and will not permit any Consolidated Subsidiary to, create, incur, assume or suffer to exist any Indebtedness except:

(a) Indebtedness of any Consolidated Subsidiary which is, or the direct or indirect parent of which is, acquired by the Company or any other Consolidated Subsidiary after March 22, 2006, which Indebtedness is in existence at the time such Consolidated Subsidiary (or parent) is so acquired; provided that such Indebtedness was not created at the request or with the consent of the Company or any Subsidiary, and such Indebtedness may not be extended other than pursuant to the terms thereof as in existence at the time such Consolidated Subsidiary (or parent) was acquired;

(b) Indebtedness created under the Loan Documents;

(c) Indebtedness existing on the Effective Date and set forth on Schedule 5.10 and extensions, renewals and replacements of any such Indebtedness that do not increase the outstanding principal amount thereof or result in an earlier maturity date or decreased weighted average life thereof;

(d) Indebtedness of the Company to any Consolidated Subsidiary and of any Consolidated Subsidiary to the Company or any other Consolidated Subsidiary; provided that (i) such Indebtedness shall not have been transferred to any Person other than the Company or any other Consolidated Subsidiary, (ii) any such Indebtedness owing by any Loan Party to a non-Loan Party shall be unsecured and subordinated in right of payment to the Obligations on terms customary for intercompany subordinated Indebtedness, as reasonably determined by the Administrative Agent, and (iii) any such Indebtedness owing by any Consolidated Subsidiary that is not a Loan Party to any Loan Party shall be incurred in compliance with Section 5.17;

(e) Guarantees incurred in compliance with Section 5.17;

(f) the incurrence of Indebtedness under Hedging Agreements that are incurred for the bona fide purpose of hedging the interest rate, commodity, or foreign currency risks associated with the operations of the Company or such Consolidated Subsidiary and not for speculative purposes;

(g) Indebtedness owed in respect of any overdrafts and related liabilities arising from treasury, depository and cash management services or in connection with any automated clearing-house transfers of funds; provided that such Indebtedness shall be repaid in full within five Business Days of the incurrence thereof;

(h) Indebtedness in respect of letters of credit, bank guarantees and similar instruments issued for the account of the Company or any Consolidated Subsidiary in the ordinary course of business supporting obligations under (i) workers' compensation unemployment insurance and other social security laws and (ii) bids, trade contracts, leases, statutory obligations, surety and appeal bonds, performance bonds and obligations of a like nature (other than in respect of other obligations for borrowed money), which obligations in each case shall not be secured except by Permitted Encumbrances;

(i) Indebtedness to finance the acquisition, construction or improvements of any fixed or capital assets, including Capital Lease Obligations and any Indebtedness assumed in connection with the acquisition of any such assets or secured by a Lien on any such assets prior to the acquisition thereof, and extensions, renewals and replacements of such Indebtedness that do not increase the outstanding principal amount thereof or result in an earlier maturity date or decreased weighted average life thereof, provided that the aggregate principal amount of such Indebtedness shall not exceed \$300,000,000 at any time outstanding;

(j) other Indebtedness of any Subsidiary (other than any Subsidiary Loan Party) in an aggregate principal amount not exceeding \$400,000,000;

(k) other Indebtedness of the Company or any Subsidiary Loan Party in an aggregate principal amount not exceeding \$600,000,000;

(l) other Indebtedness of the Company or any Subsidiary Loan Party; provided that (i) after giving pro forma effect thereto, the ratio of Consolidated Debt to Consolidated EBITDAR for the most recently completed Test Period is less than 4.00 to 1.00; provided, further that the Administrative Agent shall have received a certificate, dated the date such Indebtedness is incurred and signed by a Financial Officer of the Company, confirming compliance with the requirements set forth in this clause (l) and setting forth a reasonably detailed calculation of such ratio of Consolidated Debt to Consolidated EBITDAR;

(m) other unsecured Indebtedness of the Company or any Consolidated Subsidiary; and

(n) Indebtedness of Receivables Subsidiaries arising under Specified Receivables Facilities.

SECTION 5.11. Transactions with Affiliates. The Company will not, and will not permit any of its Consolidated Subsidiaries to, sell, lease or otherwise transfer any property or assets to, or purchase, lease or otherwise acquire any property or assets from, or otherwise engage in any other transactions with, any of its Affiliates, except (a) at prices and on terms and conditions not less favorable to the Company or such Consolidated Subsidiary than could be obtained on an arm's-length basis from unrelated third parties, (b) any transaction determined by a majority of the disinterested directors of the Company's board of directors to be fair to the Company and its Subsidiaries, (c) transactions between or among the Company and its Consolidated Subsidiaries not involving any other Affiliate, (d) any transaction with respect to which neither the fair market value of the related property or assets, nor the consideration therefor, exceeds \$5,000,000, (e) any transaction contemplated by the Registration Statement, including, for the avoidance of doubt, any such transaction consummated after the Effective Date, (f) the VS Transactions, (g) any transitional arrangement with BBW or its subsidiaries related to the VS Transactions, including pursuant to the L Brands to VS Transition Services Agreement or the VS to L Brands Transition Services Agreement (each as defined in the Registration Statement), (h) any Investment permitted under Section 5.17 and (i) any Restricted Payment permitted under Section 5.18.

SECTION 5.12. Consolidations, Mergers. The Company will not (a) consolidate or merge with or into any other Person or (b) liquidate or dissolve; provided that the Company may consolidate or merge with another Person if (i) the corporation surviving the merger is the Company or a corporation organized under the laws of a State of the United States into which the Company desires to consolidate or merge for the purpose of becoming incorporated in such State (in which case such corporation shall assume all of the Company's obligations under this Agreement by an agreement reasonably satisfactory to the Required Lenders (and the Required Lenders shall not unreasonably withhold their consent to the form of such agreement) and shall deliver to the Administrative Agent and the Lenders such legal opinions and other documents as the Administrative Agent may reasonably request to evidence the due authorization, validity and binding effect thereof) and (ii) immediately after giving effect to such consolidation or merger, no Default shall have occurred and be continuing; provided, further, that this Section 5.12 shall not apply to any VS Transaction.

SECTION 5.13. Sales of Assets. The Company will not, and will not permit any Consolidated Subsidiary to, sell, lease or otherwise transfer any property or assets, including any Equity Interest owned by it, except:

- (a) the consummation of the VS Transaction (including, for the avoidance of doubt, any sales or distributions of all or a portion of the equity interests in, or assets of, the Spin Business (as defined in the Registration Statement));
 - (b) sales, transfers, leases and other dispositions of Inventory or used or surplus equipment or of cash and permitted Investments, in each case in the ordinary course of business;
 - (c) sales in the ordinary course of business of immaterial assets;
 - (d) sales, transfers or other dispositions of accounts receivable in connection with the compromise or collection thereof in the ordinary course of business consistent with past practice and not as part of any accounts receivables financing transaction;
 - (e) [reserved];
 - (f) (A) sales, transfers, leases and other dispositions of assets pursuant to this clause (A) with an aggregate fair market value not to exceed (I) \$25,000,000 in any single transaction or series of related transactions and (II) \$100,000,000 in the aggregate in any 12-month period and (B) sales, transfers and other dispositions of assets if, after giving effect to any adjustment to the Borrowing Base arising from such sale, transfer or other disposition and for the previous 90 consecutive days, Specified Excess Availability is greater than the greater of (x) \$200,000,000 and (y) 30% of the Maximum Borrowing Amount; provided that (I) all such sales, transfers and other dispositions shall be made for fair value and at least 75% cash consideration, (II) no Default shall have occurred and be continuing at the time of, or would result from, any such sale, transfer or other disposition, (III) the Company shall have given the Administrative Agent written notice advising of such sale, transfer, lease or other disposition, together with such information as shall be required for the Administrative Agent to adjust the Borrowing Base to reflect such disposition, to the extent required by the definition of the term "Borrowing Base", and (IV) after giving effect to any adjustment to the Borrowing Base arising from such sale, transfer or other disposition, the Aggregate Credit Exposure at the time shall not exceed the Borrowing Base as so adjusted;
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(g) sales, transfers or other dispositions of Receivables Facility Assets or participations therein, directly or indirectly, to Receivables Subsidiaries in connection with any Specified Receivables Facility permitted pursuant to Section 5.10(n); provided that, any such disposition of Receivables Facility Assets by a Loan Party shall be made in exchange for fair market value consideration consisting only of cash;

(h) licenses or sublicenses of, covenants not to sue under, or other rights to use any Intellectual Property or assignments thereof in the ordinary course of business;

(i) sales, transfers or other dispositions or the lapse or abandonment (including failure to maintain) in the ordinary course of business of any Intellectual Property determined in the reasonable good faith judgment of the Company or any Consolidated Subsidiary to be no longer useful, necessary, otherwise not material in the operation of the business of the Company or any Consolidated Subsidiary or no longer economical to maintain;

(j) transfers by the Company or any Subsidiary Loan Party to any Foreign Subsidiary of any Intellectual Property that is usable primarily, or for use primarily, outside of the United States and Canada;

(k) sales, transfers or other dispositions (i) from any Loan Party to any other Loan Party, (ii) from any Consolidated Subsidiary that is not a Loan Party to any other Consolidated Subsidiary that is not a Loan Party and (iii) from any Consolidated Subsidiary that is not a Loan Party to any Loan Party provided that such sale, transfer or other disposition (x) is made for fair market value (as determined by such Loan Party in good faith) or (y) the excess (if any) of the consideration in respect of such sale, transfer or other disposition over fair market value (as determined by such Loan Party in good faith) is treated as an Investment and is otherwise made in compliance with Section 5.17; and

(l) sales, transfers, leases or other dispositions that constitute Investments permitted pursuant to Section 5.17 (other than Section 5.17(b)), Liens permitted pursuant to Section 5.08, and Restricted Payments permitted by Section 5.18; provided that (i) in connection with any such sale, transfer, lease or other disposition of assets with a fair market value in excess of \$10,000,000, the Company shall have given the Administrative Agent written notice advising of such sale, transfer, lease or other disposition, together with such information as shall be required for the Administrative Agent to adjust the Borrowing Base to reflect such disposition, to the extent required by the definition of the term "Borrowing Base", and (ii) after giving effect to any adjustment to the Borrowing Base arising from such sale, transfer or other disposition, the Aggregate Credit Exposure at the time shall not exceed the Borrowing Base as so adjusted.

SECTION 5.14. Use of Proceeds. The Borrowers will use the proceeds of the Loans and issuance of Letters of Credit for general corporate purposes (including, without limitation, repurchases of, and dividends on, its equity securities). None of the Company, any Subsidiary or director, officer, employee or agent of the Company or any Subsidiary will directly or knowingly indirectly use the proceeds of the Loans or lend, contribute or otherwise make available such proceeds to any subsidiary, joint venture partner or other Person for the purpose of (a) financing any payments to any governmental official or employee, political party, official of a political party, candidate for political office, or anyone else acting in an official governmental capacity in material violation of any Anti-Corruption Laws or (b) financing the activities of or any transactions with any Sanctioned Person or in any Sanctioned Country, except to the extent licensed or otherwise authorized under U.S. law. This Section applies, other than to the extent that such covenant would result in a violation of Council Regulation (EC) No 2271/96, as amended (or any implementing law or regulation in any member state of the European Union or the United Kingdom).

SECTION 5.15. Information Regarding Collateral; Deposit and Securities Accounts. (a) The Company will furnish to the Collateral Agent prompt written notice of any change in (i) the legal name of any Loan Party, as set forth in its organizational documents, (ii) the jurisdiction of organization or the form of organization of any Loan Party (including as a result of any merger, amalgamation or consolidation), (iii) the location of the chief executive office of any Loan Party or (iv) the organizational identification number, if any, or, with respect to any Loan Party organized under the laws of a jurisdiction that requires such information to be set forth on the face of a UCC financing statement, the Federal Taxpayer Identification Number of such Loan Party. The Company agrees not to effect or permit any change referred to in the preceding sentence unless all filings have been made under the UCC or otherwise that are required in order for the Collateral Agent to continue at all times following such change to have a valid, legal and perfected security interest in all the Collateral.

(b) The Company will furnish to the Collateral Agent prompt written notice of the acquisition by any Loan Party of any (i) Mortgaged Property or any material assets after the Effective Date of the type that constitute, or are intended to constitute, Collateral, other than any assets constituting Collateral under the Collateral Documents in which the Collateral Agent shall have a valid, legal and perfected security interest (with the priority contemplated by the applicable Collateral Document) upon the acquisition thereof and (ii) material Intellectual Property.

(c) The Company will furnish to the Collateral Agent prompt written notice of the disposition of a Loan Party, or any disposition outside the ordinary course of business of, or any casualty or condemnation event affecting, assets reflected in the then-current Borrowing Base having a fair market value of \$5,000,000 or more, and such notice shall include such information as shall be required for the Collateral Agent to adjust the Borrowing Base to reflect such disposition.

(d) The Company will, in each case as promptly as practicable, notify the Collateral Agent of the existence of any deposit account or securities account maintained by a Loan Party in respect of which a Control Agreement is required to be in effect pursuant to the definition of the term "Collateral and Guarantee Requirement" but is not yet in effect.

SECTION 5.16. Collateral and Guarantee Requirement. (a) If (i) any Material Subsidiary is formed or acquired after the Effective Date or (ii) any Consolidated Subsidiary shall become a Material Subsidiary after the Effective Date, in each case other than an Excluded Subsidiary, then the Company will promptly, but in no event later than 15 days after such formation or acquisition (in the case of clause (i)) or 15 days after any executive officer or Financial Officer of the Company obtains knowledge thereof (in the case of clause (ii), but in each case of clause (i) and (ii), as such period may be extended by the Administrative Agent in its reasonable discretion), notify the Administrative Agent and the Lenders thereof and cause the Collateral and Guarantee Requirement to be satisfied with respect to such Material Subsidiary.

(b) The Company will, and the Company will cause each of the Material Subsidiaries to, execute any and all further documents, financing statements, agreements and instruments, and take all such further actions (including the filing and recording of financing statements), that may be required under any applicable law, or that the Collateral Agent or the Required Lenders may reasonably request, to cause the Collateral and Guarantee Requirement to be and remain satisfied, all at the expense of the Company.

SECTION 5.17. Investments. The Company will not, nor will the Company permit any Subsidiary Loan Party to, purchase, hold or acquire (including pursuant to any consolidation, amalgamation or merger with any Person that was not a Loan Party prior to such consolidation, amalgamation or merger, it being understood that any consolidation, amalgamation or merger of a Subsidiary Loan Party with any Subsidiary that is not a Loan Party shall be treated as an investment in such Subsidiary if the survivor of such consolidation, amalgamation or merger is not a Subsidiary Loan Party) any Equity Interests in or evidences of Indebtedness or other securities of, make or permit to exist any loans or advances to, Guarantee any Indebtedness of, or make or permit to exist any other investment in, any Subsidiary that is not a Subsidiary Loan Party (each of the foregoing being an "Investment"), except:

(a) Investments by the Company or any Subsidiary Loan Party in any Subsidiary that is not a Loan Party, in an aggregate amount not to exceed \$50,000,000 at any one time outstanding;

(b) Investments in existence on the Effective Date;

(c) any other Investment if, at the time thereof and after giving effect thereto, the Payment Conditions are satisfied (for the avoidance of doubt, an Investment made pursuant to this clause (c) shall be permitted notwithstanding that the conditions set forth in this clause (c) shall thereafter cease to be satisfied);

(d) Investments in any Receivables Subsidiary in the form of (i) deferred purchase consideration for Receivables Facility Assets sold pursuant to a Specified Receivables Facility or (ii) a subordinated loan representing deferred consideration owed in respect of Receivables Facility Assets sold by the Company or any Consolidated Subsidiary participating as a seller in a Specified Receivables Facility in an amount required to meet any true sale and risk retention requirements applicable in respect of the sale of Receivables Facility Assets by the Company or such Consolidated Subsidiary;

(e) contributions by the Company or any Subsidiary Loan Party of Equity Interests in any Foreign Subsidiary to any other Foreign Subsidiary;

(f) licenses by the Company or any Subsidiary Loan Party to any Consolidated Subsidiary that is not a Loan Party of intellectual property in the ordinary course of business;

(g) transfers or licenses by the Company or any Subsidiary Loan Party to any Foreign Subsidiary of any intellectual property that is usable primarily, or for use primarily, outside of the United States; and

(h) accounts receivable held by a Loan Party arising out of the sale of inventory or provision of services, in each case in the ordinary course of business, to a Subsidiary that is not a Loan Party.

SECTION 5.18. Restricted Payments. The Company will not, and will not permit any Consolidated Subsidiary to, declare or make, or agree to pay or make, directly or indirectly, any Restricted Payment, except:

(a) any wholly-owned Consolidated Subsidiary may distribute any cash, property or assets to the Company or any other Consolidated Subsidiary that is its direct or indirect parent;

(b) any Consolidated Subsidiary may declare and pay dividends ratably with respect to its Equity Interests;

(c) the Company may make any Restricted Payment in cash if, at the time thereof and after giving effect thereto, the Payment Conditions are satisfied; and

(d) the Closing Date Payment, the Closing Date Distribution and any distribution, as a dividend, cash payment or otherwise, of all or any portion of the equity interest of the Spin Business (as defined in the Registration Statement) or assets thereof.

For the avoidance of doubt, a Restricted Payment made pursuant to Section 5.18(c) shall be permitted notwithstanding that the conditions set forth in Section 5.18(c) shall thereafter cease to be satisfied.

SECTION 5.19. Restrictive Agreements. The Company will not, nor will it permit any Consolidated Subsidiary that is a wholly-owned Material Subsidiary that is a Domestic Subsidiary or a Canadian Subsidiary, other than an Excluded Subsidiary, to, directly or indirectly, enter into, incur or permit to exist any agreement or other arrangement that prohibits, restricts or imposes any condition upon the ability of the Company or any Consolidated Subsidiary that is a Domestic Subsidiary or a Canadian Subsidiary to create, incur or permit to exist any Lien upon any of its property or assets to secure, or the ability of any Consolidated Subsidiary that is a Domestic Subsidiary or a Canadian Subsidiary to Guarantee, the Obligations (or the obligations under any credit facility that refinances or replaces this Agreement); provided that (a) the foregoing shall not apply to restrictions and conditions imposed by law, any Loan Document or any Permitted Non-ABL Indebtedness, (b) the foregoing shall not apply to restrictions and conditions existing on the Effective Date contained in any of the instruments, indentures and other agreements identified on Schedule 5.19 or any extension, renewal, supplement, amendment or other modification of any thereof or any additional such instrument, indenture or other agreement so long as, in each case, any such prohibition, restriction or condition contained therein is not, taken as a whole, more restrictive in any material respect than the prohibitions, restrictions and conditions contained in the instruments, indentures and other agreements identified on Schedule 5.19 as in effect on the Effective Date, (c) the foregoing shall not apply to customary restrictions and conditions contained in agreements relating to the sale of a Subsidiary or any assets pending such sale, provided that such restrictions and conditions apply only to the Subsidiary or assets to be sold, (d) the foregoing shall not apply to exclusive licenses or exclusivity covenants permitted under the Loan Documents with respect to Intellectual Property, (e) the foregoing provisions relating to Liens shall not apply to restrictions or conditions imposed by any agreement relating to secured Indebtedness permitted by this Agreement if such restrictions or conditions apply only to the property or assets securing such Indebtedness, (f) the foregoing provisions relating to Liens shall not apply to customary provisions in leases restricting the assignment thereof and (g) the foregoing shall not apply to restrictions and conditions imposed on Receivables Subsidiaries pursuant to any Specified Receivables Facility.

SECTION 5.20. Credit Ratings. The Company will use commercially reasonable efforts to maintain Credit Ratings from each of S&P and Moody's at all times.

SECTION 5.21. Prepayment Avoidance. The Company will, and will cause each Consolidated Subsidiary to, either repay or prepay Loans, or make investments in assets to be used in their businesses, in each case as necessary to avoid any mandatory redemption, repurchase or prepayment (i) referred to in the proviso to clause (c) of the definition of "Disqualified Equity Interest" or (ii) pursuant to the terms of any Permitted Non-ABL Indebtedness.

SECTION 5.22. Control Agreements. Subject to the grace period in clause (c) of the definition of “Collateral and Guarantee Requirement”, the Loan Parties shall at all times (except as agreed by the Collateral Agent pursuant to its authority as set forth herein or in any other Loan Document) (a) cause the available amount in each deposit account (other than an Excluded Deposit Account) of the Loan Parties to be swept to the Concentration Account at the end of each Business Day (whether directly or through local concentration accounts that are in turn swept to the Concentration Account on such Business Day) and (b) cause to be deposited directly into the Concentration Account (i) all payments in respect of Credit Card Receivables, (ii) all proceeds of Accounts and (iii) all cash swept from all Accounts of the Loan Parties.

SECTION 5.23. Field Examinations and Appraisals.

(a) On not more than one occasion during any 12-month period, at the request of the Collateral Agent, the Loan Parties will permit, upon reasonable notice and during normal business hours, the Collateral Agent (or its designee) to conduct a field examination of the Collateral included in the Borrowing Base and related reporting and control systems. Notwithstanding the foregoing, (i) an additional field exam may be conducted during any 12-month period in which Specified Excess Availability for three consecutive business days has been less than or equal to the lesser of (x) \$70,000,000 and (y) 10% of the Maximum Borrowing Amount and (ii) if a Specified Event of Default has occurred and is continuing, there shall be no limitation on the number or frequency of field examinations and the number and frequency of field examinations shall be at the Permitted Discretion of the Collateral Agent. For purposes of this Section 5.23, it is understood and agreed that a single field examination may be conducted at multiple relevant sites and involve one or more Loan Parties and their assets. All such field examinations by the Collateral Agent (or its designee) shall be at the sole expense of the Loan Parties.

(b) On one occasion during each 12-month period, the Loan Parties will provide the Collateral Agent with an appraisal of their Inventory (or update thereof) from an appraiser selected and engaged by the Collateral Agent, and prepared on a basis reasonably satisfactory to the Collateral Agent, such appraisal or update to include, without limitation, information required by applicable law and regulations. Notwithstanding the foregoing, (i) an additional inventory appraisal may be conducted during any 12-month period in which Specified Excess Availability for three consecutive business days has been less than or equal to the lesser of (x) \$70,000,000 and (y) 10% of the Maximum Borrowing Amount and (ii) if a Specified Event of Default has occurred and is continuing, there shall be no limitation on the number or frequency of appraisals (or updates thereof) and the number and frequency of appraisals (or updates thereof) shall be at the Permitted Discretion of the Collateral Agent. For purposes of this Section 5.23, it is understood and agreed that a single appraisal (or update thereof) may be conducted at multiple relevant sites and involve one or more Loan Parties and their assets. All such appraisals and updates thereof shall be at the sole expense of the Loan Parties.

SECTION 5.24. Credit Card Agreements and Notifications. Subject to the grace period in clause (d) of the definition of “Collateral and Guarantee Requirement”, each Loan Party will (a) comply in all material respects with all its obligations under each Credit Card Agreement to which it is party and (b) maintain credit card arrangements solely with the credit card issuers and credit card processors identified in Schedule 3.12; provided, however, that the Company may amend Schedule 3.12 to remove any credit card issuer or credit card processor identified in such Schedule or to add additional credit card issuers and credit card processors that are satisfactory to the Collateral Agent in its reasonable discretion, and concurrently with the making of any such amendment the Company shall provide to the Collateral Agent evidence that a Credit Card Notification shall have been delivered to any credit card issuer or credit card processor added to such Schedule.

SECTION 5.25. Canadian Defined Benefit Pension Plan. The Company will not, nor will it permit any other Loan Party to, contribute to, or assume, incur or have any liability under, any Canadian Defined Benefit Pension Plan without the prior written consent of the Administrative Agent.

ARTICLE VI

Events of Default and Remedies

SECTION 6.01. Events of Default. Any of the following shall be an “Event of Default”:

(a) any Borrower shall fail to make any payment of principal of or interest on any Loan or any obligation in respect of any LC Disbursement when due or to pay any fees or other amounts payable by it hereunder when due, and such failure remains unremedied for three Business Days after the applicable Borrower’s actual receipt of notice of such failure from the Administrative Agent at the request of any Lender;

(b) any statement of fact or representation made or deemed to be made by (i) any Borrower in this Agreement or by any Borrower or any of its officers in any certificate delivered pursuant to this Agreement or (ii) at such times as the Collateral and Guarantee Requirement is required to be satisfied, any Loan Party in any Loan Document or by any Loan Party or any of its respective officers in any certificate delivered pursuant to any Loan Document, shall prove to have been incorrect in any material respect when made or deemed made, and, if the consequences of such representation or statement being incorrect shall be susceptible of remedy in all material respects, such consequences shall not be remedied in all material respects within 30 days after any executive officer of any Borrower or any Financial Officer first becomes aware of or is advised that such representation or statement was incorrect in a material respect;

(c) (i) any Borrower shall fail to observe or perform any covenant, condition or agreement contained in Sections 5.04 (with respect to the existence of any Borrower), 5.08, 5.10, 5.11, 5.12, 5.13, 5.17, 5.18, 5.19, 5.21, 5.23 and 5.24 and, if the consequences of such failure shall be susceptible of remedy in all material respects, such consequences shall not be remedied in all material respects within 20 days after any executive officer of any Borrower or any Financial Officer first becomes aware of or is advised of such failure or (ii) any Borrower shall fail to observe or perform any covenant, condition or agreement contained in Section 5.06 or 5.22;

(d) (i) any event or condition shall occur which enables the holder of any Material Indebtedness or any Person acting on such holder's behalf to accelerate the maturity thereof or (ii) the Company or any Consolidated Subsidiary shall fail to pay the principal of any Material Indebtedness;

(e) the Company or any Material Subsidiary shall (i) make an assignment or general assignment for the benefit of creditors, (ii) apply for or consent (by admission of material allegations of a petition or otherwise) to the appointment of or the taking of possession by a receiver, interim receiver, receiver and manager, administrator, custodian, trustee or liquidator of the Company or any Material Subsidiary or for all or any substantial part of the properties of the Company or any Material Subsidiary or authorize such application or consent, or proceedings seeking such appointment shall be commenced (including the filing of any notice of intention in respect thereof) without such authorization, consent or application against the Company or any Material Subsidiary and continue undismissed for 30 days (or if such dismissal of such unauthorized proceedings cannot reasonably be obtained within such 30-day period, the Company or any Material Subsidiary shall fail either to proceed with due diligence to seek to obtain dismissal within such 30-day period or to obtain dismissal within 60 days), (iii) authorize or file a voluntary petition in bankruptcy, suffer an order for relief under any Insolvency Law, or apply for or consent (by admission of material allegations of a petition or otherwise) to the application of any Insolvency Law or other bankruptcy, reorganization, arrangement, readjustment of debt, insolvency, dissolution, liquidation or other similar law of any jurisdiction, or authorize such application or consent, or proceedings to such end shall be instituted (including the filing of any notice of intention in respect thereof) against the Company or any Material Subsidiary without such authorization, application or consent which are not vacated within 30-days from the date thereof (or if such vacation cannot reasonably be obtained within such 30-day period, the Company shall fail either to proceed with due diligence to seek to obtain vacation within such 30-day period or to obtain vacation within 60 days), (iv) permit or suffer all or any substantial part of its properties to be sequestered, attached, or subjected to a Lien (other than a Lien expressly permitted by the exceptions in Section 5.08) through any legal proceeding or distraint which is not vacated within 30-days from the date thereof (or if such vacation cannot reasonably be obtained within such 30-day period, the Company shall fail either to proceed with due diligence to seek to obtain vacation within such 30 day period or to obtain vacation within 60 days), (v) generally not pay its debts as such debts become due or admit in writing its inability to do so, or is otherwise insolvent, or (vi) conceal, remove, or permit to be concealed or removed, any material part of its property, with intent to hinder, delay or defraud its creditors or any of them;

(f) (i) the Company or any ERISA Affiliate shall fail to pay when due an amount or amounts aggregating in excess of \$100,000,000 which it shall have become liable to pay to the PBGC or to a Plan under Title IV of ERISA; or notice of intent to terminate a Plan or Plans having aggregate Unfunded Liabilities in excess of \$100,000,000 (collectively "Material Plans") shall be filed under Title IV of ERISA by the Company or any ERISA Affiliate, any plan administrator or any combination of the foregoing; or the PBGC shall institute proceedings under Title IV of ERISA to terminate or to cause a trustee to be appointed to administer any Material Plan or a proceeding shall be instituted by a fiduciary of any Material Plan against the Company or any ERISA Affiliate to enforce Section 515 of ERISA or 4219(c)(5) of ERISA and such proceeding shall not have been dismissed within 30 days thereafter; or a condition shall exist by reason of which the PBGC would be entitled to obtain a decree adjudicating that any Material Plan must be terminated or (ii) the occurrence of any Canadian Pension Event that has a Material Adverse Effect;

(g) any Borrower shall fail to perform or observe in any material respect any other term, covenant or agreement contained in any Loan Document (including without limitation Section 5.01 of this Agreement) on its part to be performed or observed and any such failure remains unremedied for 30 days after the applicable Borrower shall have received written notice thereof from the Administrative Agent at the request of any Lender;

(h) a Change in Control shall occur; or

(i) one or more judgments for the payment of money in an aggregate amount in excess of \$100,000,000, exclusive of amounts covered by third party insurance, shall be rendered against the Company, any Consolidated Subsidiary or any combination thereof and the same shall remain undischarged for a period of 60 consecutive days during which execution shall not be effectively stayed, or any action shall be legally taken by a judgment creditor to attach or levy upon any assets of the Company or any Consolidated Subsidiary to enforce any such judgment; provided that in calculating the amounts covered by third party insurance, amounts covered by third party insurance shall not include amounts for which the third party insurer has denied liability.

SECTION 6.02. Remedies. If any Event of Default shall occur and be continuing, the Administrative Agent shall (a) if requested by the Required Lenders, by notice to the Borrowers terminate the Commitments and they shall thereupon terminate, and (b) if requested by Lenders holding more than 50% of the aggregate unpaid principal amount of the Loans, by notice to the Borrowers declare the Loans (together with accrued interest thereon and all other amounts payable by the Borrowers hereunder) to be, and the Loans (together with accrued interest thereon and all other amounts payable by the Borrowers hereunder) shall thereupon become, immediately due and payable without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the Borrowers; provided that in the case of any of the bankruptcy Events of Default specified in Section 6.01(e) with respect to the Borrowers, without any notice to the Borrowers or any other act by the Administrative Agent or the Lenders, the Commitments shall thereupon terminate and the Loans (together with accrued interest thereon and all other amounts payable by the Borrowers hereunder) shall become immediately due and payable without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the Borrowers.

SECTION 6.03. Notice of Default. The Administrative Agent shall give notice to the Borrowers under Section 6.01(a) or 6.01(g) promptly upon being requested to do so by any Lender and shall thereupon notify all the Lenders thereof.

ARTICLE VII

The Agents

SECTION 7.01. The Agents.

Each of the Lenders and each Issuing Bank hereby irrevocably appoints each of the Administrative Agent and the Collateral Agent as its agent and authorizes such Agent to take such actions on its behalf and to exercise such powers as are delegated to such Agent by the terms of the Loan Documents, together with such actions and powers as are reasonably incidental thereto. In addition, to the extent required under the laws of any jurisdiction, each of the Lenders hereby grants to the Collateral Agent any required powers of attorney to execute and enforce any Collateral Document governed by the laws of such jurisdiction on such Lender's behalf.

Each of the banks serving as an 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 an Agent, and such bank and its Affiliates may accept deposits from, lend money to and generally engage in any kind of business with the Company or any Subsidiary or other Affiliate thereof as if it were not an Agent under the Loan Documents.

The Agents shall not have any duties or obligations except those expressly set forth in the Loan Documents. Without limiting the generality of the foregoing, (a) the Agents shall not be subject to any fiduciary or other implied duties, regardless of whether a Default has occurred and is continuing, (b) the Agents shall not have any duty to take any discretionary action or exercise any discretionary powers, except discretionary rights and powers expressly contemplated by the Loan Documents that the applicable Agent is required to exercise in writing by the Required Lenders (or such other number or percentage of the Lenders as shall be necessary under the circumstances as provided in Section 8.02 or Section 8.02A) or, in the case of the Collateral Documents, the Required Secured Parties, and (c) except as expressly set forth in the Loan Documents, the Agents shall not have any duty to disclose, and shall not be liable for the failure to disclose, any information relating to the Company or any of its Subsidiaries that is communicated to or obtained by the banks serving as Agents or any of their respective Affiliates in any capacity. No Agent shall be liable for any action taken or not taken by it with the consent or at the request of the Required Lenders (or such other number or percentage of the Lenders as shall be necessary under the circumstances as provided in Section 8.02 or Section 8.02A) or, in the case of the Collateral Documents, the Required Secured Parties, or in the absence of its own gross negligence or willful misconduct. Each Agent shall be deemed not to have knowledge of any Default unless and until written notice thereof is given to such Agent by the Company or a Lender, and the Agents shall not be responsible for or have any duty to ascertain or inquire into (i) any statement, warranty or representation made in or in connection with this Agreement, (ii) the contents of any certificate (including any Borrowing Base Certificate), report or other document delivered hereunder or in connection with any Loan Document, (iii) qualification of (or lapse of any qualification of) any Account, Credit Card Receivable, Inventory or real property under the eligibility criteria set forth herein, other than eligibility criteria expressly referring to the matters described therein being acceptable or satisfactory to, or being determined by, the Collateral Agent, (iv) the performance or observance of any of the covenants, agreements or other terms or conditions set forth in any Loan Document, (v) the validity, enforceability, effectiveness or genuineness of any Loan Document or any other agreement, instrument or document or (vi) the satisfaction of any condition set forth in Article IV or elsewhere in any Loan Document, other than to confirm receipt of items expressly required to be delivered to the applicable Agent. Notwithstanding anything herein to the contrary, the Agents shall not be liable for, or be responsible for any loss, cost or expense suffered by the Borrowers, any Lender or any Issuing Bank as a result of, any such determination of the Credit Exposure, Excess Availability, the Borrowing Base or the component amounts of any thereof.

Each Agent shall be entitled to rely upon, and shall not incur any liability for relying upon, any notice, request, certificate (including any Borrowing Base Certificate), consent, statement, instrument, document or other writing believed by it to be genuine and to have been signed or sent by the proper Person. Each of the Agents also may rely upon any statement made to it orally or by telephone and believed by it to be made by the proper Person, and shall not incur any liability for relying thereon. Each Agent may consult with legal counsel (who may be counsel for the Company), 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 and Issuing Bank hereby agrees that (a) it has requested a copy of each Report prepared by or on behalf of any Agent; (b) the Agents (i) make no representation or warranty, express or implied, as to the completeness or accuracy of any Report or any of the information contained therein or any inaccuracy or omission contained in or relating to any Report and (ii) shall not be liable for any information contained in any Report; (c) the Reports are not comprehensive audits or examinations, and any Person performing any field examination will inspect only specific information regarding the Loan Parties and will rely significantly upon the Loan Parties' books and records, as well as on representations of the Loan Parties' personnel, and that the Agents undertake no obligation to update, correct or supplement the Reports; (d) it will keep all Reports confidential and strictly for its internal use and not share any Report with any other Person except as otherwise permitted pursuant to this Agreement; and (e) without limiting the generality of any other indemnification provision contained in this Agreement, it will pay and protect, and indemnify, defend and hold the Agents, each other Person preparing a Report and the Related Parties of any of the foregoing harmless from and against, the claims, actions, proceedings, damages, costs, expenses and other amounts (including reasonable attorney fees) incurred by any of them as the direct or indirect result of any third parties who obtain all or part of any Report through the indemnifying Lender.

Each of the Agents may perform any and all of its duties and exercise its rights and powers by or through any one or more sub-agents appointed by such Agent. Each of the Agents and any such sub-agent may perform any and all of its duties and exercise its rights and powers through their respective Related Parties. The exculpatory provisions of the preceding paragraphs shall apply to any such sub-agent and to the Related Parties of each Agent and any such sub-agent, and shall apply to their respective activities in connection with the syndication of the credit facilities provided for herein as well as activities as an Agent.

Subject to the appointment and acceptance of a successor Agent as provided in this paragraph, either Agent may resign at any time by notifying the Lenders, the Issuing Banks and the Company. Upon any such resignation, the Required Lenders (or, in the case of the Collateral Agent, the Required Secured Parties) shall have the right, in consultation with the Company, to appoint a successor. In addition, if either Agent is a Defaulting Lender due to it having had a receiver, conservator, trustee, administrator, assignee for the benefit of creditors or similar Person charged with the reorganization or liquidation of its business or custodian appointed for it, the Required Lenders shall have the right, by notice in writing to the Company and such Agent, to remove such Agent in its capacity as such and, with the consent of the Company (not to be unreasonably withheld and except during the continuance of an Event of Default hereunder, when no consent shall be required), to appoint a successor. If no successor shall have been so appointed by the Required Lenders (or, in the case of the Collateral Agent, the Required Secured Parties) and shall have accepted such appointment within 30 days after the retiring Agent gives notice of its resignation, then the retiring Agent may, on behalf of the Lenders and the Issuing Banks, appoint a successor Agent which shall be a bank with an office in New York, New York, or an Affiliate of any such bank. Upon the acceptance of its appointment as an Agent by a successor, such successor shall succeed to and become vested with all the rights, powers, privileges and duties of the retiring Agent, and the retiring Agent shall be discharged from its duties and obligations under the Loan Documents. The fees payable by the Company to a successor Agent shall be the same as those payable to its predecessor unless otherwise agreed between the Company and such successor. After such Agent's resignation hereunder, the provisions of this Article and Section 8.03 shall continue in effect for the benefit of such retiring 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 it was acting as an Agent.

Each Lender acknowledges that it has, independently and without reliance upon the Agents or any other Lender and any of their Related Parties and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Agreement. Each Lender also acknowledges that it will, independently and without reliance upon the Agents or any other Lender and any of their Related Parties and based on such documents and information as it shall from time to time deem appropriate, continue to make its own decisions in taking or not taking action under or based upon any Loan Document, any related agreement or any document furnished hereunder or thereunder. The Joint Lead Arrangers and Joint Bookrunners, the Co-Syndication Agents and the Co-Documentation Agents (each as identified on the cover page of this Agreement) (each of the foregoing, in its capacity as such, a "Titled Person"), in their capacities as such, shall have no rights, powers, duties, liabilities, fiduciary relationships or obligations under any Loan Document or any of the other documents related hereto.

Each of the Lenders hereby (a) agrees to be bound by the provisions of the Collateral Documents, including those terms thereof applicable to the Collateral Agent and the provisions thereof authorizing the Required Secured Parties to approve amendments or modifications thereto or waivers thereof, and to control remedies thereunder, and (b) irrevocably authorizes the Collateral Agent to (i) release any Liens on any Non-ABL Priority Collateral in accordance with an Intercreditor Agreement and (ii) release any Liens on any Collateral in accordance with the Collateral Documents, including any Liens on real property following the delivery of a Real Property Exclusion Notice.

Each of the Lenders hereby (a) authorizes and instructs the Collateral Agent to enter into an Intercreditor Agreement if Indebtedness is incurred that is secured by Liens contemplated by clause (b)(ix) or (b)(x) of Section 5.08 and (b) agrees that it will be bound by and will take no actions contrary to the provisions of such Intercreditor Agreement.

It is understood and agreed by the parties hereto, that as part of its duties and functions, the Collateral Agent shall serve as the hypothecary representative for itself and for all present and future Secured Parties, as contemplated by Article 2692 of the Civil Code of Québec (the “CCQ”). For greater certainty, and without limiting the powers of the Collateral Agent, each of the Lenders and the Issuing Banks hereby irrevocably appoints the Collateral Agent as hypothecary representative for all present and future Lenders, Issuing Banks and any other Secured Parties as contemplated under Article 2692 of the CCQ in order to hold the hypothecs granted under any Loan Document pursuant to the laws of the Province of Quebec to secure performance of all or part of the Obligations (as defined in each such Loan Document) and to exercise such powers and duties which are conferred upon the hypothecary representative thereunder. The appointment of the Collateral Agent as hypothecary representative shall be deemed to have been ratified and confirmed by each Person that accedes or has acceded to this Agreement as a Lender or Issuing Bank after the date hereof. The Loan Parties hereby acknowledge the appointment of the Collateral Agent as the hypothecary representative of the Secured Parties as contemplated under Article 2692 of the CCQ. In the event of the resignation of the Collateral Agent and appointment of a successor Collateral Agent, such successor Collateral Agent shall also act as hypothecary representative without further act or formality being required to appoint such successor Collateral Agent as the successor hypothecary representative for the purposes of any then existing deeds of hypothec. The execution by the Collateral Agent as the hypothecary representative of the relevant deeds of hypothec or other relevant documentation prior to the date hereof is hereby ratified and confirmed by each Lender and Issuing Bank. In its capacity of hypothecary representative, the Collateral Agent shall (a) have the sole and exclusive right and authority to exercise, except as may be otherwise specifically restricted hereunder, all rights and remedies given to the hypothecary representative pursuant to any hypothec, applicable law or otherwise, (b) benefit from and be subject to all provisions hereof with respect to the Collateral Agent, mutatis mutandis, including, without limitation, all such provisions with respect to the liability or responsibility to and indemnification by the Lenders and the Issuing Banks, and (c) be entitled to delegate from time to time any of its powers or duties under any deed of hypothec or other Loan Document, on such terms and conditions as it may determine from time to time.

SECTION 7.02. Certain ERISA Matters.

Each of the Lenders hereby (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, each Agent and each Titled Person and their respective Affiliates and not, for the avoidance of doubt, to or for the benefit of any Borrower or any other Loan Party, that at least one of the following is and will be true:

- (a) such Lender is not using “plan assets” (within the meaning of Section 3(42) of ERISA or otherwise) of one or more Benefit Plans with respect to such Lender’s entrance into, participation in, administration of and performance of the Loans, the Commitments or this Agreement,
- (b) 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 with respect to such Lender’s entrance into, participation in, administration of and performance of the Loans, the Commitments and this Agreement,
- (c) (i) such Lender is an investment fund managed by a “Qualified Professional Asset Manager” (within the meaning of Part VI of PTE 84-14), (ii) 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 Commitments and this Agreement, (iii) the entrance into, participation in, administration of and performance of the Loans, the Commitments and this Agreement satisfies the requirements of sub-sections (b) through (g) of Part I of PTE 84-14 and (iv) 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 Commitments and this Agreement, or
- (d) such other representation, warranty and covenant as may be agreed in writing between the Administrative Agent, in its sole discretion, and such Lender.

In addition, unless either (1) clause (a) in the immediately preceding paragraph is true with respect to a Lender or (2) a Lender has provided another representation, warranty and covenant in accordance with clause (d) in the immediately preceding paragraph, 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, each Agent and each Titled Person and their respective Affiliates and not, for the avoidance of doubt, to or for the benefit of any Borrower or any other Loan Party, that the Administrative Agent is not 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 Commitments and this Agreement (including in connection with the reservation or exercise of any rights by the Administrative Agent under this Agreement, any Loan Document or any documents related hereto or thereto).

SECTION 7.03. Erroneous Payments. (a) Each Lender (which term shall for the purposes of this and the succeeding paragraphs of this Section 7.03 include the Issuing Banks) hereby agrees that (x) if the Administrative Agent notifies such Lender that the Administrative Agent has determined in its sole discretion that any funds received by such Lender from the Administrative Agent or any of its Affiliates (whether as a payment, prepayment or repayment of principal, interest, fees or otherwise; individually and collectively, a "Payment") were erroneously transmitted to such Lender (whether or not known to such Lender), and demands the return of such Payment (or a portion thereof), such Lender shall promptly, but in no event later than one Business Day thereafter, return to the Administrative Agent the amount of any such Payment (or portion thereof) as to which such a demand was made in same day funds, together with interest thereon in respect of each day from and including the date such Payment (or portion thereof) was received by such Lender to the date such amount is repaid to the Administrative Agent at the greater of the NYFRB Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation from time to time in effect, and (y) to the extent permitted by applicable law, such Lender shall not assert, and hereby waives, as to the Administrative Agent, 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 Payments received, including without limitation any defense based on "discharge for value" or any similar doctrine. A notice of the Administrative Agent to any Lender under this Section 7.03 shall be conclusive, absent manifest error.

(b) Each Lender hereby further agrees that if it receives a 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 sent by the Administrative Agent (or any of its Affiliates) with respect to such Payment (a "Payment Notice") or (y) that was not preceded or accompanied by a Payment Notice, it shall be on notice, in each such case, that an error has been made with respect to such Payment. Each Lender agrees that, in each such case, or if it otherwise becomes aware a Payment (or portion thereof) may have been sent in error, such Lender shall promptly notify the Administrative Agent of such occurrence and, upon demand from the Administrative Agent, it shall promptly, but in no event later than one Business Day thereafter, return to the Administrative Agent the amount of any such Payment (or portion thereof) as to which such a demand was made in same day funds, together with interest thereon in respect of each day from and including the date such Payment (or portion thereof) was received by such Lender to the date such amount is repaid to the Administrative Agent at the greater of the NYFRB Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation from time to time in effect.

(c) Each Borrower and each other Loan Party hereby agrees that (x) in the event an erroneous Payment (or portion thereof) is not recovered from any Lender that has received such Payment (or portion thereof) for any reason, the Administrative Agent shall be subrogated to all the rights of such Lender with respect to such amount to the maximum extent permitted by law and (y) an erroneous Payment shall not pay, prepay, repay, discharge or otherwise satisfy any Obligations owed by the Borrower or any other Loan Party; provided, that this clause (c) shall not be interpreted to increase (or accelerate the due date for), or have the effect of increasing (or accelerating the due date for), any Obligations of the Loan Parties in respect of principal and interest hereunder relative to the amount (and/or timing for payment) of the Obligations of the Loan Parties in respect of principal and interest hereunder 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 clause (c) shall not apply to the extent any such Payment is, and solely with respect to the amount of such Payment that is, comprised of funds received by the Administrative Agent from any Borrower or any other Loan Party for the purpose of making such Payment, satisfying Obligations or from the proceeds of Collateral.

(d) Each party's obligations under this Section 7.03 shall survive the resignation or replacement of the Administrative Agent or any transfer of rights or obligations by, or the replacement of, a Lender, the termination of the Commitments or the repayment, satisfaction or discharge of all Obligations under any Loan Document.

ARTICLE VIII

Miscellaneous

SECTION 8.01. Notices. Except in the case of notices and other communications expressly permitted to be given by telephone (and subject to the last paragraph of this Section), 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 telecopy, as follows:

(a) if to the Borrowers, to the Company at Three Limited Parkway, P.O. Box 16000, Columbus, Ohio 43216, Attention of Treasurer (Telecopy No. 614-577-3180, email: Treasury@lb.com and TreasuryCashManagement@lb.com) with copy to General Counsel (Telecopy No. 614-415-7188, email: generalcounsel@lb.com);

(b) [reserved;]

(c) if to either Agent for any other purpose, to JPMorgan Chase Bank, N.A., Loan and Agency Services Group, Attention of James Campbell, 500 Stanton Christiana Rd, NCCS, Floor 01, Newark, DE 19713 (Telecopy No. 302-634-4250, email: james.x.campbell@chase.com); and

(d) if to an Issuing Bank, as applicable, to it at (i) JPMorgan Chase Bank, N.A., Attention of James Campbell, 500 Stanton Christiana Rd, NCCS, Floor 01, Newark, DE 19713 (Telecopy No. 302-634-4250, email: james.x.campbell@chase.com), (ii) Citibank, N.A., Attention of Piotr Marciszewski, 388 Greenwich Street, New York, NY 10013 (Email: piotr.marciszewski@citi.com; Telecopy No. 646-737-0678) with a copy to Citibank, N.A., Attention Bank Loans Syndications Department, 1615 Brett Road #3, New Castle, DE 19720 (Email: GLAgentOfficeOps@citi.com; Telecopy No. 646-274-5080), (iii) Bank of America, N.A., Attention of Alfonso Malave, Standby L/C Department, MC: PA6-580-02-30, One Fleet Way, Scranton, PA 18507-1999 (Telecopy No. 1-800-370-8743), (iv) Wells Fargo Bank, National Association, Attention of Lisa Mickelson, 90 South 7th Street, Minneapolis, MN, 55402 (Telecopy No. 877-302-0076), (v) HSBC Bank USA, N.A., Attention of Head of SBDC Operations- GTRF, 2 Hanson Place, 14th Floor, Brooklyn, NY 11217 (Telecopy No. 1-866-327-0763, gtrfsc@us.hsbc.com) or (vi) its address (or telecopy number) specified in writing to the Company and the Administrative Agent in accordance with this Section 8.01.

Any party hereto may change its address or telecopy number for notices and other communications hereunder by notice to the other parties hereto. Notices sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received; notices 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 delivered through electronic communications to the extent provided in the immediately subsequent paragraph below, shall be effective as provided in said paragraph.

Notices and other communications to the Lenders hereunder may be delivered or furnished by electronic communications pursuant to procedures approved by the Administrative Agent; provided that the foregoing shall not apply to notices pursuant to Article II unless otherwise agreed by the Administrative Agent and the applicable Lender. Either Agent or the Company 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 acknowledgment from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgment), provided that if such notice or other communication is not given during the normal business hours of the recipient, such notice or communication shall be deemed to have been given 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.

SECTION 8.02. Waivers; Amendments. (a) No failure or delay by the Administrative Agent, any Issuing Bank or any Lender in exercising any right or power hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such right or power, or any abandonment or discontinuance of steps to enforce such a right or power, preclude any other or further exercise thereof or the exercise of any other right or power. The rights and remedies of the Administrative Agent, any Issuing Bank and the Lenders hereunder are cumulative and are not exclusive of any rights or remedies that they would otherwise have. No waiver of any provision of this Agreement or consent to any departure by any Borrower therefrom shall in any event be effective unless the same shall be permitted by paragraph (b) of this Section, and then such waiver or consent shall be effective only in the specific instance and for the purpose for which given. Without limiting the generality of the foregoing, the making of a Loan or issuance of a Letter of Credit shall not be construed as a waiver of any Default, regardless of whether the Administrative Agent, any Lender or any Issuing Bank may have had notice or knowledge of such Default at the time.

(b) Neither this Agreement nor any provision hereof may be waived, amended or modified except pursuant to an agreement or agreements in writing entered into by the Borrowers and the Required Lenders or by the Borrowers and the Administrative Agent with the consent of the Required Lenders; provided that no such agreement shall (i) increase the Commitment of any Lender without the written consent of such Lender, (ii) reduce the principal amount of any Loan or LC Disbursement or reduce the rate of interest thereon, or reduce any fees payable by the Borrowers hereunder, without the written consent of each Lender affected thereby, (iii) postpone the scheduled date of payment of the principal amount of any Loan or LC Disbursement, or any interest thereon, or any fees payable by the Borrowers hereunder, or reduce the amount of, waive or excuse any such payment, or postpone the scheduled date of expiration of any Commitment, without the written consent of each Lender affected thereby, (iv) change Section 2.17(b) or (c) in a manner that would alter the pro rata sharing of payments required thereby, without the written consent of each Lender, or (v) change any of the provisions of this Section or the definition of "Required Lenders" or any other provision hereof to reduce the number or percentage of Lenders (or Lenders of any Class) required to waive, amend or modify any rights hereunder or make any determination or grant any consent hereunder, without the written consent of each Lender (or each Lender of such Class, as the case may be); provided further that (i) no such agreement shall amend, modify or otherwise affect the rights or duties of the Administrative Agent or any Issuing Bank hereunder without the prior written consent of the Administrative Agent or any Issuing Bank, as the case may be, and (ii) any waiver, amendment or modification of this Agreement that by its terms affects the rights or duties under this Agreement of the Lenders of any Class (but not the Lenders of other Classes) may be effected by an agreement or agreements in writing entered into by the Company and requisite percentage in interest of the affected Class of Lenders. Notwithstanding the foregoing, any provision of this Agreement may be amended by an agreement in writing entered into by the Borrowers, the Required Lenders and the Administrative Agent (and, if their rights or obligations are affected thereby, any Issuing Bank) if (i) by the terms of such agreement the Commitment of each Lender not consenting to the amendment provided for therein shall terminate upon the effectiveness of such amendment and (ii) at the time such amendment becomes effective, each Lender not consenting thereto receives payment in full of the principal of and interest accrued on each Loan made by it and all other amounts owing to it or accrued for its account under this Agreement.

(c) Notwithstanding the foregoing, if the Administrative Agent and the Company acting together identify any ambiguity, omission, mistake, typographical error or other defect in any provision of this Agreement or any other Loan Document, then the Administrative Agent and the Company shall be permitted to amend, modify or supplement such provision to cure such ambiguity, omission, mistake, typographical error or other defect, and such amendment shall become effective without any further action by or consent of any other party to this Agreement.

SECTION 8.02A. Certain ABL Amendments. (a) Notwithstanding anything herein to the contrary, no agreement or agreements entered into by the Borrowers and the Required Lenders or by the Borrowers and the Administrative Agent with the consent of the Required Lenders shall (i) change any of the provisions of this Section, the definition of "Borrowing Base" or any of the component definitions thereof, or increase any advance rate used in computing the Borrowing Base, or add any new asset class to the Borrowing Base, in each case, in a manner that could result in increased borrowing availability, it being understood that changes in Reserves implemented by the Collateral Agent in its Permitted Discretion in accordance with the terms hereof shall not be subject to the consent of the Supermajority Lenders, (ii) release the Company or all or substantially all the value of the Guarantees provided by the Subsidiary Loan Parties (including, in each case, by limiting liability in respect thereof) under the Collateral Documents (except for any such release by the Collateral Agent in connection with any sale or other disposition of any Subsidiary Loan Party permitted hereunder), it being understood that an amendment or other modification of the types of obligations guaranteed under the Collateral Documents shall not be deemed to be a release or limitation of any Guarantee or (iii) release all or substantially all the Collateral from the Liens created under the Collateral Documents, or subordinate any such Liens (except as expressly provided in Article VII or Section 8.23 and except for any such release by the Collateral Agent in connection with any sale or other disposition of the Collateral upon the exercise of remedies under the Collateral Documents), it being understood that an amendment or other modification of the types of obligations secured by the Collateral Documents shall not be deemed to be a release of the Collateral from the Liens created thereunder, in each case of clauses (i), (ii) and (iii), without the written consent of the Supermajority Lenders.

(b) Notwithstanding anything herein to the contrary, no agreement or agreements entered into by the Borrowers and the Required Lenders or by the Borrowers and the Administrative Agent with the consent of the Required Lenders shall change the definition of "Supermajority Lenders", without the written consent of each Lender.

SECTION 8.03. Expenses; Indemnity; Damage Waiver. (a) The Company shall pay (i) all reasonable out-of-pocket expenses incurred by the Agents and their respective Affiliates, including the reasonable fees, charges and disbursements of a single counsel for the Agents, as applicable, in connection with the syndication of the credit facilities provided for herein, the preparation and administration of the Loan Documents or any amendments, modifications or waivers of the provisions thereof (whether or not the transactions contemplated hereby or thereby shall be consummated), (ii) all reasonable out-of-pocket expenses incurred by the Agents in connection with field examinations and appraisals conducted in connection with the establishment of the credit facilities provided for herein or provided for in the Loan Documents and/or any internally allocated charges relating to any field examinations or appraisals conducted by either Agent and (iii) if an Event of Default occurs, all reasonable out-of-pocket expenses incurred by either Agent, any Issuing Bank or any Lender, including the fees, charges and disbursements of any counsel for either Agent, any Issuing Bank or any Lender, in connection with the enforcement or protection of its rights in connection with the Loan Documents.

(b) The Company shall indemnify each Agent, any Issuing Bank and each Lender, and each Related Party of any of the foregoing Persons (each such Person being called an "Indemnatee") against, and hold each Indemnatee harmless from, any and all Liabilities and related expenses, including the reasonable fees, charges and disbursements of any counsel for any Indemnatee in connection with any investigative, administrative or judicial proceeding, whether or not such Indemnatee shall be designated a party thereto, which may be incurred by any Indemnatee, relating to or arising out of any actual or proposed use of proceeds of Loans hereunder for the purpose of acquiring equity securities of any Person or any exercise of remedies under the Loan Documents; provided that no Indemnatee shall have the right to be indemnified hereunder (i) with respect to the acquisition of equity securities of a wholly-owned Subsidiary, or of a Person who prior to such acquisition did not conduct any business or (ii) for its own gross negligence or willful misconduct determined by a final non appealable decision of a court of competent jurisdiction. This Section 8.03(b) shall not apply with respect to Taxes other than any Taxes that represent losses, claims, damages, etc. arising from any non-Tax claim.

(c) To the extent that the Company fails to pay any amount required to be paid by it to either Agent or any Issuing Bank under paragraph (a) or (b) of this Section, (i) each Lender, in the case of this Agreement, severally agrees to pay to the Administrative Agent or Issuing Bank, as the case may be, such Lender's ratable share (determined in accordance with such Lender's share of the Aggregate Commitments or, if the Commitments have terminated, the Aggregate Credit Exposure, in each case as of the time that the applicable unreimbursed expense or indemnity payment is sought) of such unpaid amount and (ii) each Secured Party, in the case of the Collateral Agreements, severally agrees to pay to the Collateral Agent such Secured Party's ratable share (determined in accordance with such Secured Party's share of the Obligations) 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 such Agent or Issuing Bank in its capacity as such.

(d) To the extent permitted by applicable law, (i) no Loan Party shall assert, and each Loan Party hereby waives, any claim against any Agent, any Joint Lead Arranger, any Issuing Bank, any Lender, and any Related Party of any of the foregoing Persons (each such Person being called a "Lender-Related Person") for any Liabilities arising from the use by others of information or other materials (including, without limitation, any personal data) obtained through telecommunications, electronic or other information transmission systems (including the Internet); provided, that such waiver shall not apply to any claims against a Lender-Related Person attributable to the gross negligence or willful misconduct of such Lender-Related Person and (ii) no Loan Party shall assert, and each Loan Party hereby waives, any claim against any Lender-Related Person, on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, the Loan Documents or any agreement or instrument contemplated hereby, the Transactions, any Loan or Letter of Credit or the use of the proceeds thereof; provided that (A) the waiver set forth in this clause (ii) shall not apply to special, indirect or consequential damages (but shall apply to punitive damages) attributable to the failure of a Lender to fund Loans, when required to do so hereunder, promptly after the receipt of notice of such failure and (B) nothing in this Section 8.03(d) shall relieve any Loan Party of any obligation it may have to indemnify an Indemnitee, as provided in Section 8.03(b), against any special, indirect, consequential or punitive damages asserted against such Indemnitee by a third party.

(e) All amounts due under this Section shall be payable promptly after written demand therefor.

SECTION 8.04. Successors and Assigns. (a) The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby (including any Affiliate of any Issuing Bank that issues any Letter of Credit), except that (i) other than pursuant to a merger permitted under Section 5.12, no Borrower may assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of each Lender (and any attempted assignment or transfer by a Borrower without such consent shall be null and void) and (ii) no Lender may assign or otherwise transfer its rights or obligations hereunder except in accordance with this Section. Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby (including any Affiliate of any Issuing Bank that issues any Letter of Credit), Participants (to the extent provided in paragraph (c) of this Section) and, to the extent expressly contemplated hereby, the Related Parties of each of the Agents, any Issuing Bank and the Lenders) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(b) (i) Subject to the conditions set forth in paragraph (b)(ii) below, any Lender may assign to one or more Eligible Assignees all or a portion of its rights and obligations under this Agreement (including all or a portion of its Commitment and the Loans at the time owing to it) with the prior written consent (such consent not to be unreasonably withheld or delayed) of:

(A) the Company; provided that no consent of the Company shall be required for an assignment to a Lender, an Affiliate of a Lender, an Approved Fund or, if an Event of Default has occurred and is continuing, any other assignee; provided, further, that the Company shall be deemed to have consented to any such assignment unless it shall object thereto by written notice to the Administrative Agent within ten (10) Business Days after having received notice thereof;

(B) the Administrative Agent; and

(C) in the case of any assignment of all or a portion of the Commitments of any Class under which Letters of Credit may be issued hereunder, each Issuing Bank of such Class.

(ii) Assignments shall be subject to the following additional conditions:

(A) except in the case of an assignment to a Lender or an Affiliate of a Lender or an assignment of the entire remaining amount of the assigning Lender's Commitment or Loans of any Class, the amount of the Commitment or Loans of any Class 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) shall not be less than \$10,000,000 unless each of the Company and the Administrative Agent otherwise consents; provided that no such consent of the Company shall be required if an Event of Default has occurred and is continuing;

(B) each partial assignment shall be made as an assignment of a proportionate part of all the assigning Lender's rights and obligations under this Agreement as such rights and obligations relate to the Class of Loans or Commitments being assigned;

(C) 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;

(D) the assignee, if it shall not be a Lender, shall deliver to the Administrative Agent an Administrative Questionnaire; and

(E) no assignment shall be made to the Company or any of its Affiliates.

(iii) Subject to acceptance and recording thereof pursuant to paragraph (b)(iv) of this Section, from and after the effective date specified in each Assignment and Assumption the assignee thereunder shall be a party hereto and, to the extent of the interest assigned by such Assignment and Assumption, have the rights and obligations of a Lender under this 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 Agreement (and, in the case of an Assignment and Assumption covering all of the assigning Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto but shall continue to be entitled to the benefits of Sections 2.14, 2.15, 2.16, 2.21 and 8.03). Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this Section 8.04 shall be treated for purposes of this Agreement as a sale by such Lender of a participation in such rights and obligations in accordance with paragraph (c) of this Section.

(iv) The Administrative Agent, acting for this purpose as an agent of the Company, shall maintain at one of its offices 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 Commitment of, and principal amount of the Loans and LC Disbursements owing to, each Lender pursuant to the terms hereof from time to time (the "Register"). The entries in the Register shall be conclusive, in the absence of manifest error, and the Borrowers, the Administrative Agent, any Issuing Bank 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 Agreement, notwithstanding notice to the contrary. The Register shall be available for inspection by the Borrowers, any Issuing Bank and any Lender, at any reasonable time and from time to time upon reasonable prior notice.

(v) Upon its receipt of a duly completed Assignment and Assumption executed by an assigning Lender and an assignee, the assignee's completed Administrative Questionnaire (unless the assignee shall already be a Lender hereunder), the processing and recordation fee referred to in paragraph (b) of this Section and any written consent to such assignment required by paragraph (b) of this Section, the Administrative Agent shall accept such Assignment and Assumption and record the information contained therein in the Register. No assignment shall be effective for purposes of this Agreement unless it has been recorded in the Register as provided in this paragraph.

(c) (i) Any Lender may, without the consent of the Borrowers, the Administrative Agent or any Issuing Bank, sell participations to one or more banks or other entities (a "Participant") in all or a portion of such Lender's rights and obligations under this Agreement (including all or a portion of its Commitment and the Loans owing to it); provided that (A) such Lender's obligations under this Agreement shall remain unchanged, (B) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations and (C) the Borrowers, the Administrative Agent, any Issuing Bank 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 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 the Loan Documents and to approve any amendment, modification or waiver of any provision of the Loan Documents; provided that such agreement or instrument may provide that such Lender will not, without the consent of the Participant, agree to any amendment, modification or waiver described in clause (i), (ii), (iii) or (iv) of the first proviso to Section 8.02(b) that affects such Participant. Subject to paragraph (c)(ii) of this Section, the Borrowers agree that each Participant shall be entitled to the benefits of Sections 2.14, 2.15, 2.16 (subject to the requirements and limitations therein) and 2.21 to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to paragraph (b) of this Section. To the extent permitted by law, each Participant also shall be entitled to the benefits of Section 8.08 as though it were a Lender, provided such Participant agrees to be subject to Section 2.17(c) as though it were a Lender.

(ii) A Participant shall not be entitled to receive any greater payment under Section 2.14, 2.16 or 2.21 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 Company'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 2.16 unless the Company is notified of the participation sold to such Participant and such Participant agrees, for the benefit of the Borrowers, to comply with Section 2.16(e) as though it were a Lender.

(iii) Each Lender that sells a participation shall, acting solely for this purpose as a non-fiduciary agent of the Borrowers, maintain a register on which it enters the name and address of each Participant and the principal amounts (and stated interest) of each Participant's interest in the Loans or other obligations under the Loan Documents (the "Participant Register"); provided that no Lender shall have any obligation to disclose all or any portion of the Participant Register to any Person (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 Loan Document) 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 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.

(d) Any Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement to secure obligations of such Lender, including any pledge or assignment to secure obligations to a Federal Reserve Bank or other central banking authority, and this Section shall not apply to any such pledge or assignment of a security interest; provided that no such pledge or assignment of a security interest shall release a Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto.

SECTION 8.05. Survival. All covenants, agreements, representations and warranties made by the Loan Parties in the Loan Documents and in the certificates or other instruments delivered in connection with or pursuant to any Loan Document shall be considered to have been relied upon by the other parties hereto and shall survive the execution and delivery of the Loan Documents and the making of any Loans and issuance of any Letters of Credit, regardless of any investigation made by any such other party or on its behalf and notwithstanding that the Administrative Agent, any Issuing Bank or any Lender may have had notice or knowledge of any Default or incorrect representation or warranty at the time any credit is extended hereunder, and shall continue in full force and effect as long as the principal of or any accrued interest on any Loan or any fee or any other amount payable under this Agreement is outstanding and unpaid or any Letter of Credit is outstanding and so long as the Commitments have not expired or terminated. The provisions of Sections 2.14, 2.15, 2.16, 2.21 and 8.03 and Article VII shall survive and remain in full force and effect regardless of the consummation of the transactions contemplated hereby, the repayment of the Loans, the expiration or termination of the Letters of Credit and the Commitments or the termination of this Agreement or any provision hereof.

SECTION 8.06. Counterparts; Integration; Effectiveness; Electronic Execution. (a) This Agreement may be executed in counterparts (and by different parties hereto on different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Agreement, the other Loan Documents and any separate letter agreements with respect to fees payable to the Administrative Agent and the initial Lenders constitute the entire contract among the parties relating to the subject matter hereof and supersede any and all previous agreements and understandings, oral or written, relating to the subject matter hereof. Except as provided in Section 4.01, this Agreement shall become effective when it shall have been executed by the Administrative Agent and when the Administrative Agent shall have received counterparts hereof which, when taken together, bear the signatures of each of the other parties hereto, and thereafter shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

(b) Delivery of an executed counterpart of a signature page of this Agreement by telecopy, emailed pdf. or any other electronic means that reproduces an image of the actual executed signature page shall be effective as delivery of a manually executed counterpart of this Agreement. The words "execution," "signed," "signature," "delivery," and words of like import in or relating to any document to be signed in connection with this Agreement or any other Loan Document and the transactions contemplated hereby shall be deemed to include Electronic Signatures, 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, physical delivery thereof 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, or the *Electronic Commerce Act* (Ontario) or other similar provincial legislation; provided that nothing herein shall require any Agent to accept electronic signatures in any form or format without its prior written consent. Without limiting the generality of the foregoing, the Company hereby (i) agrees that, for all purposes, including without limitation, in connection with any workout, restructuring, enforcement of remedies, bankruptcy proceedings or litigation among the Agents, the Lenders and the Loan Parties, electronic images of this Agreement or any other Loan Documents (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 (ii) waives any argument, defense or right to contest the validity or enforceability of the Loan Documents based solely on the lack of paper original copies of any Loan Documents, including with respect to any signature pages thereto.

SECTION 8.07. Severability. Any provision of this Agreement held to be invalid, illegal or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such invalidity, illegality or unenforceability without affecting the validity, legality and enforceability of the remaining provisions hereof; and the invalidity of a particular provision in a particular jurisdiction shall not invalidate such provision in any other jurisdiction.

SECTION 8.08. Right of Setoff. If any Event of Default shall have occurred and be continuing, 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 obligations at any time owing by such Lender or Affiliate to or for the credit or the account of any Borrower against any and all the obligations then due of such Borrower now or hereafter existing under this Agreement held by such Lender. The rights of each Lender under this Section are in addition to other rights and remedies (including other rights of setoff) which such Lender may have.

SECTION 8.09. Governing Law; Jurisdiction; Consent to Service of Process. (a) This Agreement and any Letters of Credit issued hereunder shall be construed in accordance with and governed by the law of the State of New York.

(b) Each Borrower hereby irrevocably and unconditionally submits, for itself and its property, to the nonexclusive jurisdiction of the Supreme Court 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, in any suit, action, proceeding, claim or counterclaim arising out of or relating to any Loan Document, or for recognition or enforcement of any judgment, and each of the parties hereto hereby irrevocably and unconditionally agrees, to the fullest extent permitted under applicable law, that all claims in respect of any such suit, action, proceeding, claim or counterclaim may be heard and determined in such New York State or Federal court. Each of the parties hereto agrees that a final judgment in any such suit, action, proceeding, claim or counterclaim 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 any Loan Document shall affect any right that either Agent, any Issuing Bank or any Lender may otherwise have to bring any suit, action, proceeding, claim or counterclaim relating to any Loan Document against any Borrower or its properties in the courts of any jurisdiction.

(c) Each Borrower hereby irrevocably and unconditionally waives, to the fullest extent it may legally and effectively do so, any objection which it may now or hereafter have to the laying of venue of any suit, action, proceeding, claim or counterclaim arising out of or relating to any Loan Document in any court referred to in paragraph (b) of this Section. Each of the parties hereto hereby irrevocably waives, to the fullest extent permitted by law, the defense of an inconvenient forum to the maintenance of such suit, action, proceeding, claim or counterclaim in any such court.

(d) Each party to this Agreement irrevocably consents to service of process in the manner provided for notices in Section 8.01. Nothing in any Loan Document will affect the right of any party to this Agreement to serve process in any other manner permitted by law.

SECTION 8.10. WAIVER OF JURY TRIAL. EACH PARTY HERETO HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY SUIT, ACTION, PROCEEDING, CLAIM OR COUNTERCLAIM DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO ANY LOAN DOCUMENT OR THE TRANSACTIONS CONTEMPLATED THEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

SECTION 8.11. Headings. Article and Section headings and the Table of Contents used herein are for convenience of reference only, are not part of this Agreement and shall not affect the construction of, or be taken into consideration in interpreting, this Agreement.

SECTION 8.12. Confidentiality. Each of the Agents, any Issuing Bank and the Lenders agrees to maintain the confidentiality of the Information (as defined below), except that Information may be disclosed (a) to its and its Affiliates' directors, officers, employees and agents, including accountants, legal counsel, insurers, insurance brokers, service providers and other advisors (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 requested by any regulatory authority, (c) to the extent required by applicable laws or regulations or by any subpoena or similar legal process, (d) to any other party to this Agreement or to any rating agency in connection with rating any Loan Party in connection with this Agreement or the Loans, (e) in connection with the exercise of any remedies under any Loan Document or any suit, action or proceeding relating to any Loan Document or the enforcement of rights thereunder, (f) subject to an agreement containing provisions substantially the same as those of this Section, to any assignee of or Participant in, or any prospective assignee of or Participant in, any of its rights or obligations under this Agreement (or any of its agents or professional advisors), (g) on a confidential basis to the CUSIP Service Bureau or any similar agency in connection with the issuance and monitoring of CUSIP numbers with respect to the credit facilities provided for herein, (h) in the case of information with respect to this Agreement that is of the type routinely provided by arrangers to such providers, to data service providers, including league table providers, that serve the lending industry, (i) with the consent of the Company or (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 either Agent, any Issuing Bank or any Lender on a nonconfidential basis from a source other than the Company or the Subsidiaries. For the purposes of this Section, "Information" means all information received from the Company or any Subsidiary relating to the Company, the Company's business, a Subsidiary or a Subsidiary's business, other than any such information that is available to either Agent, any Issuing Bank or any Lender on a nonconfidential basis prior to disclosure by the Company or the Subsidiaries. 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.

SECTION 8.13. Interest Rate Limitation. Notwithstanding anything herein to the contrary, if at any time the interest rate applicable to any Loan, together with all fees, charges and other amounts which are treated as interest on such Loan under applicable law (collectively the "Charges"), shall exceed the maximum lawful rate (the "Maximum Rate") which may be contracted for, charged, taken, received or reserved by the Lender holding such Loan in accordance with applicable law, the rate of interest payable in respect of such Loan hereunder, together with all Charges payable in respect thereof, shall be limited to the Maximum Rate and, to the extent lawful, the interest and Charges that would have been payable in respect of such Loan but were not payable as a result of the operation of this Section shall be cumulated and the interest and Charges payable to such Lender in respect of other Loans or periods shall be increased (but not above the Maximum Rate therefor) until such cumulated amount, together with interest thereon at the Federal Funds Effective Rate to the date of repayment, shall have been received by such Lender.

SECTION 8.14. Collateral. Each of the Lenders represents to the Agents and each of the other Lenders that it in good faith is not relying upon any "margin stock" (as defined in Regulation U of the Board) as collateral in the extension or maintenance of the credit provided for in this Agreement. In addition, no Borrower will use or permit any proceeds of the Loans to be used in any manner which would violate or cause any Lender to be in violation of Regulation U of the Board.

SECTION 8.15. USA Patriot Act and Beneficial Ownership Regulation. Each Lender hereby notifies the Borrowers that pursuant to the requirements of the USA Patriot Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)) (the "Patriot Act") and/or the Beneficial Ownership Regulation, it is required to obtain, verify and record information that identifies each Borrower, which information includes the name and address of each Borrower and other information that will allow such Lender to identify each Borrower in accordance with the Patriot Act and the Beneficial Ownership Regulation.

SECTION 8.16. Canadian Anti-Money Laundering Legislation.

(a) The Loan Parties acknowledge that, pursuant to the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (Canada) and other applicable anti-money laundering, anti-terrorist financing, government sanction and "know your client" laws (collectively, including any guidelines or orders thereunder, "AML Legislation"), the Lenders may be required to obtain, verify and record information regarding the Loan Parties, their directors, authorized signing officers, direct or indirect shareholders or other Persons in control of the Loan Parties, and the transactions contemplated hereby. The Loan Parties shall promptly provide all such information in their possession, including supporting documentation and other evidence, as may be reasonably requested by any Lenders, or any prospective assignee or participant of a Lender, in order to comply with any applicable AML Legislation, whether now or hereafter in existence.

(b) If the Administrative Agent has ascertained the identity of any Loan Party or any authorized signatories of any Loan Party for the purposes of applicable AML Legislation, then the Administrative Agent:

(i) shall be deemed to have done so as an agent for each Lender, and this Agreement shall constitute a "written agreement" in such regard between the Administrative Agent and each other Lender within the meaning of the applicable AML Legislation; and

(ii) shall provide to each Lender copies of all information obtained in such regard without any representation or warranty as to its accuracy or completeness.

(c) Notwithstanding the preceding sentence and except as may otherwise be agreed in writing, each of the Lenders agrees that the Administrative Agent has no obligation to ascertain the identity of any Loan Party or any authorized signatories of any Loan Party on behalf of any Credit Party, or to confirm the completeness or accuracy of any information it obtains from any Loan Party or any such authorized signatory in doing so.

SECTION 8.17. [Reserved.]

SECTION 8.18. Judgment Currency. (a) If, for the purpose of obtaining judgment in any court, it is necessary to convert a sum owing hereunder in US Dollars into another currency, each party hereto agrees, to the fullest extent that it may effectively do so, that the rate of exchange used shall be that at which in accordance with normal banking procedures in the relevant jurisdiction US Dollars could be purchased with such other currency on the Business Day immediately preceding the day on which final judgment is given.

(b) The obligations of each party hereto in respect of any sum due to any other party hereto or any holder of the obligations owing hereunder (the "Applicable Creditor") shall, notwithstanding any judgment in a currency (the "Judgment Currency") other than US Dollars, be discharged only to the extent that, on the Business Day following receipt by the Applicable Creditor of any sum adjudged to be so due in the Judgment Currency, the Applicable Creditor may in accordance with normal banking procedures in the relevant jurisdiction purchase US Dollars with the Judgment Currency; if the amount of US Dollars so purchased is less than the sum originally due to the Applicable Creditor in US Dollars, such party agrees, as a separate obligation and notwithstanding any such judgment, to indemnify the Applicable Creditor against such deficiency. The obligations of the parties contained in this Section shall survive the termination of this Agreement and the payment of all other amounts owing hereunder.

SECTION 8.19. Intercreditor Agreement. (a) Each of the Lenders, the Issuing Banks and the other Secured Parties acknowledges that obligations of the Company and the other Loan Parties under the Permitted Non-ABL Indebtedness, upon incurrence thereof, may be secured by Liens on assets of the Company and the Subsidiary Loan Parties that constitute Collateral (and by fee-owned real property of the Company and the Subsidiary Loan Parties, whether or not such fee-owned real property constitutes Collateral), and that the relative Lien priority and other creditor rights of the Secured Parties and the secured parties in respect of Permitted Non-ABL Indebtedness will be set forth in an Intercreditor Agreement. Each of the Lenders, the Issuing Banks and the other Secured Parties hereby irrevocably authorizes and directs the Collateral Agent to execute and deliver, in each case on behalf of such Secured Party and without any further consent, authorization or other action by such Secured Party, (i) from time to time upon the request of the Company, in connection with the establishment, incurrence, amendment, refinancing or replacement of any Permitted Non-ABL Indebtedness, any Intercreditor Agreement (it being understood and agreed that the Collateral Agent is hereby authorized and directed to determine the terms and conditions of each Intercreditor Agreement as contemplated by the definition of the term "Intercreditor Agreement", and that notwithstanding anything herein to the contrary, the Collateral Agent shall not be liable for, or be responsible for any loss, cost or expense suffered by any Lender, any Issuing Bank or any other Secured Party, or by any Loan Party, as a result of, any such determination) and (ii) any documents relating thereto.

(b) Each of the Lenders, the Issuing Banks and the other Secured Parties hereby irrevocably (i) consents to the subordination of the Liens on the Non-ABL Priority Collateral securing the Obligations on the terms set forth in each Intercreditor Agreement, (ii) agrees that, upon the execution and delivery thereof, such Secured Party will be bound by the provisions of each Intercreditor Agreement as if it were a signatory thereto and will take no actions contrary to the provisions thereof, (iii) agrees that no Secured Party shall have any right of action whatsoever against the Collateral Agent as a result of any action taken by the Collateral Agent pursuant to this Section or in accordance with the terms of any Intercreditor Agreement and (iv) authorizes and directs the Collateral Agent to carry out the provisions and intent of each such document.

(c) Each of the Lenders, the Issuing Banks and the other Secured Parties hereby irrevocably further authorizes and directs the Collateral Agent to execute and deliver, in each case on behalf of such Secured Party and without any further consent, authorization or other action by such Secured Party, any amendments, supplements or other modifications of each Intercreditor Agreement that the Company may from time to time request (i) to give effect to any establishment, incurrence, amendment, extension, renewal, refinancing or replacement of any Permitted Non-ABL Indebtedness, (ii) to confirm for any party that each Intercreditor Agreement is effective and binding upon the Collateral Agent on behalf of the Secured Parties or (iii) to effect any other amendment, supplement or modification so long as the resulting agreement has terms and conditions consistent with the then existing market practice (it being understood and agreed that the Collateral Agent is hereby authorized and directed to determine the terms and conditions of any such amendments, supplements or modifications to each Intercreditor Agreement, and that notwithstanding anything herein to the contrary, the Collateral Agent shall not be liable for, or be responsible for any loss, cost or expense suffered by any Lender, any Issuing Bank or any other Secured Party, or by any Loan Party, as a result of, any such determination).

(d) Each of the Lenders, the Issuing Banks and the other Secured Parties hereby irrevocably further authorizes and directs the Collateral Agent to execute and deliver, in each case on behalf of such Secured Party and without any further consent, authorization or other action by such Secured Party, any amendments, supplements or other modifications of any Collateral Document to add or remove any legend that may be required pursuant to any Intercreditor Agreement.

(e) Each of the Lenders, the Issuing Banks and the other Secured Parties acknowledges and agrees that JPMorgan Chase Bank, N.A., or one or more of its Affiliates may (but is not obligated to) act as Collateral Agent, collateral agent or a similar representative for the holders of any Permitted Non-ABL Indebtedness (and may itself be a holder of any Permitted Non-ABL Indebtedness) and, in any such capacity, may be a party to any Intercreditor Agreement. Each of the Lenders, the Issuing Banks and the other Secured Parties waives any conflict of interest in connection therewith and agrees not to assert against JPMorgan Chase Bank, N.A. or any of its Affiliates any claims, causes of action, damages or liabilities of whatever kind or nature relating thereto.

(f) The Collateral Agent shall have the benefit of the provisions of Article VII and Section 8.03 with respect to all actions taken by it pursuant to this Section or in accordance with the terms of any Intercreditor Agreement to the full extent thereof.

(g) Each Secured Party, whether or not a party hereto, will be deemed, by its acceptance of the benefits of the Collateral and of the Guarantees of the Obligations provided under the Loan Documents, to have agreed to the provisions of this Section 8.19.

SECTION 8.20. Acknowledgement and Consent to Bail-In of Affected Financial Institutions. Notwithstanding anything to the contrary in any Loan Document or in any other agreement, arrangement or understanding among the parties hereto, each party hereto acknowledges that any liability of any Affected Financial Institution arising under any Loan Document 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 party hereto 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 an Affected Financial Institution, its parent entity, 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 Agreement or any other Loan 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.

SECTION 8.21. Acknowledgement Regarding Any Supported QFCs. (a) To the extent that the Loan 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 Federal Deposit Insurance Corporation 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 Loan 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).

(b) 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 Loan 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 Loan 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.

SECTION 8.22. MIRE Events. Each of the parties hereto acknowledges and agrees that, if there are any Mortgaged Properties, any increase, extension or renewal of any of the Commitments or Loans (including the provision of Incremental Revolving Loans) or any other incremental or additional credit facilities hereunder, but excluding (a) any continuation or conversion of borrowings, (b) the making of any Revolving Loans or (c) the issuance, renewal or extension of Letters of Credit shall be subject to and conditioned upon: (i) the prior delivery of all flood hazard determination certifications, acknowledgements and evidence of flood insurance and other flood-related documentation with respect to such Mortgaged Properties as required by the Flood Insurance Laws and as otherwise reasonably required by the Administrative Agent and (ii) the Administrative Agent shall have received written confirmation from the Lenders that flood insurance due diligence and flood insurance compliance have been completed by the Lenders (such written confirmation not to be unreasonably conditioned, withheld or delayed).

SECTION 8.23. Release. (a) Notwithstanding anything in Section 8.02(b) to the contrary, (i) any Subsidiary Loan Party shall automatically be released from its obligations hereunder (and its Guarantee of the Obligations and any Liens on its property constituting Collateral shall be automatically released) (x) upon the consummation of any permitted transaction or series of related transactions or the occurrence of any other permitted event or circumstance if as a result thereof such Subsidiary Loan Party ceases to be a wholly-owned Material Subsidiary or becomes an Excluded Subsidiary (including by merger or dissolution) as a result of a single transaction or series of related transactions or other event or circumstance permitted hereunder, or (y) upon the termination of the Commitments, payment in full of the Obligations (other than contingent indemnification and expense reimbursement obligations for which no claim or demand has been made), and expiration, termination or cash collateralization of all Letters of Credit and/or (ii) any Subsidiary Loan Party that qualifies as an “Excluded Subsidiary” shall be released from its obligations hereunder (and its Guarantee of the Obligations and any Liens on its property constituting Collateral shall be automatically released) by the Administrative Agent promptly following the request therefor by the Company; provided that, in each case of clauses (i)(x) and (ii), (A) if any Material Subsidiary becomes an Excluded Subsidiary solely as a result of becoming a non-wholly-owned Consolidated Subsidiary, such release shall only be permitted if the transaction or event resulting in such Material Subsidiary becoming a non-wholly-owned Consolidated Subsidiary is with an unaffiliated third party (other than a bona fide joint venture) for a bona fide business purpose and was not entered into with the primary purpose of evading the Collateral and Guarantee Requirement (as determined by the Company in good faith) and (B) after giving pro forma effect thereto, such release does not result in the Aggregate Credit Exposure exceeding the lesser of (1) the sum of (II) the Borrowing Base then in effect and (II) the Protective Advance Exposures and (2) the Aggregate Commitments then in effect.

(b) Notwithstanding anything in Section 8.02(b) to the contrary, any Lien on any asset or property granted to or held by the Administrative Agent under any Loan Document shall be automatically released without the need for further action by any Person (i) upon the termination of the Commitments, payment in full of the Obligations (other than contingent indemnification and expense reimbursement obligations for which no claim or demand has been made), and expiration, termination or cash collateralization of all Letters of Credit, (ii) upon the sale or other transfer of such asset or property as part of or in connection with any disposition or Investment permitted under the Loan Documents to a Person that is not a Loan Party, (iii) upon such asset or property becoming an Excluded Property (as defined in the Collateral Agreements) or if such asset or property does not constitute (or ceases to constitute) Collateral, (iv) if the property subject to such Lien is owned by a Subsidiary Loan Party, upon the release of such Subsidiary Loan Party from its Guarantee of the Obligations otherwise in accordance with the Loan Documents, (v) as provided for under Article VII or as provided for in any other Loan Document or (vi) if approved, authorized or ratified in writing by the Required Lenders (or such other number or percentage of Lenders as shall be necessary under the relevant circumstances as provided in Section 8.02A) in accordance with Section 8.02A; provided that, in each case of clauses (ii), (iii), (iv) and (v), after giving pro forma effect thereto, such release does not result in the Aggregate Credit Exposure exceeding the lesser of (A) the sum of (1) the Borrowing Base then in effect and (2) the Protective Advance Exposures and (B) the Aggregate Commitments then in effect. Without limiting the foregoing, in the event that Receivables Facility Assets become subject to a Specified Receivables Facility, whether by transfer or conveyance or by placing a security interest, trust or other encumbrance required by a Specified Receivables Facility with respect to such Receivables Facility Assets, the Liens under the Loan Documents on such Receivables Facility Assets (including proceeds thereof and any deposit accounts holding exclusively such proceeds) shall be automatically released (or such Receivables Facility Assets, proceeds or deposit accounts re-assigned). Each Secured Party hereby consents to any release or re-assignment contemplated by this Section 8.23 and any steps any Agent may take or request to give effect to such release or re-assignment under the governing law of such Lien.

(c) In connection with any such release described in this Section, the Administrative Agent shall promptly execute and deliver to the relevant Loan Party, at such Loan Party's expense, all documents that such Loan Party shall reasonably request to evidence termination or release. Any execution and delivery of any document pursuant to the preceding sentence of this Section 8.23 shall be without recourse to or warranty by the Administrative Agent (other than as to the Administrative Agent's authority to execute and deliver such documents).

SECTION 8.24. No Advisory or Fiduciary Responsibility. In connection with all aspects of the transactions contemplated hereby (including in connection with any amendment, waiver or other modification hereof or of any other Loan Document), each Loan Party acknowledges and agrees, and acknowledges its subsidiaries' understanding, that: (a) (i) the arranging and other services regarding this Agreement provided by the Administrative Agent, the Joint Lead Arrangers and the Lenders (which term shall for the purposes of this Section include the Issuing Banks) are arm's-length commercial transactions between such Loan Party and its Affiliates, on the one hand, and the Administrative Agent, the Joint Lead Arrangers and the Lenders, on the other hand, (ii) such Loan Party has consulted its own legal, accounting, regulatory and tax advisors to the extent it has deemed appropriate, and (iii) such Loan Party is capable of evaluating, and understands and accepts, the terms, risks and conditions of the transactions contemplated hereby and by the other Loan Documents; (b) (i) each of the Administrative Agent, the Joint Lead Arrangers and the Lenders 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 any Loan Party or any of its subsidiaries, or any other Person and (ii) none of the Administrative Agent, any Joint Lead Arranger or any Lender has any obligation to any Loan Party or any of its Affiliates with respect to the transactions contemplated hereby except those obligations expressly set forth herein and in the other Loan Documents; and (c) the Administrative Agent, the Joint Lead Arrangers and the Lenders and their respective Affiliates may be engaged in a broad range of transactions that involve interests that differ from those of such Loan Party and its Affiliates, and neither the Administrative Agent, any Joint Lead Arrangers nor any Lender has any obligation to disclose any of such interests to such Loan Party or its Affiliates.

[Signature Pages Follow]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their respective authorized officers as of the day and year first above written.

VICTORIA'S SECRET & CO., as the Company

By: /s/ Todd Helvie

Name: Todd Helvie

Title: Treasurer

[Signature Page to Revolving Credit Agreement]

JPMORGAN CHASE BANK, N.A., as Administrative Agent

By: /s/ Ryan Baker

Name: Ryan Baker

Title: Vice President

[Signature Page to Revolving Credit Agreement]

BANK OF AMERICA, N.A.

By: /s/ Roger Malouf

Name: Roger Malouf

Title: Senior Vice President

[Signature Page to Revolving Credit Agreement]

BANK OF AMERICA, N.A., acting through its Canada branch, as a Lender

By: /s/ Medina Sales de Andrade

Name: Medina Sales de Andrade

Title: Vice President

[Signature Page to Revolving Credit Agreement]

BARCLAYS BANK PLC

By: /s/ Christopher M. Aitkin

Name: Christopher M. Aitkin

Title: Senior Vice President

[Signature Page to Revolving Credit Agreement]

Citibank, N.A.

By: /s/ Brendan Mackay

Name: Brendan Mackay

Title: Vice President and Director

[Signature Page to Revolving Credit Agreement]

GOLDMAN SACHS BANK USA

By: /s/ Jacob Elder

Name: Jacob Elder

Title: Authorized signatory

[Signature Page to Revolving Credit Agreement]

HSBC Bank USA, NA

By: /s/ Allison Donahue

Name: Allison Donahue

Title: Vice President

[Signature Page to Revolving Credit Agreement]

Wells Fargo Bank, National Association

By: /s/ Wai Yin Cheng

Name: Wai Yin Cheng

Title: Authorized Signatory

[Signature Page to Revolving Credit Agreement]

By: /s/ Davis G. Phillips

Name: Davis G. Phillips

Title: Senior Vice President, Credit Officer

[Signature Page to Revolving Credit Agreement]

KEYBANK NATIONAL ASSOCIATION

By: /s/ Linda Skinner

Name: Linda Skinner

Title: VP

[Signature Page to Revolving Credit Agreement]

MIZUHO BANK, LTD.

By: /s/ John Davies

Name: John Davies

Title: Authorized Signatory

[Signature Page to Revolving Credit Agreement]

MUFG UNION BANK, N.A.

By: /s/ John Eissele

Name: John Eissele

Title: Managing Director

[Signature Page to Revolving Credit Agreement]

The Huntington National Bank

By: /s/ Julie Natoli

Name: Julie Natoli

Title: Vice President

[Signature Page to Revolving Credit Agreement]

U.S. BANK NATIONAL ASSOCIATION

By: /s/ Matthew Kasper

Name: Matthew Kasper

Title: Senior Vice President

[Signature Page to Revolving Credit Agreement]

VICTORIA'S SECRET & CO.
2021 CASH INCENTIVE COMPENSATION PERFORMANCE PLAN

Victoria's Secret & Co., a Delaware corporation ("VS & Co."), hereby adopts the Victoria's Secret & Co. 2021 Cash Incentive Compensation Performance Plan (the "*Plan*") for the purpose of enhancing the Company's ability to attract and retain highly qualified executive and managerial-level associates and to provide additional financial incentives to such associates to promote the success of the Company and its subsidiaries. The Company reserves the right to pay discretionary bonuses, or other types of compensation outside of the Plan, including under the Stock Plan or otherwise.

1. **Definitions.** As used herein, the following terms shall have the respective meanings indicated:

(a) "*Board*" shall mean the Board of Directors of VS & Co.

(b) "*Cause*" shall have the meaning set forth in the Stock Plan.

(c) "*Change in Control*" shall have the meaning set forth in the Stock Plan.

(d) "*Code*" shall mean the Internal Revenue Code of 1986, as amended from time to time, and any successor federal internal revenue law, along with related rules, regulations, and interpretations.

(e) "*Common Stock*" shall mean the common stock, \$0.01 par value per share, of VS & Co.

(f) "*Committee*" shall mean the Human Capital and Compensation Committee of the Board or such other committee or subcommittee appointed by the Board to administer the Plan.

(g) "*Company*" shall mean, collectively, VS & Co. and its subsidiaries.

(h) "*Good Reason*" shall have the meaning set forth in the Stock Plan.

(i) "*Incentive Compensation*" shall mean, for each Participant, compensation to be paid in the amount determined by the Committee pursuant to Section 6 below.

(j) "*Participant*" shall mean, with respect to any fiscal year, an associate who is eligible to participate in the Plan for such fiscal year in accordance with Section 3.

(k) "*Performance Goal*" shall mean the performance goals established by the Committee pursuant to Section 4 hereof.

(l) "*Performance Period*" shall mean each Spring or Fall selling season or the fiscal year of the Company, or any other period of time as will be established by the Committee pursuant to Section 4 of this Plan within which the Performance Goals relating to any award of Incentive Compensation are to be achieved. Any Performance Period may be subject to earlier lapse or other modification pursuant to Section 11 of this Plan in the event of a Termination of Service without Cause, resignation for Good Reason, Retirement, death or Total Disability of the Participant or a Change in Control.

(m) "*Retirement*" shall have the meaning set forth in the Stock Plan.

(n) "*Stock Plan*" shall mean the Victoria's Secret & Co. 2021 Stock Option and Performance Incentive Plan, as may be amended from time to time, and any successor thereto.

(o) "*Termination of Service*" shall have the meaning set forth in the Stock Plan.

(p) "*Total Disability*" shall have the meaning set forth in the Stock Plan.

2. **Administration of the Plan.** The Plan shall be administered by the Committee, which shall have full power and authority to construe, interpret and administer the Plan and shall have the exclusive right to establish, adjust, pay or decline to pay Incentive Compensation for each Participant. Such power and authority shall include the right to exercise discretion to reduce by any amount, including down to zero, the Incentive Compensation payable to any Participant. Decisions of the Committee shall be final, conclusive and binding on all persons or entities, including the Company, any Participant and any person claiming any benefit or right under the Plan. To the extent permitted by applicable law, the Committee may delegate to (i) one or more officers of the Company some or all of its authority under the Plan and (ii) one or more committees of the Board some or all of its authority under the Plan.

3. **Eligibility.** All associates of the Company designated by the Committee or other authorized individuals are eligible to participate in the Plan and shall be Participants.

4. **Awards.** The Committee shall establish Performance Goals with respect to each Performance Period. The Performance Goals established by the Committee shall be based on specified levels of or changes in any one or more performance criteria established by the Committee, which may be expressed with respect to the Company or one or more operating units or groups, as the Committee may determine, including, without limitation, price of Common Stock, or the common stock of any affiliate, shareholder return, return on equity, return on investment, return on capital, sales productivity, comparable store sales growth, economic profit, economic value added, net income, operating income, gross margin, sales, free cash flow, earnings per share, operating company contribution or market share. Performance Goals for a Performance Period may include a minimum or threshold performance standard below which no payments of Incentive Compensation will be made, and a maximum performance standard in which any performance that exceeds this standard will not increase the payment of Incentive Compensation. These Performance Goals may be based on an analysis of historical performance and growth expectations for the business, financial results of other comparable businesses, and progress towards achieving the strategic plan for the business, or any other factors as determined by the Committee. The Committee shall specify how any Performance Goals shall be adjusted to the extent necessary to prevent dilution or enlargement of any award of Incentive Compensation as a result of extraordinary events or circumstances, as determined by the Committee, including, without limitation:

- (i) all items of gain, loss or expense for the Performance Period determined to be extraordinary or unusual in nature or infrequent in occurrence;
- (ii) all items related to the disposal of a component of an entity or related to a change in accounting principles, as such are defined by generally accepted accounting principles and as identified in the Company's audited financial statements, notes to such financial statements, in management's discussion and analysis or any other filings with the Securities and Exchange Commission;
- (iii) impact from changes in accounting policies approved by the Audit Committee of the Board that were not contemplated in the initial Incentive Compensation targets;
- (iv) all items of gain, loss or expense for the Performance Period related to an exit activity as defined under current generally accepted accounting principles;
- (v) all items of gain, loss or expense for the Performance Period related to discontinued operations as defined under current generally accepted accounting principles;
- (vi) any profit or loss attributable to the business operations of any entity acquired or divested by the Company during the Performance Period;
- (vii) write-offs, accelerated depreciation or other operating expenses at the participating subsidiary level related to the testing of a new brand concept, not included in the original Incentive Compensation targets;
- (viii) impacts from unanticipated changes in legal or tax structure or unanticipated changes in jurisdictional tax rates of a participating subsidiary; and
- (ix) changes in applicable tax law.

Participants may earn their target Incentive Compensation if the pre-established Performance Goals are achieved. The target Incentive Compensation percentage for each Participant will be based on the level and functional responsibility of his or her position, size of the business for which the Participant is responsible, and competitive practices.

5. **Committee Certification.** As soon as reasonably practicable after the end of each Performance Period, the Committee shall certify, in writing, that the Performance Goals for such Performance Period were satisfied.

6. **Payment of Incentive Compensation.** The selection of Participants to whom Incentive Compensation shall actually be paid shall be conditioned upon each Participant's continued employment with the Company through the last day of the Performance Period. The amount of the Incentive Compensation actually paid to a Participant for a Performance Period shall be such amount as determined by the Committee in its sole discretion, including zero. Subject to the last sentence of this Section 6 and to Section 11 below, Incentive Compensation shall be paid in cash at such times and on such terms as are determined by the Committee in its sole and absolute discretion, which such payment shall be made within seventy-five (75) days following the end of the Performance Period to which such Incentive Compensation relates, but in no event later than the 15th day of the third month following the end of such Performance Period. To the extent provided by the Committee, in its sole discretion, the annual Incentive Compensation may be paid in the form of shares of Common Stock or equity incentive awards under the Company's then effective Stock Plan, or may be deferred under the Company's then effective deferred compensation plan (if any), subject to the terms and conditions of such plans.

7. **No Right to Bonus or Continued Employment; Clawback.**

(a) Neither the establishment of the Plan, the provision for or payment of any amounts hereunder, nor any action of the Company, the Board or the Committee with respect to the Plan shall be held or construed to confer upon any person (a) any legal right to receive, or any interest in, any Incentive Compensation or any other benefit under the Plan or (b) any legal right to continue to serve as an officer or associate of the Company or any affiliate of the Company.

(b) If the Committee determines in good faith either that: i) if required by applicable law with respect to a Participant or ii) (x) a Participant engaged in fraudulent conduct or activities relating to the Company, (y) a Participant has knowledge of such conduct or activities, or (z) a Participant, based upon the Participant's position, duties or responsibilities, should have had knowledge of such conduct or activities, the Committee shall have the power and authority under the Plan to terminate without payment all outstanding incentive awards under the Plan. If required by applicable law with respect to a Participant or if a Participant described in (ii) above has been paid Incentive Compensation that is based on or results from such conduct or activities, such Participant shall promptly reimburse to the Company a sum equal to either an amount required by such law or the amount of such Incentive Compensation paid in respect of the year in which such conduct or activities occurred, as applicable. Notwithstanding anything to the contrary contained herein, any Incentive Compensation or other incentive awards or payments under the Plan shall be subject to any clawback or recoupment arrangements or policies the Company has in place from time to time, as may be adopted or amended by the Board or the Committee at any time in its discretion, and the Committee may, to the extent permitted by applicable law and stock exchange rules or by any applicable Company policy or arrangement, and shall, to the extent required, cancel or require reimbursement of any compensation or awards granted to the Participant under the Plan.

8. **Withholding.** The Company shall have the right to withhold, or require a Participant to remit to the Company, an amount sufficient to satisfy any applicable federal, state, local or foreign withholding tax requirements imposed with respect to the payment of any Incentive Compensation. The Company shall also have the right to withhold from Incentive Compensation any amounts that may be required to be withheld from other taxable noncash compensation or taxable reimbursements payable to a Participant that may themselves have not been subjected to withholding at the time of payment.

9. **Nontransferability.** Except as expressly provided by the Committee, the rights and benefits under the Plan are personal to the Participant and shall not be subject to any voluntary or involuntary alienation, assignment, pledge, transfer or other disposition.

10. **Unfunded Plan.** The Company shall have no obligation to reserve or otherwise fund in advance any amounts that are or may in the future become payable under the Plan. Any funds that the Company, acting in its sole and absolute discretion, determines to reserve for future payments under the Plan may be commingled with other funds of the Company and need not in any way be segregated from other assets or funds held by the Company. A Participant's rights to payment under the Plan shall be limited to those of a general unsecured creditor of the Company.

11. **Adoption, Amendment, Suspension and Termination of the Plan.**

(a) The Plan shall be effective for payments made with respect to Performance Periods that commence at any time during the Company's 2021 fiscal year and thereafter and shall continue in effect until terminated as provided below.

(b) Subject to the limitations set forth in paragraph (c) below, the Board may at any time suspend or terminate the Plan and may amend it from time to time in such respects as the Board may deem advisable.

(c) No amendment, suspension or termination of the Plan shall, without the consent of the person affected thereby, materially, adversely alter or impair any rights or obligations of any applicable Participant with respect to any Incentive Compensation previously awarded under the Plan, except to the extent any such action is undertaken to cause the Plan to comply with applicable law, stock market or exchange rules and regulations or accounting or tax rules and regulations.

12. **Governing Law.** The validity, interpretation and effect of the Plan, and the rights of all persons hereunder, shall be governed by and determined in accordance with the laws of the State of Delaware, other than the choice of law rules thereof.

13. **Section 409A.** The Plan, and all awards of Incentive Compensation hereunder, are intended to be exempt from, or otherwise comply with, Section 409A of the Internal Revenue Code of 1986, as amended (together with the Treasury Regulations and related guidance thereunder, collectively, "Section 409A"), and the provisions of the Plan and each award shall be interpreted and construed in a manner consistent with this intent. If the Participant is a "specified employee" (as defined under Section 409A) at the time of his or her Termination of Service, any Incentive Compensation that constitutes nonqualified deferred compensation under Section 409A that becomes payable to such Participant as a result of his or her Termination of Service shall not be paid to the Participant until the first regularly scheduled payroll date on or following the date which is six months and one day after the date of the Participant's Termination of Service, except as permitted under Section 409A.

VICTORIA'S SECRET & CO.

VICTORIA'S SECRET & CO. COMPLETES SEPARATION FROM BATH & BODY WORKS, INC.

REYNOLDSBURG, Ohio (August 3, 2021)—Victoria's Secret & Co. (NYSE: VSCO) announced today that it has completed its previously announced separation from Bath & Body Works, Inc. (formerly known as L Brands, Inc.) and is now an independent, publicly traded company. Victoria's Secret includes Victoria's Secret Lingerie, PINK and Victoria's Secret Beauty. Victoria's Secret shares will begin trading today on the New York Stock Exchange under the ticker symbol "VSCO."

"Today marks an exciting milestone as we embark on our journey as a newly independent public company, focused on inspiring women around the world with world-class products and experiences," said Martin Waters, Chief Executive Officer of VS&Co. "On behalf of all of our passionate associates, I am proud of our efforts to reposition Victoria's Secret to thrive in our evolving retail environment. We continue to deliver substantially improved financial results and we look forward to the many opportunities ahead. With our two category-defining intimates and beauty brands, our proven omnichannel capabilities, right-sized store footprint and strong customer loyalty, we are well positioned to deliver long-term growth and value creation."

The separation was achieved through the distribution of 100 percent of the shares of Victoria's Secret to holders of Bath & Body Works common stock after the market close on August 2, 2021, with Bath & Body Works stockholders receiving one share of Victoria's Secret common stock for every three shares of Bath & Body Works common stock held at the close of business on the record date of July 22, 2021. Bath & Body Works stockholders entitled to receive the distribution received a book-entry account statement or a credit to their brokerage account reflecting their ownership of Victoria's Secret common stock. Fractional shares of Victoria's Secret common stock were not distributed. Any fractional share of Victoria's Secret common stock otherwise issuable to a Bath & Body Works stockholder will be sold in the open market on such stockholder's behalf, and such stockholder will receive a cash payment for the fractional share based on its pro rata portion of the net cash proceeds from all sales of fractional shares.

ABOUT VICTORIA'S SECRET

Victoria's Secret is the world's largest intimates specialty retailer offering a wide assortment of modern, fashion-inspired collections including signature bras, panties, lingerie, casual sleepwear and athleisure, as well as award-winning prestige fragrances and body care. With nearly 1,400 retail stores worldwide and a predominately female workforce of more than 25,000, Victoria's Secret boasts the largest team of specialty trained bra fit experts worldwide. Victoria's Secret is committed to inspiring women around the world with products and experiences that uplift and champion them and their journey while creating lifelong relationships and advocating for positive change.

Safe Harbor Statement Under the Private Securities Litigation Reform Act of 1995

We caution that any forward-looking statements (as such term is defined in the Private Securities Litigation Reform Act of 1995) contained in this press release or made by our Company or our management involve risks and uncertainties and are subject to change based on various factors, many of which are beyond our control. Accordingly, our future performance and financial results may differ materially from those expressed or implied in any such forward-looking statements. Words such as "estimate," "project," "plan," "believe," "expect," "anticipate," "intend," "planned," "potential" and any similar expressions may identify forward-looking statements. Risks associated with the following factors, among others, in some cases have affected and in the future could affect our financial performance and actual results and could cause actual results to differ materially from those expressed or implied in any forward-looking statements included in this press release or otherwise made by our company or our management:

- the spin-off from Bath & Body Works, Inc. (f/k/a L Brands, Inc.) may not be tax-free for U.S. federal income tax purposes;
 - a loss of synergies from separating the businesses that could negatively impact the balance sheet, profit margins or earnings of Victoria's Secret or that Victoria's Secret does not realize all of the expected benefits of the spin-off;
 - general economic conditions, consumer confidence, consumer spending patterns and market disruptions including pandemics or significant health hazards, severe weather conditions, natural disasters, terrorist activities, financial crises, political crises or other major events, or the prospect of these events;
 - the novel coronavirus (COVID-19) global pandemic has had and is expected to continue to have an adverse effect on our business and results of operations;
 - the seasonality of our business;
 - divestitures or other dispositions and related operations and contingent liabilities from businesses that we have divested;
 - difficulties arising from turnover in company leadership or other key positions;
 - our ability to attract, develop and retain qualified associates and manage labor-related costs;
 - the dependence on mall traffic and the availability of suitable store locations on appropriate terms;
 - our ability to grow through new store openings and existing store remodels and expansions;
 - our ability to successfully operate and expand internationally and related risks;
 - our independent franchise, license and wholesale partners;
 - our direct channel businesses;
 - our ability to protect our reputation and our brand images;
 - our ability to attract customers with marketing, advertising and promotional programs;
 - our ability to maintain, enforce and protect our trade names, trademarks and patents;
 - the highly competitive nature of the retail industry and the segments in which we operate;
 - consumer acceptance of our products and our ability to manage the life cycle of our brands, keep up with fashion trends, develop new merchandise and launch new product lines successfully;
 - our ability to source, distribute and sell goods and materials on a global basis, including risks related to:
 - political instability, environmental hazards or natural disasters;
 - significant health hazards or pandemics, which could result in closed factories, reduced workforces, scarcity of raw materials, and scrutiny or embargoing of goods produced in infected areas;
 - duties, taxes and other charges;
 - legal and regulatory matters;
 - volatility in currency exchange rates;
 - local business practices and political issues;
 - potential delays or disruptions in shipping and transportation and related pricing impacts;
 - disruption due to labor disputes; and
 - changing expectations regarding product safety due to new legislation;
 - our geographic concentration of vendor and distribution facilities in central Ohio;
 - fluctuations in foreign currency exchange rates;
 - the ability of our vendors to deliver products in a timely manner, meet quality standards and comply with applicable laws and regulations;
 - fluctuations in product input costs;
 - our ability to adequately protect our assets from loss and theft;
 - fluctuations in energy costs;
 - increases in the costs of mailing, paper, printing or other order fulfillment logistics;
 - claims arising from our self-insurance;
 - our and our third-party service providers' ability to implement and maintain information technology systems and to protect associated data;
 - our ability to maintain the security of customer, associate, third-party and company information;
 - stock price volatility;
 - our ability to pay dividends and related effects;
 - shareholder activism matters;
 - our ability to maintain our credit rating;
 - our ability to service or refinance our debt and maintain compliance with our restrictive covenants;
 - our ability to comply with laws, regulations and technology platform rules or other obligations related to data privacy and security;
-

- our ability to comply with regulatory requirements;
- legal and compliance matters; and
- tax, trade and other regulatory matters.

We are not under any obligation and do not intend to make publicly available any update or other revisions to any of the forward-looking statements contained in this press release to reflect circumstances existing after the date of this press release or to reflect the occurrence of future events even if experience or future events make it clear that any expected results expressed or implied by those forward-looking statements will not be realized. More information on potential factors that could affect Victoria's Secret results is included in Victoria's Secret Registration Statement on Form 10 filed with the Securities and Exchange Commission.

For further information, please contact:

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