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): March 10, 2022

BellRing Brands, Inc.
(Exact name of registrant as specified in its charter)

Delaware	**001-39093**	**87-3296749**
(State or other jurisdiction of incorporation)	**(Commission File Number)**	**(IRS Employer Identification No.)**

2503 S. Hanley Road	**St. Louis**	**Missouri**	**63144**
	(Address of Principal Executive Offices)		**(Zip Code)**

Registrant's telephone number, including area code: (314) 644-7600

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 per share	**BRBR**	**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. ☐

Introductory Note

On March 10, 2022 (the "Closing Date"), as a result of the transactions described below, BellRing Brands, Inc. (formerly known as BellRing Distribution, LLC) ("New BellRing") became the new public parent company of, and successor issuer to, BellRing Intermediate Holdings, Inc. (formerly known as BellRing Brands, Inc.) ("Old BellRing"), and shares of New BellRing common stock, par value $0.01 per share ("New BellRing Common Stock), were deemed to be registered under Section 12(b) of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), pursuant to Rule 12g-3(a) promulgated thereunder, and commenced trading on the New York Stock Exchange under the ticker symbol "BRBR."

On the Closing Date, as described in Item 2.01 to this Current Report on Form 8-K, Old BellRing completed its previously announced merger (the "merger") with BellRing Merger Sub Corporation ("Merger Sub"), a wholly-owned subsidiary of New BellRing, whereby Merger Sub merged with and into Old BellRing with Old BellRing continuing as the surviving corporation in the merger. As a result of the merger, (i) Old BellRing has become a wholly-owned subsidiary of New BellRing and (ii) each share of Old BellRing Class A common stock outstanding prior to the merger was converted into the right to receive one share of New BellRing Common Stock and $2.97 in cash. In addition, as described under Item 2.01 below, Post Holdings, Inc. ("Post") completed the previously announced spin-off of 80.1% of its interest in New BellRing to its shareholders (the "distribution").

Item 1.01. Entry into a Material Definitive Agreement.

The information set forth in the Introductory Note and in Item 2.01 is incorporated by reference into this Item 1.01.

Transaction-Related Agreements

In connection with and upon consummation of the transactions described in Item 2.01, New BellRing entered into several agreements with Post and Old BellRing, including the following agreements:

- an amended and restated master services agreement (the "amended and restated master services agreement"), by and among Post, New BellRing, Old BellRing and BellRing Brands, LLC ("BellRing LLC");
- a registration rights agreement (the "registration rights agreement"), by and between Post and New BellRing;
- an amended and restated employee matters agreement (the "amended and restated employee matters agreement"), by and among Post, New BellRing and Old BellRing; and
- a tax matters agreement (the "tax matters agreement"), by and among Post, New BellRing and Old BellRing.

Summaries of the principal terms of each of the amended and restated master services agreement, the registration rights agreement, the tax matters agreement and the amended and restated employee matters agreement, are set forth in New BellRing's proxy statement/prospectus (Registration No. 333-261741), dated February 3, 2022 (as amended or supplemented, the "Proxy Statement/Prospectus"), and prospectus (Registration No. 333-261873), dated February 14, 2022 (as amended or supplemented, the "Prospectus"), in each case, filed pursuant to Rule 424(b)(3) and are incorporated by reference herein.

The descriptions of the amended and restated master services agreement, the registration rights agreement, the amended and restated employee matters agreement and the tax matters agreement incorporated by reference herein do not purport to be complete and are qualified in their entirety by reference to the full text of the amended and restated master services agreement, the registration rights agreement, the amended and restated employee matters agreement and the tax matters agreement, which are filed as Exhibits 10.1, 10.2, 10.3 and 10.4 hereto, respectively, and are incorporated by reference herein.

Credit Agreement

On the Closing Date, New BellRing entered into a credit agreement (the "credit agreement") with JPMorgan Chase Bank, N.A., BofA Securities, Inc., Barclays Bank PLC, Citibank, N.A., Credit Suisse Loan Funding LLC, Goldman Sachs Bank USA, Morgan Stanley Senior Funding, Inc. and Wells Fargo Securities, LLC, as joint lead arrangers and joint bookrunners, BMO Capital Markets Corp., Cooperatieve Rabobank U.A., New York Branch, Truist Securities Inc. and Stifel Bank & Trust as Co-Managers, JPMorgan Chase Bank, N.A., as administrative agent and collateral

agent, and the institutions from time to time party thereto as lenders, providing for a revolving credit facility in an aggregate principal amount of $250.0 million and letters of credit in an aggregate amount of up to $20.0 million. The outstanding amounts under the credit agreement must be repaid on or before March 10, 2027. On the Closing Date, New BellRing borrowed $109.0 million under the credit agreement in connection with the transactions (as defined below).

Borrowings under the credit agreement bear interest at an annual rate equal to: (a) in the case of loans denominated in U.S. Dollars, at New BellRing's option, the base rate (as defined in the credit agreement) plus a margin which will initially be 2.00% and thereafter will range from 2.00% to 2.75% depending on New BellRing's secured net leverage ratio (as defined in the credit agreement), or the adjusted term SOFR rate (as defined in the credit agreement) for the applicable interest period plus a margin which will initially be 3.00% and thereafter will range from 3.00% to 3.75% depending on New BellRing's secured net leverage ratio; (b) in the case of loans denominated in Euros, the adjusted Eurodollar rate (as defined in the credit agreement) for the applicable interest period plus a margin which will initially be 3.00% and thereafter will range from 3.00% to 3.75% depending on New BellRing's secured net leverage ratio; and (c) in the case of loans denominated in U.K. Pounds Sterling, the adjusted daily simple RFR (as defined in the credit agreement) plus a margin which will initially be 3.00% and thereafter will range from 3.00% to 3.75% depending on New BellRing's secured net leverage ratio. Facility fees on the daily unused amount of commitments under the credit agreement will initially accrue at the rate of 0.25% per annum, and thereafter, depending on New BellRing's secured net leverage ratio, will accrue at rates ranging from 0.25% to 0.375% per annum.

The credit agreement provides for potential incremental revolving and term facilities at New BellRing's request and at the discretion of the lenders or other persons providing such incremental facilities, in each case on terms to be determined, and also permits New BellRing to incur other secured or unsecured debt, in all cases subject to conditions and limitations on the amount as specified in the credit agreement.

In addition, the credit agreement contains customary affirmative and negative covenants for agreements of this type, including delivery of financial and other information; compliance with laws; maintenance of property, existence, insurance and books and records; inspection rights; obligation to provide collateral and guarantees by certain new subsidiaries; delivery of environmental reports; participation in an annual meeting with the agent and the lenders; further assurances; and limitations with respect to indebtedness, liens, fundamental changes, restrictive agreements, use of proceeds, amendments of organization documents, prepayments and amendments of certain indebtedness, dispositions of assets, acquisitions and other investments, sale leaseback transactions, changes in the nature of business, transactions with affiliates and dividends and redemptions or repurchases of stock.

The credit agreement also contains a financial covenant requiring New BellRing to maintain a total net leverage ratio (as defined in the credit agreement) not to exceed 6.00 to 1.00, measured as of the last day of each fiscal quarter, beginning with the fiscal quarter ending June 30, 2022.

Furthermore, the credit agreement provides for customary events of default. Upon the occurrence and during the continuance of an event of default, the maturity of the loans under the credit agreement may accelerate and the administrative agent and lenders under the credit agreement may exercise other rights and remedies available at law or under the loan documents, including with respect to the collateral and guarantees of New BellRing's obligations under the credit agreement.

New BellRing's obligations under the credit agreement are unconditionally guaranteed by its existing and subsequently acquired or organized direct and indirect domestic subsidiaries (other than immaterial domestic subsidiaries and certain excluded subsidiaries) and are secured by security interests in substantially all of New BellRing's assets and the assets of its subsidiary guarantors, but excluding, in each case, real property.

The foregoing description of the credit agreement does not purport to be complete and is qualified in its entirety by reference to the full text of the credit agreement, which is filed as Exhibit 10.5 hereto and is incorporated by reference herein.

Indenture

On the Closing Date, as provided in the transaction agreement (as defined below), New BellRing issued to Post 7.00% senior notes due 2030 (the "notes") in an aggregate principal amount of $840.0 million. The notes were issued under an Indenture dated as of the Closing Date, by and among New BellRing and Computershare Trust Company, N.A. as trustee (the "indenture").

Pursuant to an exchange agreement (the "exchange agreement"), dated as of the Closing Date, among Post and certain financial institutions (the "selling noteholders"), Post delivered the notes to the selling noteholders in satisfaction of term loan obligations of Post in an equal principal amount. On the Closing Date, the selling noteholders subsequently completed the resale of the notes to certain qualified institutional buyers pursuant to Rule 144A under the Securities Act of 1933, as amended (the "Securities Act"), and to certain non-U.S. persons outside of the United States in compliance with Regulation S under the Securities Act.

The notes bear interest at a rate of 7.00% per year. Interest payments are due semi-annually each March 15 and September 15, with the first interest payment due on September 15, 2022. The maturity date of the notes is March 15, 2030.

The notes are unsecured, senior unsubordinated obligations of New BellRing and, on March 24, 2022 (the "guarantee date"), will be fully and unconditionally guaranteed, jointly and severally, on a senior unsecured basis by each of New BellRing's subsidiaries that guarantee the credit agreement (the "guarantors"). Prior to the guarantee date, the notes will not be guaranteed. Accordingly, the notes are:

- equal in right of payment with all of New BellRing's existing and future senior indebtedness;
- senior in right of payment to any of New BellRing's and, as of the guarantee date, the guarantors' future indebtedness that is, by its terms, expressly subordinated in right of payment to the notes;
- structurally subordinated to all liabilities of New BellRing's subsidiaries that are not guarantors;
- effectively subordinated to all of New BellRing's existing and future secured indebtedness, to the extent of the value of the collateral securing such indebtedness; and
- beginning on the guarantee date, unconditionally guaranteed by the guarantors.

On the guarantee date, New BellRing will be required to cause each of the guarantors to guarantee the notes. The guarantees of the guarantors will be:

- general unsecured obligations of each guarantor;
- equal in right of payment with all existing and future senior indebtedness of each guarantor;
- senior in right of payment with all existing and future indebtedness of each guarantor that is, by its terms, expressly subordinated in right of payment to the guarantee of such guarantor; and
- effectively subordinated to each guarantor's existing and future secured indebtedness, to the extent of the value of the collateral securing such indebtedness.

At any time prior to March 15, 2027, New BellRing may on any one or more occasions redeem all or a part of the notes at a redemption price equal to 100% of the principal amount of the notes redeemed, plus the applicable premium (as such term is defined in the indenture) as of, and accrued and unpaid interest, if any, to, the date of redemption, subject to the rights of holders of the notes on the relevant record date to receive interest due on the relevant interest payment date.

On or after March 15, 2027, New BellRing may on any one or more occasions redeem all or a part of the notes at the redemption prices (expressed as a percentage of principal amount of the notes) set forth below, plus accrued and unpaid interest, if any, to the applicable redemption date, if redeemed during the twelve-month period beginning on March 15 of the years indicated below:

Redemption Year	Price
2027	101.750%
2028	101.750%
2029 and thereafter	100.000%

If New BellRing experiences a change of control (as such term is defined in the indenture), holders of the notes may require New BellRing to purchase the notes at a purchase price equal to 101% of the principal amount, plus accrued and unpaid interest, if any, to, but excluding, the date of purchase.

The indenture contains customary negative covenants that limit New BellRing's ability and the ability of its restricted subsidiaries to, among other things: borrow money or guarantee debt; create liens; pay dividends on or redeem or repurchase stock; make specified types of investments and acquisitions; enter into or permit to exist contractual limits on the ability of New BellRing's subsidiaries to pay dividends to New BellRing; enter into new lines of business; enter into transactions with affiliates; and sell assets or merge with other companies. Certain of these covenants are subject to suspension when and if the notes receive investment grade ratings. In addition, the indenture contains customary events of default.

The foregoing description of the indenture does not purport to be complete and is qualified in its entirety by reference to the full text of the indenture, which is filed as Exhibit 4.1 hereto (including the form of notes included therein and filed as Exhibit 4.2 hereto) and is incorporated by reference herein.

Item 1.02. Termination of Material Definitive Agreement.

The information set forth in the Introductory Note and in Items 1.01 and 2.01 of this Current Report on Form 8-K is incorporated by reference herein.

Existing Credit Agreement

On the Closing Date, with certain of the proceeds from the debt financing transactions described above, BellRing LLC repaid all outstanding borrowings under the credit agreement, dated as of October 21, 2019, by and among BellRing LLC, the institutions from time to time party thereto as lenders, Credit Suisse Loan Funding LLC, BofA Securities, Inc., Morgan Stanley Senior Funding, Inc., Barclays Bank PLC, Citibank, N.A., Goldman Sachs Bank USA and JPMorgan Chase Bank, N.A., as joint lead arrangers and joint bookrunners, and BMO Capital Markets Corp., Coöperatieve Rabobank U.A., New York Branch, Nomura Securities International, Inc., Suntrust Robinson Humphrey, Inc.,UBS Securities LLC and Wells Fargo Securities, LLC, as co-managers, and Credit Suisse AG, Cayman Islands Branch, as administrative agent (as amended, modified or supplemented as of the date hereof, the "existing credit agreement"), and terminated all obligations and commitments thereunder. As a result, BellRing LLC and the guarantors under the existing credit agreement have no further obligations under the existing credit agreement or the related guarantees.

Item 2.01. Completion of Acquisition or Disposition of Assets.

The information set forth in the Introductory Note is incorporated by reference into this Item 2.01.

Transactions

On the Closing Date, the following transactions (collectively, the "transactions") were effected pursuant to the previously announced transaction agreement and plan of merger, dated as of October 26, 2021 (as amended, modified or supplemented from time to time, including by that certain amendment no. 1 to the transaction agreement and plan of merger, dated as of February 28, 2022 ("amendment no. 1 to the transaction agreement"), the "transaction agreement").

Merger

On the Closing Date, Old BellRing completed its merger with Merger Sub, whereby Merger Sub merged with and into Old BellRing with Old BellRing continuing as the surviving corporation in the merger. As a result of the merger, (i) Old BellRing has become a wholly-owned subsidiary of New BellRing and (ii) each share of Old BellRing Class A common stock outstanding prior to the merger was converted into the right to receive one share of New BellRing Common Stock and $2.97 in cash.

The merger was effected pursuant to the terms of the transaction agreement. The transaction agreement was adopted by the affirmative vote of (i) holders of a majority in voting power of the outstanding shares of Old BellRing common stock and (ii) holders (other than Post, New BellRing or any of their respective affiliates) of a majority in voting power of the outstanding shares of Old BellRing common stock (other than shares held by Post, New BellRing or any of their respective affiliates) at a special meeting of Old BellRing stockholders held on March 8, 2022.

Distribution

On the Closing Date and prior to the effective time of the merger, Post completed the distribution of an aggregate of 78,076,841 shares of New BellRing Common Stock to Post's shareholders of record as of 5:00 p.m., Central time, on February 25, 2022 (the "distribution record date"). Following the conversion (as defined in Item 5.03 below) as described below, each Post holder of record received 1.267788 shares of New BellRing Common Stock for each outstanding share of Post common stock owned by such holder as of the distribution record date. No fractional shares of New BellRing Common Stock were distributed. Instead, Post shareholders will receive cash in lieu of any fraction of a share of New BellRing Common Stock that they otherwise would have received.

As a result of the distribution, the pre-transaction shareholders of Post now own shares in two separate public companies: (1) New BellRing, which continues to operate the businesses of Old BellRing and its subsidiaries, and (2) Post, which continues to own Post's other businesses and subsidiaries.

The distribution was effectuated pursuant to the terms of the transaction agreement pursuant to which the businesses of Old BellRing were separated from the remaining businesses of Post through a series of transactions.

Successor Issuer

As a result of the transactions, New BellRing became the new public parent company of, and successor issuer to, Old BellRing, and New BellRing Common Stock was deemed to be registered under Section 12(b) of the Exchange Act, pursuant to Rule 12g-3(a) promulgated thereunder, and commenced trading on the New York Stock Exchange under the ticker symbol "BRBR."

New BellRing Following the Transactions

As previously disclosed in the Proxy Statement/Prospectus and the Prospectus, the directors and executive officers of New BellRing immediately following the transactions are the same individuals who were directors and executive officers, respectively, of Old BellRing immediately prior to the transactions.

Immediately following the completion of the transactions, New BellRing had 136,362,031 shares of New BellRing Common Stock outstanding.

The foregoing description of the transaction agreement does not purport to be complete and is qualified in its entirety by reference to the complete text of the transaction agreement, a copy of which was filed as Exhibit 2.1 to Old BellRing's Current Report on Form 8-K filed with the Securities and Exchange Commission (the "SEC") on October 27, 2021, and the amendment no. 1 to the transaction agreement, a copy of which was filed as Exhibit 2.1 to Old BellRing's Current Report on Form 8-K filed with the SEC on February 28, 2022.

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 in Item 1.01 of this Current Report on Form 8-K is incorporated by reference into this Item 2.03.

Item 3.01 Notice of Delisting or Failure to Satisfy a Continued Listing Rule or Standard; Transfer of Listing.

Prior to the consummation of the transactions, the common stock of Old BellRing traded on the New York Stock Exchange under the ticker symbol "BRBR." As New BellRing is the successor issuer of Old BellRing, following the consummation of the transactions, New BellRing Common Stock has traded on the New York Stock Exchange on an uninterrupted basis under the ticker symbol "BRBR."

The information set forth in the Introductory Note and Items 1.01, 2.01 and 5.03 of this Current Report on Form 8-K is incorporated by reference into this Item 3.01.

Item 3.03. Material Modification to Rights of Security Holders.

The information set forth in Items 2.01 and 5.03 of this Current Report on Form 8-K is incorporated by reference into this Item 3.03.

Item 5.01. Changes in Control of Registrant.

As a result of the distribution, Post no longer beneficially owns a majority of the common stock and voting power of New BellRing and Old BellRing, as 80.1% of New BellRing Common Stock beneficially owned by Post was distributed to the holders of Post common stock as part of the distribution. To the knowledge of New BellRing, its board of directors and its officers, no person has majority control of New BellRing following the transactions.

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

On the Closing Date, prior to the distribution, New BellRing converted from a limited liability company named "BellRing Distribution, LLC" into a corporation (the "conversion"). In connection with the conversion, New BellRing was renamed "BellRing Brands, Inc." pursuant to the New BellRing certificate of incorporation (the "New BellRing Certificate of Incorporation"), and Old BellRing was renamed "BellRing Intermediate Holdings, Inc." Concurrently with the amendment of the New BellRing Certificate of Incorporation, New BellRing also adopted new bylaws (the "New BellRing Bylaws").

Summaries of the principal terms of each of the New BellRing Certificate of Incorporation and the New BellRing Bylaws are set forth in the Proxy Statement/Prospectus and the Prospectus and are incorporated by reference herein.

The descriptions of the New BellRing Certificate of Incorporation and the New BellRing Bylaws incorporated by reference herein do not purport to be complete and are qualified in their entirety by reference to the full text of the New BellRing Certificate of Incorporation and New BellRing Bylaws, which are filed as Exhibits 3.1 and 3.2 hereto, respectively, and are incorporated by reference herein.

Item 8.01. Other Events.

On the Closing Date, Post and New BellRing issued a joint press release announcing the consummation of the transactions. A copy of the press release is attached hereto as Exhibit 99.1 and is incorporated by reference herein.

Item 9.01. Financial Statements and Exhibits.

(d) Exhibits.

Exhibit No.	Description
3.1	BellRing Brands, Inc. Certificate of Incorporation.
3.2	BellRing Brands, Inc. Bylaws.
4.1	Indenture, dated March 10, 2022, by and among BellRing Brands, Inc. (formerly BellRing Distribution, LLC) and Computershare Trust Company, N.A., as trustee.*
4.2	Form of Note (included in Exhibit 4.1).
10.1	Amended and Restated Master Services Agreement, dated March 10, 2022, by and among Post Holdings, Inc., BellRing Brands, Inc. and BellRing Brands, LLC.*
10.2	Registration Rights Agreement, dated March 10, 2022, by and among BellRing Brands, Inc., Post Holdings, Inc. and the other stockholders party thereto from time to time.
10.3	Employee Matters Agreement, dated March 10, 2022, by and among Post Holdings, Inc., BellRing Brands, Inc. and BellRing Intermediate Holdings, Inc.*
10.4	Tax Matters Agreement, dated March 10, 2022, by and among BellRing Brands, Inc., Post Holdings, Inc. and BellRing Intermediate Holdings, Inc.*
10.5	Credit Agreement, dated March 10, 2022, by and among BellRing Brands, Inc., JPMorgan Chase Bank, N.A., as administrative agent and collateral agent, and each lender from time to time party thereto.*
99.1	Press release dated March 10, 2022.
104	Cover Page Interactive Data File (the cover page iXBRL tags are embedded within the Inline XBRL document)

* Exhibits and schedules have been omitted pursuant to Item 601(b)(2) of Regulation S-K. BellRing agrees to furnish supplementally to the SEC a copy of any omitted exhibit or schedule upon request by the SEC.

SIGNATURE

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

Date: March 10, 2022

BellRing Brands, Inc.
(Registrant)

By: /s/ Craig Rosenthal
Name: Craig Rosenthal
Title: Senior Vice President & General Counsel

Exhibit 3.1

CERTIFICATE OF INCORPORATION

OF

BELLRING BRANDS, INC.

BellRing Brands, Inc., a corporation organized and existing under the laws of the State of Delaware (the "Corporation"), hereby certifies as follows:

1. Name. The name of the Corporation is BellRing Brands, Inc.

2. Address; Registered Office and Agent. The address of the Corporation's registered office is Corporation Service Company, 251 Little Falls Drive in the City of Wilmington, County of New Castle, Delaware 19808; and the name of its registered agent at such address is Corporation Service Company.

3. Purposes. The purpose of the Corporation is to engage in any lawful act or activity for which corporations may be organized under the General Corporation Law of the State of Delaware (as from time to time in effect, the "General Corporation Law").

4. Number of Shares.

4.1 The total number of shares of all classes of capital stock that the Corporation shall have authority to issue is five hundred fifty million (550,000,000) shares, consisting of: (i) five hundred million (500,000,000) shares of common stock, with the par value of $0.01 per share ("Common Stock"); and (ii) fifty million (50,000,000) shares of preferred stock, with the par value of $0.01 per share ("Preferred Stock").

4.2 Subject to the special rights of the holders of any one or more series of Preferred Stock then outstanding, the number of authorized shares of Common Stock or Preferred Stock may be increased or decreased, in each case by the affirmative vote of the holders of a majority of the total voting power of all of the outstanding shares of capital stock of the Corporation entitled to vote thereon, voting together as a single class, irrespective of the provisions of Section 242(b)(2) of the General Corporation Law, and no vote of the holders of Common Stock or Preferred Stock voting separately as a class shall be required therefor. Notwithstanding the immediately preceding sentence, the number of authorized shares of Common Stock or Preferred Stock may not be decreased below the number of shares of such class then outstanding.

5. Classes of Shares. The designation, relative rights, preferences and limitations of the shares of each class of capital stock are as follows:

5.1 Common Stock.

(i) Voting Rights. Each holder of Common Stock shall be entitled, with respect to each share of Common Stock held by such holder on the applicable record date, to one (1) vote, in person or by proxy, on all matters on which stockholders generally are entitled to vote.

(ii) Dividends. Subject to applicable law and the special rights, if any, of the holders of any outstanding series of Preferred Stock, dividends of cash, shares of stock of the Corporation or property may be declared and paid on the Common Stock out of the assets of the Corporation that are by law available therefor, at the times and in the amounts as the board of directors of the Corporation (the "Board") in its discretion may determine.

(iii) Liquidation. In the event of any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation, after payment or provision for payment of the debts and other liabilities of the Corporation, and subject to the special rights, if any, of the holders of any outstanding series of Preferred Stock, the holders of all outstanding shares of Common Stock shall be entitled to receive, *pari passu*, the remaining assets of the Corporation available for distribution ratably in proportion to the number of shares of Common Stock held by each holder.

5.2 Preferred Stock. Shares of Preferred Stock may be issued from time to time in one or more series of any number of shares, provided that the aggregate number of shares issued and not retired of any and all such series shall not exceed the total number of shares of Preferred Stock hereinabove authorized, and with such powers, including voting powers, if any, and the designations, preferences and relative, participating, optional or other special rights, if any, and any qualifications, limitations or restrictions thereof, all as shall hereafter be stated and expressed in the resolution or resolutions providing for the designation and issue of such shares of Preferred Stock from time to time adopted by the Board pursuant to authority so to do which is hereby expressly vested in the Board. The powers, including voting powers, if any, preferences and relative, participating, optional and other special rights of each series of Preferred Stock, and the qualifications, limitations or restrictions thereof, if any, may differ from those of any and all other series at any time outstanding. Each series of shares of Preferred Stock: (i) may have such voting rights or powers, full or limited, if any; (ii) may be subject to redemption at such time or times and at such prices, if any; (iii) may be entitled to receive dividends (which may be cumulative or non-cumulative) at such rate or rates, on such conditions and at such times, and payable in preference to, or in such relation to, the dividends payable on any other class or classes or series of capital stock, if any; (iv) may have such rights upon the voluntary or involuntary liquidation, winding up or dissolution of, upon any distribution of the assets of, or in the event of any merger, sale or consolidation of, the Corporation, if any; (v) may be made convertible into, or exchangeable for, shares of any other class or classes or of any other series of the same or any other class or classes of capital stock of the Corporation (or any other securities of the Corporation or any other Person) at such price or prices or at such rates of exchange and with such adjustments, if any; (vi) may be entitled to the benefit of a sinking fund to be applied to the purchase or redemption of shares of such series in such amount or amounts, if any; (vii) may be entitled to the benefit of conditions and restrictions upon the creation of indebtedness of the Corporation or any subsidiary, upon the issue of any additional shares (including additional shares of such series or of any other series) and upon the payment of dividends or the making of other distributions on, and the purchase, redemption or other acquisition by the Corporation or any subsidiary of, any outstanding shares of the Corporation, if any; (viii) may be subject to restrictions on transfer or registration of transfer, or on the amount of shares that may be owned by any Person or group of Persons; and (ix) may have such other relative, participating, optional or other special rights, qualifications, limitations or restrictions thereof, if any; all as shall be stated in said resolution or resolutions of the Board providing for the designation and issue of such shares of Preferred Stock.

6. Stockholder Matters.

6.1 Actions by Written Consent. Any action required by the General Corporation Law to be taken at any annual or special meeting of stockholders of the Corporation, or any action which may be taken at any annual or special meeting of such stockholders, may be effected only at a duly called annual or special meeting of stockholders of the Corporation and may not be effected by any consent by such stockholders in lieu of a meeting.

6.2 Election of Directors by Written Ballot. Unless and except to the extent that the Bylaws of the Corporation (as such Bylaws may be amended from time to time, the "Bylaws") shall so require, the election of the directors of the Corporation need not be by written ballot.

7. Directors.

7.1 Number and Classification. Subject to the special rights, if any, of the holders of any outstanding series of Preferred Stock to elect directors, the number of directors shall be fixed by, or in the manner provided

in, the Bylaws, but shall not be less than five nor more than twelve members. Subject to the special rights, if any, of the holders of any outstanding series of Preferred Stock to elect directors, the directors shall be divided into three classes, as nearly equal in number as reasonably possible, except that one class may be one greater or one less in number than the other two classes. At each annual meeting of stockholders, successors to the class of directors whose term expires at that annual meeting shall be elected for a three year term (and until their respective successors shall have been elected and qualified in each class or until their earlier death, resignation or removal), so that the term of one class of directors shall expire in each year. With respect to directors in office on the date of this Certificate of Incorporation, the first class of directors shall hold office until the first annual meeting of stockholders following the date shares of capital stock of the Corporation are first publicly traded (the "Closing Date"), the second class of directors shall hold office until the second annual meeting of stockholders following the Closing Date, and the third class of directors shall hold office until the third annual meeting of stockholders following the Closing Date. The Board is authorized to assign members of the Board already in office to their respective class. Notwithstanding the foregoing, whenever the holders of any one or more classes or series of capital stock of the Corporation, other than shares of Common Stock, shall have the right, voting separately by class or series, to elect directors, the election, term of office, filling of vacancies and other features of such directorship shall be governed by the terms of this Certificate of Incorporation or any certificate of designation thereunder applicable thereto. As used in this Certificate of Incorporation, the term "entire Board" means the total number of directors fixed by, or in accordance with, this Certificate of Incorporation and the Bylaws.

7.2 Removal of Directors. Subject to the special rights, if any, of the holders of any outstanding series of Preferred Stock, members of the Board may be removed only for cause and only by the affirmative vote of not less than a majority of the voting power of all of the outstanding shares of capital stock then entitled to vote in the election of directors, voting together as a single class.

7.3 Vacancies. Subject to the special rights, if any, of the holders of any outstanding series of Preferred Stock to elect directors, any vacancies in the Board which occur for any reason, and any newly created directorships which occur by reason of an increase in the number of directors, may be filled only by the majority of the remaining directors (even if less than a quorum) or by a sole remaining director.

8. Corporate Opportunities.

8.1 Competition and Corporate Opportunities.

(i) Subject to any express agreement that may from time to time be in effect, to the fullest extent permitted by law, Post may, and shall have no duty not to, (a) carry on and conduct, whether directly or indirectly, including, but not limited to, as a partner in any partnership or member, manager or owner of any limited liability company or other type of entity, as a joint venturer in any joint venture, as an officer, director or stockholder of any corporation or as a participant in any syndicate, pool, trust or association, any business of any kind, nature or description, whether or not such business is competitive with or in the same or similar lines of business as the Corporation or any of its Controlled Companies (as defined in Section 14), (b) do business with any client, customer, vendor or lessor of the Corporation or any of its Controlled Companies and (c) make investments in any kind of property in which the Corporation or any of its Controlled Companies may make investments, and no Dual Role Person (as defined in Section 14) shall, to the fullest extent permitted by law, be deemed to have breached his, her or its fiduciary duties, if any, to the Corporation solely by reason of Post's engaging in any such activity.

(ii) To the fullest extent permitted by Section 122(17) of the General Corporation Law, the Corporation hereby renounces any interest or expectancy of the Corporation or any of its Controlled Companies to participate in any business of Post, and waives any claim against each Dual Role Person, and shall indemnify each Dual Role Person against any claim, that such Dual Role Person is liable to the Corporation or its stockholders for breach of any fiduciary duty solely by reason of such Dual Role Person's participation in any

such business. The Corporation shall pay in advance any expenses incurred in defense of any such claim against any Dual Role Person pursuant to Section 9 or as provided in the Bylaws.

(iii) To the fullest extent permitted by Section 122(17) of the General Corporation Law, the Corporation hereby renounces any interest or expectancy of the Corporation or any of its Controlled Companies in any potential transaction or matter which may constitute a corporate opportunity for both (a) Post and (b) the Corporation or any of its Controlled Companies, and waives any claim against each Dual Role Person, and shall indemnify each Dual Role Person against any claim, that such Dual Role Person is liable to the Corporation or its stockholders for breach of any fiduciary duty solely by reason of the fact that such Dual Role Person (a) pursues or acquires any corporate opportunity for the account of Post, (b) directs, recommends or otherwise transfers such corporate opportunity to Post or (c) does not offer or communicate information regarding such corporate opportunity to the Corporation or any of its Controlled Companies because such Dual Role Person has directed or intends to direct such opportunity to Post; provided, however, in each case, that any corporate opportunity which is expressly offered to a Dual Role Person solely in his or her capacity as a director, officer, manager, employee or agent of the Corporation or any of its Controlled Companies, as reasonably determined by such Dual Role Person, shall belong to the Corporation. The Corporation shall pay in advance any expenses incurred in defense of any such claim pursuant to Section 8 or as provided in the Bylaws.

(iv) The foregoing provisions in this Section 8.1, and the action of any Dual Role Person taken in accordance with, or in reliance upon, the foregoing provisions in this Section 8.1, including entering into or performing any agreement, transaction or arrangement, are, to the fullest extent permitted by law, deemed and presumed to be fair to the Corporation.

8.2 Certain Matters Deemed not Corporate Opportunities. In addition to and notwithstanding the foregoing provisions of this Section 8, the Corporation renounces any interest or expectancy of the Corporation or any of its Controlled Companies in, or in being offered an opportunity to participate in, any business opportunity pursued by or at the direction of Post that the Corporation is not financially able, contractually permitted or legally able to undertake. Moreover, nothing in this Section 8 shall amend or modify in any respect any written contractual agreement between Post, on the one hand, and the Corporation or any of its Controlled Companies, on the other hand.

8.3 Deemed Notice. Any Person purchasing or otherwise acquiring or obtaining any interest in any capital stock of the Corporation shall be deemed to have notice of and to have consented to the provisions of this Section 8.

8.4 Severability. The invalidity or unenforceability of any particular provision, or part of any provision, of this Section 8 shall not affect the other provisions or parts hereof, and this Section 8 shall be construed in all respects as if such invalid or unenforceable provisions or parts were omitted.

8.5 Amendment; Terminations.

(i) The provisions of this Section 8 shall have no further force or effect at such time as none of the directors, officers, employees, agents and/or Affiliates of Post serve as directors, officers, managers, employees and/or agents of the Corporation or any of its Controlled Companies.

(ii) No amendment, alteration, change, repeal or termination of this Section 8, nor the adoption of a provision inconsistent with this Section 8, shall eliminate or reduce the effect of such provisions with respect to (a) any matter occurring, or any action or proceeding accruing or arising, prior to such amendment, alteration, change, repeal, termination or adoption of an inconsistent provision or (b) any agreement, arrangement or other understanding between the Corporation and/or a Controlled Company, on the one hand, and Post, on the other hand, that was entered into prior to such amendment, alteration, change, repeal, termination or adoption of an inconsistent provision or any transaction entered into in the performance of such agreement, arrangement or other understanding, whether entered into before or after such time.

9. Indemnification.

9.1 Actions Involving Directors and Officers. The Corporation shall indemnify each person (other than a party plaintiff suing on his or her behalf or in the right of the Corporation) who at any time is serving or has served as a director or officer of the Corporation against any claim, liability or expense incurred as a result of such service, any other service on behalf of the Corporation or any service at the request of the Corporation as a director, officer, manager, employee, member or agent of another corporation, partnership, joint venture, trust or other enterprise (whether incorporated or unincorporated, for-profit or not-for-profit), to the maximum extent permitted by law. Without limiting the generality of the foregoing, the Corporation shall indemnify any such person who was or is a party (other than a party plaintiff suing on his or her behalf or in the right of the Corporation), or is threatened to be made a party, to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (including, but not limited to, an action by or in the right of the Corporation) by reason of such service, against expenses (including, without limitation, attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by him or her in connection with such action, suit or proceeding.

9.2 Actions Involving Employees or Agents.

(i) Permissive Indemnification. The Corporation may, if it deems appropriate and as may be permitted by this Section 9, indemnify any person (other than a party plaintiff suing on his or her own behalf or in the right of the Corporation) who at any time is serving or has served as an employee or agent of the Corporation against any claim, liability or expense incurred as a result of such service, any other service on behalf of the Corporation or any service at the request of the Corporation as a director, officer, manager, employee, member or agent of another corporation, partnership, joint venture, trust or other enterprise (whether incorporated or unincorporated, for-profit or not-for-profit), to the maximum extent permitted by law or to such lesser extent as the Corporation, in its discretion, may deem appropriate. Without limiting the generality of the foregoing, the Corporation may indemnify any such person who was or is a party (other than a party plaintiff suing on his or her own behalf or in the right of the Corporation), or is threatened to be made a party, to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (including, but not limited to, an action by or in the right of the Corporation) by reason of such service, against expenses (including, without limitation, attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by him or her in connection with such action, suit or proceeding.

(ii) Mandatory Indemnification. To the extent that an employee or agent of the Corporation has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in Section 9.2(i), or in defense of any claim, issue or matter therein, he or she shall be indemnified against expenses (including, without limitation, attorneys' fees) actually and reasonably incurred by him or her in connection with the action, suit or proceeding.

9.3 Determination of Right to Indemnification in Certain Circumstances. Any indemnification required under Section 9.1 or authorized by the Corporation in a specific case or otherwise required pursuant to Section 9.2 shall be made by the Corporation, unless a determination is made reasonably and promptly that indemnification of the director, officer, employee or agent is not proper under the circumstances. Such determination shall be made (i) by the Board by a majority vote of a quorum consisting of directors who were not parties to such action, suit or proceeding, (ii) if such a quorum is not obtainable, or even if obtainable, by independent legal counsel in a written opinion or (iii) by majority vote of the stockholders; provided that no such determination shall preclude an action brought in an appropriate court to challenge such determination.

9.4 Advance Payment of Expenses. To the extent not prohibited by applicable law, expenses incurred in defense of a claim against a Dual Role Person (as defined in Section 14) pursuant to Section 8.1(ii) or Section 8.1(iii) and expenses incurred by a person who is or was a director or officer of the Corporation in defending a civil or criminal action, suit, proceeding or claim shall be paid by the Corporation in advance of the

final disposition of such action, suit, proceeding or claim, and expenses incurred by a person who is or was an employee or agent of the Corporation in defending a civil or criminal action, suit, proceeding or claim may be paid by the Corporation in advance of the final disposition of such action, suit, proceeding or claim as authorized by or at the direction of the Board, in any case upon receipt of an undertaking by or on behalf of the director, officer, employee or agent to repay such amount if it shall ultimately be determined that such person is not entitled to be indemnified by the Corporation as authorized in or pursuant to this Section 9 or otherwise.

9.5 Rights Not Exclusive. The indemnification and other rights provided by this Section 9 shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under any agreement, vote of stockholders or disinterested directors or otherwise, and the Corporation is hereby specifically authorized to provide such indemnification and other rights by any agreement, vote of stockholders or disinterested directors or otherwise. The Corporation shall be considered the indemnitor of first resort in all circumstances to which this Section 9 applies.

9.6 Indemnification Agreements Authorized. Without limiting the other provisions of this Section 9, the Corporation is authorized from time to time, without further action by the stockholders of the Corporation, to enter into agreements with any director, officer, employee or agent of the Corporation, or any person who is otherwise serving on behalf of the Corporation at the request of the Corporation as a director, officer, manager, employee or agent of another corporation, partnership, joint venture, trust or other enterprise (whether incorporated or unincorporated, for-profit or not-for-profit), providing such rights of indemnification as the Corporation may deem appropriate, up to the maximum extent permitted by law. Any agreement entered into by the Corporation with a director may be authorized by the other directors, and such authorization shall not be invalid on the basis that similar agreements may have been or may thereafter be entered into with other directors.

9.7 Insurance. The Corporation may purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the Corporation, or who is or was otherwise serving on behalf of the Corporation at the request of the Corporation as a director, officer, manager, employee or agent of another corporation, partnership, joint venture, trust or other enterprise (whether incorporated or unincorporated, for-profit or not-for-profit) against any claim, liability or expense asserted against such person and incurred by such person in any such capacity or arising out of such person's status as such, whether or not the Corporation would have the power to indemnify such person against such liability under the provisions of this Section 9.

9.8 Certain Definitions. For purposes of this Section 9:

(i) Any director, officer, employee or agent of the Corporation who shall serve as a director, officer, manager, employee, member or agent of another corporation, partnership, joint venture, trust or other enterprise of which the Corporation, directly or indirectly, is or was the owner of 20% or more of the outstanding voting stock (or comparable interests), shall be deemed to be so serving at the request of the Corporation, unless the Board shall determine otherwise. In all other instances when any person shall serve as a director, officer, manager, employee, member or agent of another corporation, partnership, joint venture, trust or other enterprise of which the Corporation is or was a shareholder or creditor, or in which the Corporation is or was otherwise interested, if it is not otherwise established that such person is or was serving as a director, officer, manager, employee, member or agent at the request of the Corporation, the Board may determine whether such service is or was at the request of the Corporation, and it shall not be necessary to show any actual or prior request for such service. For the avoidance of doubt, any person who is deemed to be serving at the request of the Corporation pursuant to this Section 9.8 is only deemed to be serving at the request of the Corporation for purposes of this Section 9, and is not actually employed by the Corporation.

(ii) References to a corporation include all constituent corporations absorbed in a consolidation or merger as well as the resulting or surviving corporation so that any person who is or was a director, officer, manager, employee, member or agent of a constituent corporation or is or was serving at the request of a constituent corporation as a director, officer, manager, employee, member or agent of another corporation,

partnership, joint venture, trust or other enterprise shall stand in the same position under the provisions of this Section 9 with respect to the resulting or surviving corporation as such person would if such person had served the resulting or surviving corporation in the same capacity.

(iii) The term "other enterprise" shall include, without limitation, employee benefit plans and voting or taking action with respect to stock or other assets therein; the term "serving at the request of the Corporation" shall include, without limitation, any service as a director, officer, manager, employee, member or agent of a corporation or other entity which imposes duties on, or involves services by, a director, officer, employee or agent of the Corporation with respect to any employee benefit plan or its participants or beneficiaries, and unless a person's conduct in connection with an employee benefit plan is finally adjudicated to have been knowingly fraudulent, deliberately dishonest or willful misconduct, such person shall be deemed to have satisfied any standard of care required by or pursuant to this Section 9 in connection with such plan; and the term "fines" shall include, without limitation, any excise taxes assessed on a person with respect to an employee benefit plan and also shall include any damages (including treble damages) and any other civil penalties.

9.9 Survival. The indemnification and other rights provided pursuant to this Section 9 shall apply both to action by any director, officer, employee or agent of the Corporation in an official capacity and to action in another capacity (including, without limitation, any other service on behalf of the Corporation or any service at the request of the Corporation as a director, officer, manager, employee, member or agent of another corporation, partnership, joint venture, trust or other enterprise (whether incorporated or unincorporated, for-profit or not-for-profit) while holding such office or position and shall continue as to a person who has ceased to be a director, officer, employee or agent of the Corporation and shall inure to the benefit of the heirs, executors and administrators of such a person. Notwithstanding any other provision in this Amended Certificate of Incorporation, any indemnification rights arising under or granted pursuant to this Section 9 shall survive amendment or repeal of this Section 9 with respect to any acts or omissions occurring prior to the effective time of such amendment or repeal and persons to whom such indemnification rights are given shall be entitled to rely upon such indemnification rights with respect to such acts or omissions occurring prior to the effective time of such amendment or repeal as a binding contract with the Corporation.

9.10 Liability of the Directors. The liability of the Corporation's directors to the Corporation or any of its stockholders for monetary damages for breach of fiduciary duty as a director shall be eliminated to the fullest extent permitted by law. It is the intention of the Corporation to eliminate such liability, whether to the Corporation, its stockholders or otherwise, to the fullest extent permitted by law. Consequently, should the General Corporation Law or any other applicable law be amended or adopted hereafter so as to permit the elimination or limitation of such liability, the liability of the directors of the Corporation shall be so eliminated or limited without the need for amendment of this Certificate of Incorporation or further action on the part of the stockholders of the Corporation. Any repeal or modification of this Section 9 by the stockholders of the Corporation shall not adversely affect any right or protection of a director of the Corporation existing at the time of such repeal or modification with respect to acts or omissions occurring prior to such repeal or modification.

9.11 Amendment. This Section 9 may be amended, altered, changed or repealed, or a provision inconsistent with this Section 9 may be adopted, only upon the affirmative vote of not less than 85% of the total voting power of all of the outstanding shares of Common Stock then entitled to vote in the election of directors, voting together as a single class.

10. Amendment or Repeal of Bylaws. The Board may amend, alter, change or repeal any provision of the Bylaws. The stockholders of the Corporation also may amend, alter, change or repeal any provision of the Bylaws upon the affirmative vote of a majority of all of the voting power of the Corporation entitled to vote thereon.

11. Amendment or Repeal of Certificate. 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

the General Corporation Law, except as otherwise set forth herein, and all rights, preferences and privileges of whatsoever nature conferred upon stockholders, directors or any other Persons whomsoever by and pursuant to this Certificate of Incorporation in its present form or as hereafter amended, are granted and held subject to this reservation.

12. Exclusive Forum. Unless the Corporation consents in writing to the selection of an alternative forum, (i) the Court of Chancery of the State of Delaware (or, if the Court of Chancery does not have subject matter jurisdiction, the federal district court for the State of Delaware) shall, to the fullest extent permitted by law, be the sole and exclusive forum for: (a) any derivative action or proceeding brought on behalf of the Corporation, (b) any action asserting a claim for breach of a fiduciary duty owed by any director, officer, employee, or stockholder of the Corporation to the Corporation or the Corporation's stockholders, (c) any action asserting a claim arising pursuant to any provision of the General Corporation Law, the Certificate of Incorporation, or the Bylaws (as either may be amended or restated) or as to which the General Corporation Law confers jurisdiction on the Court of Chancery of the State of Delaware, or (d) any action asserting a claim governed by the internal affairs doctrine and (ii) the federal district courts of the United States shall, to the fullest extent permitted by law, be the sole and exclusive forum for the resolution of any complaint asserting a cause of action or proceeding arising under the Securities Act of 1933, as amended. To the fullest extent permitted by law, any person or entity purchasing or otherwise acquiring or holding any interest in shares of capital stock of the Corporation shall be deemed to have notice of and consented to the provisions of this Section 12.

13. Severability. If any provision or provisions of this Certificate of Incorporation shall be held to be invalid, illegal or unenforceable as applied to any circumstance for any reason whatsoever: (i) the validity, legality and enforceability of such provisions in any other circumstance and of the remaining provisions of this Certificate of Incorporation (including, without limitation, each portion of any paragraph of this Certificate of Incorporation containing any such provision held to be invalid, illegal or unenforceable that is not itself held to be invalid, illegal or unenforceable) shall not in any way be affected or impaired thereby and (ii) to the fullest extent possible, the provisions of this Certificate of Incorporation (including, without limitation, each such portion of any paragraph of this Certificate of Incorporation containing any such provision held to be invalid, illegal or unenforceable) shall be construed so as to permit the Corporation to protect its directors, officers, employees and agents from personal liability in respect of their good faith service to or for the benefit of the Corporation to the fullest extent permitted by law.

14. Definitions. As used in this Certificate of Incorporation, unless the context otherwise requires or as set forth in another Section of this Certificate of Incorporation, the term:

"Affiliate" means a Person that directly, or indirectly through one or more intermediaries, Controls, or is Controlled by, or is under common Control with, another Person.

"Certificate of Incorporation" is defined in the Recitals.

"Board" is defined in Section 5.1(ii).

"Bylaws" is defined in Section 6.2.

"Common Stock" is defined in Section 4.1.

"Control" (including the terms "Controlling" and "Controlled") means 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.

"Controlled Company" means, with respect to the Corporation, any Person Controlled by the Corporation.

"Corporation" is defined in the Recitals.

"Dual Role Person" means each of (i) any director, officer, manager, employee or agent of the Corporation and/or any of its Controlled Companies who is also a director, officer, employee, agent and/or Affiliate of Post and (ii) Post.

"Exchange Act" means the Securities Exchange Act of 1934, as amended, and any successor law or statute, together with the rules and regulations promulgated thereunder.

"General Corporation Law" is defined in Section 3.

"Person" means any individual, partnership, firm, corporation, limited liability company, association, trust, unincorporated organization or other entity.

"Post" means Post Holdings, Inc. and its Affiliates (other than the Corporation and its Controlled Companies), successors and assigns.

"Preferred Stock" is defined in Section 4.1.

15. Incorporator. The name of the incorporator is Craig L. Rosenthal, and the mailing address of the incorporator is 2503 S. Hanley Road, St. Louis, Missouri 63144.

16. Effective Time. This Certificate of Incorporation shall become effective at 10:30 a.m. Eastern Time on March 10, 2022.

[*Signature Pages Follow*]

In witness hereof, this Certificate of Incorporation of BellRing Brands, Inc. has been duly executed by the authorized incorporator below on this 10th day of March, 2022.

INCORPORATOR

By: /s/ Craig L. Rosenthal
Name: Craig L. Rosenthal

[*SIGNATURE PAGE TO CERTIFICATE OF INCORPORATION*]

BYLAWS OF
BELLRING BRANDS, INC.

* * *

ARTICLE I – STOCKHOLDERS

SECTION 1. ANNUAL MEETING: The annual meeting of stockholders shall be held at the principal executive office of BellRing Brands, Inc. (the "Corporation"), or at such other place, if any, either within or without the State of Delaware as the Board of Directors (the "Board") may from time to time determine, on such date and at such time as may be determined by the Board, to elect directors and transact such other business as may properly come before the meeting. At any annual meeting of stockholders only such business shall be conducted, and only such proposals shall be acted upon, as shall have been properly brought before the meeting by the Board or by a stockholder of record entitled to vote at such meeting.

SECTION 2. SPECIAL MEETINGS: Special meetings of the stockholders or of the holders of any class of capital stock of the Corporation, unless otherwise prescribed by statute or by the Certificate of Incorporation of the Corporation (as may be amended from time to time, including the terms of any certificate of designation for any series of the Corporation's preferred stock, the "Certificate of Incorporation"), may be called only by (a) the affirmative vote of a majority of the Board, (b) the Chairperson of the Board, or (c) the President of the Corporation. Only such business shall be conducted, and only such proposals shall be acted upon, as is specified in the call of any special meeting of stockholders.

SECTION 3. NOTICE; ADJOURNMENT: (a) Unless otherwise required by the General Corporation Law of the State of Delaware (as from time to time in effect, the "General Corporation Law"), notice of each meeting of the stockholders, whether annual or special, shall be given in writing or by electronic transmission or otherwise, except that it shall not be necessary to give notice to any stockholder who properly waives notice before or after the meeting, whether in writing or by electronic transmission or otherwise, and no notice of an adjourned meeting need be given, except when required under these Bylaws or by law. Such notice shall state the date, time and place, if any, of the meeting (and the means of remote communications, if any, by which stockholders and proxy holders may be deemed to be present in person at such meeting), the record date for determining the stockholders entitled to vote at the meeting, if such date is different from the record date for determining stockholders entitled to notice of the meeting, and in the case of a special meeting, also shall state the purpose or purposes thereof and shall be given in any manner permitted by law not less than 10 nor more than 60 days before the meeting and shall state the time and place of the meeting, and unless it is the annual meeting, shall state at whose direction the meeting is called and the purposes for which it is called. The attendance of any stockholder at a meeting, without protesting at the beginning of the meeting that the meeting is not lawfully called or convened, shall constitute a waiver of notice of such meeting, and the requirement of notice also may be waived in accordance with Section 3 of Article V of these Bylaws. Any previously scheduled meeting of stockholders may be postponed and (unless the Certificate of Incorporation otherwise provides) any special meeting of stockholders may be canceled or postponed, by resolution of the Board upon public announcement (as defined in Section 8(c) of Article I of these Bylaws) given on or prior to the date previously scheduled for such meeting of stockholders.

(b) Without limiting the manner by which notice may otherwise be given effectively to stockholders, any notice to a stockholder given by the Corporation may be given by a form of electronic transmission. For purposes of these Bylaws, "electronic transmission" shall mean any process of communication, not directly involving the physical transfer of paper, that is suitable for the retention, retrieval and reproduction of information by the recipient.

(c) Notice shall be deemed given, if mailed, when deposited in the United States mail with postage prepaid, if addressed to a stockholder at his, her or its address on the Corporation's records. Notice given by electronic transmission shall be deemed given (i) if by posting on an electronic network together with separate notice to the stockholder of such specific posting, upon the later of (A) such posting and (B) the giving of such separate notice; and (ii) if by any facsimile, electronic mail or other form of electronic transmission, when directed to the stockholder at his, her or its address on the Corporation's records. An affidavit of the Secretary or an Assistant Secretary or the transfer agent or other agent of the Corporation that notice has been given, whether by a form of electronic transmission or otherwise, shall, in the absence of fraud, be prima facie evidence of the facts stated therein.

(d) Any meeting of stockholders may be adjourned from time to time either by the person presiding over the meeting or by the vote of the holders of a majority of the voting power of the shares present in person or represented by proxy at the meeting and entitled to vote at the meeting. When a meeting is adjourned to another time or place, if any, notice need not be given of the adjourned meeting if the time and place, if any, thereof and the means of remote communication, if any, by which stockholders and proxyholders may be deemed present in person and may vote at such meeting are announced at the meeting at which the adjournment is taken. At the adjourned meeting, the Corporation may transact any business that might have been transacted at the original meeting. If the adjournment is for more than 30 days, a notice of the adjourned meeting shall be given to each stockholder of record entitled to vote at the meeting. If after the adjournment a new record date for determination of stockholders entitled to vote is fixed for the adjourned meeting, the Board shall fix a new record date for determining stockholders entitled to notice of such adjourned meeting in accordance with these Bylaws and applicable law, and shall give notice of the adjourned meeting to each stockholder of record entitled to vote at such adjourned meeting as of the record date fixed for notice of such adjourned meeting.

SECTION 4. QUORUM: Except as otherwise required by law, the holders of shares representing a majority of the combined voting power of the Corporation entitled to vote thereat, present in person or represented by proxy, shall constitute a quorum at all meetings of the stockholders for the transaction of business; provided, however, that where a separate vote by a class or series of capital stock or classes or series of capital stock is required, a majority of the voting power of such class or series or classes or series entitled to vote shall constitute a quorum with respect to such vote. Less than such quorum shall have the right successively to adjourn the meeting to a specified date not more than 30 days after such adjournment, and no notice need be given of such adjournment to stockholders not present at such meeting. The stockholders present at a meeting at which a quorum is present may continue to transact business until adjournment, notwithstanding the withdrawal of such numbers of stockholders as to reduce the remaining stockholders to less than a quorum.

SECTION 5. ACTION BY CONSENT: Unless otherwise provided in the Certificate of Incorporation, any action required by the General Corporation Law to be taken at any annual or special meeting of stockholders of the Corporation, or any action which may be taken at any annual or special meeting of stockholders of the Corporation, may be effected only at a duly called annual or special meeting of stockholders of the Corporation and may not be effected by any consent by such stockholders in lieu of a meeting.

SECTION 6. VOTING: Except as otherwise provided in the Certificate of Incorporation, each stockholder shall at every meeting of the stockholders be entitled to vote the number of votes in person or by proxy for each share of the class of capital stock having voting power held by such stockholder. If a quorum is present, the affirmative vote of the majority of the voting power represented in person or by proxy and entitled to vote at the meeting shall be the act of the stockholders, except in connection with the election of directors or as otherwise required by the Certificate of Incorporation, by these Bylaws or by law.

SECTION 7. PROXIES: The following shall constitute valid means by which a stockholder may authorize a person to act for the stockholder as a proxy:

(a) A stockholder or the stockholder's duly authorized attorney-in-fact may execute a writing authorizing another person to act for the stockholder as proxy. Execution may be accomplished by the

stockholder or duly authorized attorney-in-fact signing such writing or causing the stockholder's signature to be affixed to such writing by any reasonable means, including, but not limited to, facsimile signature; or

(b) A stockholder may authorize another person to act for the stockholder as proxy by transmitting or authorizing the transmission of a facsimile or other means of electronic transmission, or by telephone, to the person who will be the holder of the proxy or to a proxy solicitation firm, proxy support service organization or like agent duly authorized by the person who will be the holder of the proxy to receive such transmission, provided that any such facsimile or other means of electronic transmission or telephonic transmission shall either set forth or be submitted with information from which it can be determined that the facsimile or other electronic transmission or telephonic transmission was authorized by the stockholder. If it is determined that such facsimiles or other electronic transmissions or telephonic transmissions are valid, the inspectors or, if there are no inspectors, such other persons making such determination, shall specify the information upon which they relied.

SECTION 8. BUSINESS TO BE CONDUCTED; ADVANCE NOTICE: (a) At an annual meeting of stockholders, only such business (other than nominations of directors, which must be made in compliance with, and shall be exclusively governed by, Section 1 of Article II of these Bylaws) shall be conducted as shall have been brought before the meeting (i) pursuant to the Corporation's notice of the meeting (or any supplement thereto), (ii) by or at the direction of the Board or any committee thereof or (iii) 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 8 of Article I of these Bylaws, and at the time of the annual meeting, who shall be entitled to vote at such meeting and who shall have complied with the notice procedures set forth in this Section 8 of Article I of these Bylaws; clause (iii) shall be the exclusive means for a stockholder to submit such business to be brought before the meeting (other than matters properly brought under Rule 14a-8 under the Securities Exchange Act of 1934, as amended (the "Exchange Act")) and to be included in the Corporation's notice of meeting before or at an annual meeting of stockholders.

(b) At any special meeting of stockholders, only such business or proposals as are specified in the notice of the meeting may be properly brought before the meeting.

(c) For any such business to be properly brought before an annual meeting by a stockholder of record, pursuant to Section 8(a)(iii) of this Article I of these Bylaws, the stockholder must have given timely notice thereof in writing to the Secretary of the Corporation and any such proposed business must constitute a proper matter for stockholder action. To be timely, a stockholder's notice, in writing, must be delivered to, or mailed to and received by, the Secretary of the Corporation at the principal executive office of the Corporation not less than 90 days nor more than 120 days prior to the first anniversary of the date of the preceding year's annual meeting (and for purposes of calculating this date with respect to the first annual meeting after the date shares of capital stock of the Corporation are first publicly traded (the "Closing Date"), the Corporation shall be deemed to have held an annual meeting on the date of the most recent annual meeting of stockholders of BellRing Brands, Inc. held before the Closing Date); provided, however, that in the event that the date of the meeting is more than 30 days before or more than 60 days after such anniversary date, notice by the stockholder must be received not earlier than the 120th day prior to the date of such annual meeting and not later than the close of business on the later of the 90th day prior to the date of such annual meeting or the 10th day following the day on which public announcement of the date of the annual meeting is first made. In no event shall any adjournment or postponement of an annual meeting or the announcement thereof commence a new time period (or extend any time period) for the giving of a stockholder's notice as described above. For purposes of these Bylaws, "public announcement" shall include disclosure in a press release reported by a national news service or in a publicly available document filed or furnished by the Corporation with the Securities and Exchange Commission pursuant to the Exchange Act.

(d) No business (other than the election of directors) shall be conducted at an annual meeting, except in accordance with the procedures set forth in this Section 8 of Article I of these Bylaws. Except as otherwise provided by law, the Certificate of Incorporation or these Bylaws, the person presiding over the meeting (the

"chairperson") may, if the facts warrant, determine that the proposed business was not properly brought before the meeting in accordance with the provisions of this Section 8 of Article I of these Bylaws (including whether the stockholder or beneficial owner, if any, on whose behalf the proposal is solicited (or is part of a group which solicited) or did not so solicit, as the case may be, proxies in support of such stockholder's proposal in compliance with such stockholder's representation as required by Section 8(e)(iii)(d) of Article I of these Bylaws); and if the chairperson should so determine, the chairperson shall so declare to the meeting, and any such proposed business not properly brought before the meeting shall not be transacted. Notwithstanding the foregoing provisions of this Section 8 of Article I of these Bylaws, a stockholder also shall comply with all applicable requirements of the Exchange Act and the rules and regulations thereunder with respect to the matters set forth in this Section 8 of Article I of these Bylaws; provided, however, that any references in these Bylaws to the Exchange Act or the rules promulgated thereunder are not intended to and shall not limit the requirements applicable to business proposals to be considered pursuant to Section 8 of Article I of these Bylaws (including Section 8(a)(iii) of Article I of these Bylaws). Nothing in this Section 8 of Article I of these Bylaws shall be deemed to affect any rights of stockholders to request inclusion of proposals in the Corporation's proxy statement pursuant to Rule 14a-8 under the Exchange Act. The provisions of this Section 8 of Article I of these Bylaws also shall govern what constitutes timely notice for purposes of Rule 14a-4(c) of the Exchange Act.

(e) For any such business to be properly brought before a meeting, such stockholder's notice to the Secretary of the Corporation shall set forth as to each matter he or she proposes to bring before the meeting:

(i) a brief description of the business desired to be brought before the meeting, the text of the proposal or business (including any proposed resolutions for consideration and, in the event that such business includes a proposal to request or otherwise relating to the amendment of these Bylaws, the text of the proposed amendment), the reasons for proposing to conduct such business at the meeting and any material interest of such stockholder (and of the beneficial owner, if any, on whose behalf the proposal is made) in such business;

(ii) a description of all agreements, arrangements and understandings between such stockholder and beneficial owner, if any, and any other person or persons (including their names) in connection with the proposal of such business by such stockholder;

(iii) as to the stockholder giving the notice and the beneficial owner, if any, on whose behalf the proposal is made:

a. the name and address of such stockholder and beneficial owner as they appear in the Corporation's stockholder records;

b. (1) the class or series and number of shares of the Corporation's capital stock which are directly or indirectly beneficially owned or owned of record by such stockholder and such beneficial owner, (2) any option, warrant, convertible security, stock appreciation right, or similar right with an exercise or conversion privilege or a settlement payment or mechanism at a price related to any class or series of shares of capital stock of the Corporation or with a value derived in whole or in part from the value of any class or series of shares of capital stock of the Corporation, whether or not such instrument or right shall be subject to settlement in the underlying class or series of capital stock of the Corporation or otherwise (a "Derivative Instrument") directly or indirectly owned beneficially by such stockholder or beneficial owner and any other direct or indirect opportunity to profit or share in any profit derived from any increase or decrease in the value of shares of the Corporation, (3) any proxy, contract, arrangement, understanding or relationship pursuant to which such stockholder or beneficial owner has a right to vote any shares or any security of the Corporation, (4) any short interest of such stockholder or beneficial owner in any security of the Corporation (for purposes of these Bylaws, a person shall be deemed to have a short interest in a security if such person directly or indirectly, through any contract, arrangement, understanding, relationship or otherwise, has the opportunity to profit or share in any profit derived from any decrease in the value of the subject security), (5) any rights to

dividends on the shares of the Corporation owned beneficially by such stockholder or beneficial owner that are separated or separable from the underlying shares of the Corporation, (6) any proportionate interest in shares of the Corporation or Derivative Instruments held, directly or indirectly, by a general or limited partnership or limited liability Corporation in which such stockholder or beneficial owner is a general partner or manager or directly or indirectly beneficially owns an interest in a general partner or manager, (7) any performance-related fees (other than an asset-based fee) that such stockholder or beneficial owner is entitled to based on any increase or decrease in the value of shares of the Corporation or Derivative Instruments, if any, as of the date of such notice, including without limitation any such interests held by members of such stockholder's or beneficial owner's immediate family sharing the same household, and (8) any other information relating to such stockholder or beneficial owner 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 for, as applicable, the proposal and/or the election of directors in a contested election, or is otherwise required, pursuant to Section 14 of the Exchange Act and the rules and regulations thereunder (the foregoing items (1) through (8), individually or collectively, the "Proposing Stockholder Information," which information shall be supplemented by such stockholder and beneficial owner, if any, not later than 10 days after the record date for the meeting to disclose such ownership or other information as of the record date);

c. a representation that the stockholder is a holder of record of shares of the Corporation, is entitled to vote at the meeting and intends to appear in person or by proxy at the meeting to propose such business; and

d. a representation as to whether the stockholder or the beneficial owner, if any, is or intends to be part of a group which intends (1) to deliver a proxy statement and/or form of proxy to holders of at least the percentage of the Corporation's outstanding capital stock required to approve or adopt the proposal or (2) otherwise to solicit proxies from stockholders in support of such proposal. The meaning of the term "group" shall be within the meaning ascribed to such term under Section 13(d)(3) of the Exchange Act.

The proposed business must not be an improper subject for stockholder action under applicable law, and the stockholder must comply with state law, the Exchange Act and the rules and regulations thereunder with respect to the matters set forth in this Section 8 of Article I of these Bylaws.

SECTION 9. ORGANIZATION; CONDUCT OF STOCKHOLDER MEETINGS: (a) Each meeting of stockholders shall be convened by the President, Secretary or other officer of the Corporation or other person calling the meeting by notice given in accordance with these Bylaws. The Chairperson of the Board, or any person appointed by the Chairperson of the Board prior to any meeting of stockholders, shall act as chairperson of each meeting of stockholders. In the absence of the Chairperson of the Board, or a person appointed by the Chairperson of the Board to act as chairperson of the meeting, the stockholders present at the meeting shall designate a stockholder or officer of the Corporation present to act as chairperson of the meeting. The Secretary of the Corporation, or a person designated by the chairperson, shall act as secretary of each meeting of stockholders. Whenever the Secretary of the Corporation shall act as chairperson of the meeting, or shall be absent, the chairperson of the meeting shall appoint a person present to act as secretary of the meeting.

(b) The Board shall be entitled to make such rules or regulations for the conduct of meetings of stockholders as it shall deem appropriate. Subject to such rules and regulations of the Board, if any, the person presiding over the meeting shall have the right and authority to convene and adjourn the meeting, to prescribe such rules, regulations and procedures and to do all such acts as, in the judgment of the person presiding over the meeting, are necessary, appropriate or convenient for the proper conduct of the meeting, including, without limitation, adjournment or recess of the meeting, establishing an agenda or order of business for the meeting, rules and procedures for maintaining order at the meeting and the safety of those present, limitations on participation in such meeting to stockholders of record of the Corporation and their duly authorized and

constituted proxies and such other persons as the person presiding over the meeting shall permit, restrictions on entry to the meeting after the time fixed for the commencement thereof, limitations on the time allotted to questions or comments by participants, either by the person presiding over the meeting or by vote of the shares present in person or by proxy at the meeting, and regulation of the voting or balloting, as applicable, including, without limitation, matters which are to be voted on by ballot, if any. The chairperson of the meeting shall have sole, absolute and complete authority and discretion to decide questions of compliance with the foregoing procedures and his or her ruling thereon shall be final and conclusive. The chairperson of the meeting, in addition to making any other determinations that may be appropriate to the conduct of the meeting, shall, if the facts warrant, determine and declare to the meeting that a matter or business was not properly brought before the meeting and if the chairperson of the meeting should so determine and declare, any such matter or business shall not be transacted or considered. Unless and to the extent determined by the Board or the chairperson of the meeting, meetings of stockholders shall not be required to be held in accordance with rules of parliamentary procedure.

(c) Notwithstanding anything to the contrary in these Bylaws, unless otherwise required by law, if a stockholder (or qualified representative) does not appear at the annual or special meeting of stockholders of the Corporation to present business or a nomination proposed by such stockholder pursuant to Section 8 of Article I of these Bylaws or Section 1 of Article II of these Bylaws, such proposed business shall not be transacted and such nomination shall be disregarded, as the case may be, even though proxies in respect of such vote may have been received by the Corporation. In order to be considered a qualified representative of the stockholder for purposes of Section 8 of Article I of these Bylaws or Section 1 of Article II of these Bylaws, a person must be a duly authorized officer, manager or partner of such stockholder or must be authorized by a writing executed by such stockholder or an electronic transmission delivered by such stockholder to act for such stockholder as proxy at the meeting of stockholders, and such person must produce such writing or electronic transmission, or a reliable reproduction of the writing or electronic transmission, at the meeting of stockholders.

ARTICLE II – BOARD OF DIRECTORS

SECTION 1. ELECTION; TENURE; QUALIFICATIONS; NOMINATIONS: (a) The Board shall consist of not less than five nor more than twelve members, such directors to be classified in respect of the time for which they shall severally hold office by dividing them into three classes of approximately equal size, and the number of directors shall be fixed by a resolution of the Board adopted from time to time.

(b) In the event of any increase or decrease in the number of directors, the number of directors assigned to each class shall be adjusted as may be necessary so that all classes shall be as nearly equal in number as reasonably possible, except that one class may be one greater or one less in number than the other two classes. No reduction in the number of directors shall affect the term of office of any incumbent director. Subject to the foregoing, the Board shall determine the class or classes to which any director shall be assigned and the class or classes which shall be increased or decreased in the event of any increase or decrease in the number of directors.

(c) Each director shall hold office until a successor is duly elected and qualified or until the director’s earlier death, resignation, disqualification or removal. With respect to the members of the Board in office on the date of these Bylaws, the first class of directors shall hold office until the first annual meeting of stockholders following the Closing Date, the second class of directors shall hold office until the second annual meeting of stockholders following the Closing Date, and the third class of directors shall hold office until the third annual meeting of stockholders following the Closing Date. Thereafter, directors shall be elected to hold office for a term of three years, and at each annual meeting of stockholders, the successors to the class of directors whose term shall then expire shall be elected for a term expiring at the third succeeding annual meeting after that election or until their successors shall be elected and qualified.

(d) Subject to Section 1(h) in this Article II and in addition to the qualifications set out in Section 11 of Article II of these Bylaws, only persons who are nominated in accordance with the procedures set forth in these

Bylaws shall be eligible as directors at a meeting of stockholders. Nominations of persons for election to the Board may be made at an annual meeting of stockholders (i) pursuant to the Corporation's notice of the meeting (or any supplement thereto), (ii) by or at the direction of the Board or any committee thereof or (iii) by any stockholder of the Corporation who is a stockholder of record of the Corporation at the time of giving of the notice provided for in this Section 1 of Article II of these Bylaws, and at the time of the annual meeting, who shall be entitled to vote for the election of directors at the annual meeting and who shall have complied with the notice procedures set forth in this Section 1 of Article II of these Bylaws; the foregoing clause (iii), subject to Section 1(h) in this Article II, shall be the exclusive means for a stockholder to make nominations of persons for election to the Board at an annual meeting of stockholders. Nominations of persons for election to the Board may be made at a special meeting of stockholders at which directors are to be elected pursuant to the notice of meeting (x) by or at the direction of the Board or any committee thereof or (y) provided that the Board has determined that directors shall be elected at such meeting, by any stockholder of the Corporation who is a stockholder of record at the time the notice provided in this Section 1(d) of Article II of these Bylaws is delivered to the Secretary of the Corporation, and at the time of the special meeting, who shall be entitled to vote at the special meeting for the election of directors at the special meeting and who shall have complied with the notice provisions set forth in this Section 1 of Article II of these Bylaws; the foregoing clause (y), subject to Section 1(h) in this Article II, shall be the exclusive means for a stockholder to make nominations of persons for election to the Board at a special meeting of stockholders.

Subject to Section 1(h) in this Article II, for any nominations by a stockholder to be properly brought before an annual or special meeting of stockholders pursuant to clauses (d)(iii) and (d)(y) of the preceding paragraph of these Bylaws, the stockholder must have given timely notice thereof in writing to the Secretary of the Corporation. To be timely, a stockholder's notice in writing must be delivered or mailed to and received by the Secretary of the Corporation at the principal executive office of the Corporation (i) in the case of an annual meeting, not less than 90 days nor more than 120 days prior to the first anniversary of the preceding year's annual meeting (and for purposes of calculating this date with respect to the first annual meeting after the Closing Date, the Corporation shall be deemed to have held an annual meeting on the date of the most recent annual meeting of the stockholders of BellRing Brands, Inc. held before the Closing Date), provided, however, that in the event that the date of the meeting is more than 30 days before or more than 60 days after such anniversary date, notice by the stockholder must be received not earlier than the 120th day prior to the date of such annual meeting and not later than the close of business on the later of the 90th day prior to the date of such annual meeting or the 10th day following the day on which public announcement (as defined in Section 8(c) of Article I of these Bylaws) of the date of the annual meeting is first made; or (ii) in the case of a special meeting at which directors are to be elected pursuant to the notice of meeting, not earlier than the 120th day prior to the date of such special meeting and not later than the close of business on the later of the 90th day prior to the date of such special meeting or the 10th day following the day on which public announcement of the date of the meeting and of the nominees proposed by the Board to be elected at such meeting is first made. In no event shall any adjournment or postponement of a meeting or the announcement thereof commence a new time period (or extend any time period) for the giving of a stockholder's notice as described above.

At the request of the Board, any person nominated by the Board for election as a director shall furnish to the Secretary of the Corporation that information required to be set forth in a stockholder's notice of nomination under Section 1(e) in this Article II which pertains to the nominee. Notwithstanding anything in this Section 1 of Article II of these Bylaws to the contrary, in the event that the number of directors to be elected to the Board at an annual meeting is increased effective at the annual meeting and there is no public announcement by the Corporation naming all of the nominees proposed by the Board for the additional directorships at least 70 days prior to the first anniversary of the preceding year's annual meeting, a stockholder's notice required by this Section 1 of Article II of these Bylaws also shall be considered timely, but only with respect to nominees for such additional directorships, if it shall be delivered to the Secretary of the Corporation at the principal executive office of the Corporation not later than the close of business on the 10th day following the day on which such public announcement is first made by the Corporation.

(e) For nominations to be properly brought before an annual or special meeting, such stockholder's notice to the Secretary shall set forth as to each person whom the stockholder proposes to nominate for election or re-election as a director:

(i) the name, age, business address and residence of such person;

(ii) the principal occupation or employment of such person currently and for the previous five years;

(iii) a description of all direct and indirect compensation and other material monetary agreements, arrangements and understandings during the past three years, and any other material relationships between or among such stockholder and beneficial owner, if any, on whose behalf the nomination is being made, and their respective affiliates and associates or others acting in concert therewith (on the one hand) and each proposed nominee and his or her respective affiliates and associates or others acting in concert therewith (on the other hand), including without limitation all information that would be required to be disclosed pursuant to Item 404 of Regulation S-K if the stockholder making the nomination and any beneficial owner on whose behalf the nomination is made, if any, or any affiliate or associate thereof or person acting in concert therewith, were the "registrant" for purposes of such requirement and the nominee were a director or executive officer of such registrant;

(iv) such person's representation that he or she is eligible to serve as a director pursuant to Section 11 of Article II of these Bylaws and whether such person has acted in any manner contrary to the best interest of the Corporation, including, but not limited to, the violation of any federal or state law or breach of any agreement between that person and the Corporation relating to his or her services as a director, employee or agent of the Corporation;

(v) such person's written consent to being named as a nominee and to serving as a director if elected; and

(vi) any other information relating to such person that would be required to be disclosed in a proxy statement or other filing required to be made in connection with the solicitation of proxies for election of directors in a contested election, or is otherwise required, pursuant to Section 14 of the Exchange Act and the rules and regulations thereunder.

(f) Such stockholder's notice also shall set forth as to the stockholder(s) giving the notice and the beneficial owner, if any, on whose behalf the nomination is made:

(i) the name and address of such stockholder and beneficial owner, as they appear in the Corporation's stockholder records;

(ii) the Proposing Stockholder Information as defined in Section 8(e) of Article I of these Bylaws;

(iii) a representation that the stockholder is a holder of record of shares of the Corporation, is entitled to vote at such meeting and intends to appear in person or by proxy at the meeting to nominate the person or persons specified in the notice;

(iv) any other information relating to such stockholder or beneficial owner 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 for the election of directors in a contested election, or is otherwise required pursuant to Section 14 of the Exchange Act and the rules and regulations thereunder; and

(v) a representation as to whether the stockholder or beneficial owner, if any, is or intends to be part of a group (as defined in Section 8(e) of Article I of these Bylaws) which intends (i) to deliver a proxy statement and/or form of proxy to holders of at least the percentage of the Corporation's outstanding capital stock required to elect the nominee, or (ii) otherwise solicit proxies from stockholders in support of such nominee.

(g) In addition to the qualifications set out in Section 11 of Article II of these Bylaws, to be eligible to be a nominee for election or reelection as a director of the Corporation, the prospective nominee (whether

nominated by or at the direction of the Board or by a stockholder), or someone acting on such prospective nominee's behalf, must deliver (in accordance with any applicable time periods prescribed for delivery of notice under this Section 1 of Article II of these Bylaws) to the Secretary of the Corporation at the principal executive office of the Corporation a written questionnaire providing such information with respect to the background and qualification of such person and the background of any other person or entity on whose behalf the nomination is being made that would be required to be disclosed to stockholders pursuant to applicable law or the rules and regulations of any stock exchange applicable to the Corporation, including without limitation (i) all information concerning such person that would be required to be disclosed in solicitation of proxies for election of directors pursuant to and in accordance with Regulation 14A under the Exchange Act and (ii) any information the Corporation may reasonably request to determine the eligibility of the proposed nominee to serve as an independent director under the rules of any exchange upon which shares of the Corporation's capital stock are then listed or that could be material to a reasonable stockholder's understanding of the independence or lack thereof of such nominee (which questionnaire shall be provided by the Secretary upon written request). The prospective nominee also must provide a written representation and agreement, in the form provided by the Secretary of the Corporation upon written request, that such prospective nominee: (A) is not and will not become a party to (1) any agreement, arrangement or understanding with, and has not given any commitment or assurance to, any person or entity as to how such prospective 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 or (2) any Voting Commitment that could limit or interfere with such prospective nominee's ability to comply, if elected as a director of the Corporation, with such prospective nominee's fiduciary duties under applicable law; (B) 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 therein; and (C) would be in compliance, if elected as a director of the Corporation, and will comply with all applicable corporate governance, conflict of interest, confidentiality and stock ownership and trading policies and guidelines of the Corporation. For purposes of this Section 1(g) of Article II of these Bylaws a "nominee" shall include any person being considered to fill a vacancy on the Board.

(h) No person shall be eligible for election as a director of the Corporation unless nominated in accordance with the procedures set forth in this Section 1 of Article II of these Bylaws and qualified under Section 11 of Article II of these Bylaws. Except as otherwise provided by law, the Certificate of Incorporation or these Bylaws, the chairperson of the meeting may, if the facts warrant, determine that a nominee is not qualified or a nomination was not properly made in accordance with the procedures prescribed in this Section 1 of Article II of these Bylaws (including whether the stockholder or beneficial owner, if any, on whose behalf the nomination is made solicited (or is part of a group which solicited) or did not so solicit, as the case may be, proxies in support of such stockholder's nominee in compliance with such stockholder's representation as required by clause (f)(v) of this Section 1 of Article II of these Bylaws); and if the chairperson should so determine, the chairperson shall so declare to the meeting, and the defective nomination shall be disregarded. Notwithstanding the foregoing provisions of this Section 1 of Article II of these Bylaws, a stockholder also shall comply with all applicable requirements of the Exchange Act and the rules and regulations thereunder with respect to the matters set forth in this Section 1 of Article II of these Bylaws; provided, however, that any references in these Bylaws to the Exchange Act or the rules promulgated thereunder are not intended to and shall not limit the requirements applicable to nominations to be considered pursuant to this Section 1 of Article II of these Bylaws (including clause (d) of this Section 1). Nothing in this Section 1 of Article II of these Bylaws shall be deemed to affect any rights of the holders of any series of preferred stock of the Corporation to elect directors pursuant to any applicable provisions of the Certificate of Incorporation.

SECTION 2. POWERS: The Board shall have power to manage and control the property and affairs of the Corporation, and to do all such lawful acts and things which, in its absolute judgment and discretion, it may deem necessary and appropriate for the expedient conduct and furtherance of the Corporation's business.

SECTION 3. CHAIRPERSON: The directors shall elect one of the members of the Board to be Chairperson of the Board. The Chairperson shall preside at all meetings of the Board, unless absent from such meeting, in which case, if there is a quorum, the directors present may elect another director to preside at such meeting.

SECTION 4. MEETINGS: (a) Regular meetings of the Board shall be held on such days and at such times and places either within or without the State of Delaware as shall from time to time be fixed by the Board. Notice of such regular meetings need not be given. Special meetings of the Board may be held on any day and at any time and place, within or without the State of Delaware, upon the call of the Chairperson of the Board or the President or Secretary of the Corporation, by oral, written or email notice duly given, sent or mailed to each director, at such director's last known address, not less than twenty-four hours before such meeting; provided, however, that any director may, at any time, in writing or by email, waive notice of any meeting at which he or she may not be or may not have been present. Attendance of a director at any meeting shall constitute a waiver of notice of the meeting, except where a director attends a meeting for the sole and express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any meeting of the Board need be specified in the notice or waiver of notice of such meeting. Rules of procedure for the conduct of such meetings may be adopted by resolution of the Board.

(b) Members of the Board or of any committee designated by the Board may participate in a meeting of the Board or committee by means of conference telephone or other communications equipment whereby all persons participating in the meeting can hear each other, and participation in a meeting in this manner shall constitute presence in person at the meeting.

SECTION 5. ACTION BY CONSENT: Unless otherwise specifically prohibited by the Certificate of Incorporation or these Bylaws, any action required or permitted to be taken at any meeting of the Board or of any committee thereof may be taken without a meeting, if all members of the Board or such committee, as the case may be, execute a consent thereto in writing, or by electronic transmission, setting forth the action so taken. After an action is taken, the consent or consents relating thereto shall be filed with the minutes of proceedings of the Board or committee in the same paper or electronic form as the minutes are maintained.

SECTION 6. QUORUM: A majority of the directors then in office shall constitute a quorum at all meetings of the Board (provided that in no event shall less than one-third of the entire Board constitute a quorum), and the act of the majority of the directors present at any meeting at which a quorum is present shall be the act of the Board, unless a greater number of directors is required by the Certificate of Incorporation, by these Bylaws or by law. At any meeting of directors, whether or not a quorum is present, the directors present thereat may adjourn the same from time to time without notice other than announcement at the meeting.

SECTION 7. RESIGNATION OF DIRECTORS: Any director of the Corporation may resign at any time by giving notice of such resignation in writing or by electronic transmission to the Board, the Chairperson of the Board or the President or Secretary of the Corporation. Any such resignation shall take effect at the time specified therein or, if no time is specified, upon receipt thereof by the Board, the Chairperson of the Board or one of the above-named officers of the Corporation; and, unless specified therein, the acceptance of such resignation shall not be necessary to make it effective.

SECTION 8. VACANCIES: Subject to the rights, if any, of the holders of any class of capital stock of the Corporation (other than the Common Stock) then outstanding, any vacancies in the Board which occur for any reason prior to the expiration of the term of office of the class of directors in which the vacancy occurs, and any newly created directorships by reason of an increase in the number of directors, may be filled only by the Board, acting by the affirmative vote of a majority of the remaining directors then in office (even if less than a quorum), or by a sole remaining director.

SECTION 9. COMPENSATION OF DIRECTORS: The Board may, by resolution passed by a majority of the entire Board, fix the terms and amount of compensation payable to any person for his or her services as

director, if he or she is not otherwise compensated for services rendered as an officer or employee of the Corporation; provided, however, that any director may be reimbursed for reasonable and necessary expenses of attending meetings of the Board, or otherwise incurred for any Corporation purpose; and provided, further, that members of any special or standing committee of directors also may be allowed compensation and expenses similarly incurred. Nothing herein contained shall be construed to preclude any director from serving the Corporation in any other capacity and receiving compensation therefor.

SECTION 10. COMMITTEES OF THE BOARD OF DIRECTORS: The Board (i) may, by resolution passed by a majority of the entire Board, designate two or more directors to constitute an Executive Committee of the Board which shall, to the fullest extent permitted by law, have and exercise all of the authority of the Board in the management of the Corporation, in the intervals between meetings of the Board, (ii) may appoint any other committee or committees, with such members, functions and powers as the Board may designate, and (iii) shall have the power at any time to fill vacancies in, to change the size or membership of, or to dissolve, any one or more of such committees. Each such committee shall have such name as may be determined by the Board and shall keep regular minutes of its proceedings and report the same to the Board for approval as required. At all meetings of a committee, a majority of the committee members then in office shall constitute a quorum for the purpose of transacting business, and the acts of a majority of the committee members present at any meeting at which there is a quorum shall be the acts of the committee. A director who may be disqualified, by reason of personal interest, from voting on any particular matter before a meeting of a committee may nevertheless be counted for the purpose of constituting a quorum of the committee. Any action which is required to be or may be taken at a meeting of a committee of directors may be taken without a meeting if consents in writing, setting forth the action so taken, are signed, including signing by electronic transmission, by all of the members of the committee.

SECTION 11. QUALIFICATIONS: A director shall not be eligible for reelection after his or her 72nd birthday, unless the Board or the applicable committee of the Board determines that such director continues to meet the criteria for Board service and, in the case such determination is made by such committee of the Board, recommends to the Board that he or she stand for reelection notwithstanding his or her age.

ARTICLE III – OFFICERS

SECTION 1. OFFICERS; ELECTION: The officers of the Corporation shall be a Chief Executive Officer, a President and a Secretary, each of whom shall be elected by the Board. The Board may from time to time elect and appoint one or more Assistant Secretaries of the Board and one or more Vice Chairpersons of the Board. In addition, the President may from time to time elect and appoint the other officers of the Corporation, including one or more Executive Vice Presidents, one or more Senior Vice Presidents, a Controller, a Treasurer and such other officers as the President may deem appropriate. Any two or more offices may be held by the same person except the offices of Chairperson of the Board and Secretary.

SECTION 2. TERMS: All officers of the Corporation shall hold their respective offices until their death, resignation or removal.

SECTION 3. POWERS; DUTIES: Each officer of the Corporation shall have such powers and duties as may be prescribed by resolution of the Board or as may be assigned by the Board or the President of the Corporation.

SECTION 4. REMOVAL: Any officer or agent may be removed by the person or persons, which shall include the Board where applicable, that have authority to appoint such officer or agent, with or without cause, whenever in such person’s or persons’ judgment, as applicable, the best interest of the Corporation will be served thereby, but such removal shall be without prejudice to the contract rights, if any, of the officer or agent so removed. Any vacancy occurring in any office of the Corporation shall be filled by the person or persons, which shall include the Board where applicable, that have authority to appoint such officer.

ARTICLE IV – CAPITAL STOCK

SECTION 1. STOCK CERTIFICATES AND UNCERTIFICATED SHARES: (a) The shares of the Corporation shall be represented by certificates; provided, however, that the Board may provide by resolution that some or all of any classes or series of the Corporation's capital 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. Every holder of stock represented by certificates shall be entitled to have a certificate, in any form approved by the Board, signed by any two authorized officers of the Corporation (it being understood that the Chairperson of the Board, the Chief Executive Officer, the President, any Vice President, the Secretary, any Assistant Secretary, the Treasurer and any Assistant Treasurer shall be an authorized officer for such purpose) and any or all signatures on a certificate may be a facsimile.

(b) All certificates of stock of each class and series shall be numbered appropriately.

SECTION 2. RECORD OWNERSHIP: The Corporation shall maintain a record of the name and address of the holder of each share of Corporation capital stock, the number of shares held by such holder thereby, and the date of issue thereof. The Corporation shall be entitled to treat the holder of record of any share of capital stock as the holder in fact thereof, and accordingly it will not be bound to recognize any legal, equitable or other claim of interest in such share on the part of any other person, whether or not it shall have express or other notice thereof, except as otherwise provided by the laws of the State of Delaware.

SECTION 3. TRANSFERS: Transfers of shares of capital stock shall be made on the books of the Corporation only by direction of the holder thereof in person or by his, her or its duly authorized attorney or legal representative. Upon transfer of certificated shares, the old certificates shall be surrendered to the Corporation by the delivery thereof to the person in charge of the capital stock and transfer books and ledgers, or to such other persons as the Board may designate, by whom they shall be cancelled and new certificates shall thereupon be issued. In the case of uncertificated shares, transfer shall be made only upon receipt of transfer documentation reasonably acceptable to the Corporation.

SECTION 4. TRANSFER AGENTS; REGISTRARS: The Board shall, by resolution, from time to time appoint one or more transfer agents, that may be officers or employees of the Corporation, to make transfers of shares of capital stock of the Corporation and one or more registrars to register shares of capital stock issued by or on behalf of the Corporation. The Board may adopt such rules as it may deem expedient concerning the issue, transfer and registration of shares of capital stock of the Corporation.

SECTION 5. LOST CERTIFICATES: The Corporation may issue a new certificate in place of any certificate theretofore issued by it which is alleged to have been lost, stolen or destroyed and the Board may require the owner of the lost, stolen or destroyed certificate or the owner's legal representative to give the Corporation a bond in a sum and in a form approved by the Board, and with a surety or sureties which the Board finds satisfactory, to indemnify the Corporation and its transfer agents and registrars, if any, against any claim or liability that may be asserted against or incurred by it or any transfer agent or registrar on account of the alleged loss, theft or destruction of any certificate or the issuance of any new certificate. A new certificate may be issued without requiring any bond when, in the judgment of the Board, it is proper to do so. The Board may delegate to any officer or officers of the Corporation any of the powers and authorities contained in this section.

SECTION 6. RECORD DATES: In order that the Corporation may determine the stockholders entitled to notice of or to vote at any meeting of the stockholders or any adjournment thereof, the Board may fix a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted by the Board, and which record date shall not be more than 60 nor less than 10 days before the date of such meeting. If no record date is fixed by the Board, the record date for determining stockholders entitled to notice of or to vote at a meeting of the stockholders shall be at 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. A determination of stockholders of record entitled to notice of or to vote at a meeting of the stockholders shall apply to any adjournment of the meeting; provided, however, that the Board may fix a new record date for the determination of the stockholders entitled to notice of or to vote at the adjourned meeting. In order that the Corporation may determine the stockholders entitled to receive payment of any dividend or other distribution or allotment of any rights or the stockholders entitled to exercise any rights in respect of any change, conversion or exchange of stock, or for the purpose of any other lawful action, the Board may fix a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted, and which record date shall be not more than 60 days prior to such action. If no record date is fixed, the record date for determining stockholders for any such purpose shall be at the close of business on the day on which the Board adopts the resolution relating to the action taken.

ARTICLE V – SEAL, BOOKS, FISCAL YEAR, AMENDMENT

SECTION 1. SEAL: The corporate seal, if any, of the Corporation shall be in such form as may be approved from time to time by the Board. The seal may be used by causing it or a facsimile thereof to be impressed or affixed or in any other manner reproduced.

SECTION 2. PLACE FOR KEEPING BOOKS AND SEAL: The books of the Corporation, and its corporate minutes and corporate seal, shall be kept in the custody of the Secretary of the Corporation at the principal executive office of the Corporation, or at such other place or places and in the custody of such other person or persons as the Board may from time to time determine.

SECTION 3. NOTICES: (a) Whenever, under the provisions of applicable law, the Certificate of Incorporation or these Bylaws, written notice is required to be given to any director or stockholder, it shall not be construed to require personal notice, but such notice may be given by mail, by depositing the same in the post office or in a letter box, in a postage paid sealed wrapper, addressed to such director or stockholder at such address as appears on the books of the Corporation, and such notice shall be deemed to be given at the time when the same shall be thus mailed, or may be given by facsimile or other electronic transmission to the extent authorized or allowed by law.

(b) Any person may waive any notice required to be given under these Bylaws. Whenever notice is required to be given pursuant to the General Corporation Law, the Certificate of Incorporation or these Bylaws, a written waiver thereof, signed by the person entitled to notice, or a waiver by facsimile or other electronic transmission by the person entitled to notice, whether before or after the time stated therein, shall be deemed equivalent to notice. Attendance of a person at a meeting of stockholders or the Board or a committee thereof shall constitute a waiver of notice of such meeting, except when the stockholder or director attends such meeting for the express purpose of objecting, and such stockholder or director objects at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the stockholders or the Board or committee thereof need be specified in any written waiver of notice or any waiver by electronic transmission unless so required by the Certificate of Incorporation or by these Bylaws.

SECTION 4. FISCAL YEAR: The fiscal year of the Corporation shall commence with the first day of October in each year.

SECTION 5. AMENDMENT: The Board may amend, alter, change or repeal any provision of these Bylaws. The stockholders of the Corporation also may amend, alter, change or repeal any provision of these Bylaws upon the affirmative vote of a majority of all of the voting power of the Corporation entitled to vote thereon.

Exhibit 4.1

Execution Version

BELLRING DISTRIBUTION, LLC

7.00% SENIOR NOTES DUE 2030

INDENTURE

Dated as of March 10, 2022

COMPUTERSHARE TRUST COMPANY, N.A.

Trustee

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INDENTURE dated as of March 10, 2022 between BellRing Distribution, LLC, a Delaware limited liability company (the "Company") and Computershare Trust Company, N.A., a national banking association, as trustee.

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) of the **7.00% Senior Notes due 2030 (the "*Notes*"):**

ARTICLE 1
DEFINITIONS AND INCORPORATION BY REFERENCE

Section 1.01 *Definitions.*

"144A Global Note" means a Global Note substantially in the form of Exhibit A hereto bearing the Global Note Legend and the Private Placement Legend and deposited with or on behalf of, and registered in the name of, the Depositary or its nominee that will be issued in a denomination equal to the outstanding principal amount of the Notes sold in reliance on Rule 144A.

"Acquired Debt" means, with respect to any specified Person:

(1) Indebtedness of any other Person existing at the time such other Person is merged with or into or became a Subsidiary of such specified Person, whether or not such Indebtedness is incurred in connection with, or in contemplation of, such other Person merging with or into, or becoming a Subsidiary of, such specified Person; and

(2) Indebtedness secured by a Lien encumbering any asset acquired by such specified Person;

provided, that Indebtedness of such other Person that is redeemed, defeased, retired or otherwise repaid at the time, or immediately upon consummation, of the transaction by which such other Person is merged with or into or became a Restricted Subsidiary of such Person will not be Acquired Debt.

"*Additional Notes*" means additional Notes, if any, issued under this Indenture after the Issue Date and forming a single class of securities with the Initial Notes.

"*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 purposes of this definition, "control," as used with respect to any Person, shall mean 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 ownership of voting securities, by agreement or otherwise. For purposes of this definition, the terms "controlling," "controlled by" and "under common control with" shall have correlative meanings.

"Agent" means any Custodian, Registrar, co-registrar, Paying Agent or additional paying agent.

"*Applicable Premium*" means, with respect to any Note on any redemption date, the greater of:

(1) 1.0% of the principal amount of the Note; or

(2) the excess of:

(i) the present value at such redemption date of (A) the redemption price of the Note at March 15, 2027 (such redemption price being set forth in the table under Section 3.07) plus (B) all required interest payments due on the Note through March 15, 2027 (excluding accrued but unpaid interest to the redemption date), computed using a discount rate equal to the Treasury Rate as of such redemption date plus 50 basis points; over

(ii) the principal amount of the Note.

Calculation of the Applicable Premium will be made by the Company or on behalf of the Company by such Person as the Company shall designate.

"Applicable Procedures" means, with respect to any payment, tender, redemption, transfer or exchange of or for beneficial interests in any Global Note, the rules and procedures of the Depositary, Euroclear and Clearstream that apply to such payment, tender, redemption, transfer or exchange.

"*Asset Sale*" means:

(1) the sale, lease, conveyance or other disposition of any assets or rights; *provided* that the sale, lease, conveyance or other disposition of all or substantially all of the assets of the Company and its Restricted Subsidiaries taken as a whole will be governed by Section 4.14 and/or Section 5.01 and not by Section 4.10; and

(2) the issuance or sale of Equity Interests by any of the Company's Restricted Subsidiaries or the sale by the Company or any of the Company's Restricted Subsidiaries of Equity Interests in any of the Company's Restricted Subsidiaries.

Notwithstanding the preceding, the following items shall not be deemed to be Asset Sales:

(1) any single transaction or series of related transactions that (a) involves assets (including, if applicable, the Equity Interests of a Restricted Subsidiary) having an aggregate fair market value of less than the greater of (i) $50.0 million and (ii) 20.0% of Consolidated Cash Flow as of the date of such transaction or (b) generates net proceeds, or is in exchange for assets of other property having an aggregate fair market value, of less than the greater of (i) $50.0 million and (ii) 20.0% of Consolidated Cash Flow as of the date of such transaction;

(2) a transfer of assets or rights between or among the Company and its Restricted Subsidiaries;

(3) sales of inventory in the ordinary course of business and sales of accounts receivable that the Company determines are no longer collectible in the ordinary course of business;

(4) an issuance of Equity Interests by a Restricted Subsidiary to the Company or to another Restricted Subsidiary;

(5) any Permitted Investment or any Restricted Payment, in each case, that is permitted by Section 4.07;

(6) a disposition of products, services, equipment or inventory in the ordinary course of business or a disposition of damaged or obsolete equipment or equipment that is no longer useful in the conduct of the business of the Company and its Restricted Subsidiaries and that is disposed of in the ordinary course of business;

(7) the grant of Liens (or foreclosure thereon, or the enforcement with respect thereto, including by deed or assignment in lieu of foreclosure) permitted by Section 4.12;

(8) the sale or transfer of Receivables Program Assets or rights therein in connection with a Qualified Receivables Transaction;

(9) the surrender or waiver of contractual rights or the settlement, release or surrender of contract, tort or other litigation claim in the ordinary course of business;

(10) the sale or other disposition of cash or Cash Equivalents;

(11) grants of licenses or sublicenses of intellectual property of the Company or any of its Restricted Subsidiaries to the extent not materially interfering with the business of the Company and its Restricted Subsidiaries;

(12) any exchange of like-kind property pursuant to Section 1031 of the Internal Revenue Code that are used or useful in a Permitted Business;

(13) the lease, assignment or sublease of any real or personal property in the ordinary course of business;

(14) the abandonment of intellectual property rights in the ordinary course of business, which in the reasonable good faith determination of the Company or any of its Restricted Subsidiaries are not material to the conduct of the business of the Company and its Restricted Subsidiaries taken as a whole;

(15) condemnations, appropriations or any similar action (including by deed in lieu of condemnation) on assets;

(16) any issuance, sale, conveyance or other disposition of Equity Interests in, or Indebtedness or other securities of, an Unrestricted Subsidiary (or a Restricted Subsidiary which owns an Unrestricted Subsidiary so long as such Restricted Subsidiary owns no assets other than the Equity Interests of such Unrestricted Subsidiary);

(17) any financing transaction with respect to real property constructed, acquired, replaced, repaired or improved (including any reconstruction, refurbishment, renovation and/or development of real property) by the Company or any Restricted Subsidiary after the Issue Date, including any Sale and Leaseback Transaction;

(18) sales, transfers and other dispositions of Investments in joint ventures to the extent required by customary buy/sell arrangements between the joint venture parties as set forth in joint venture agreements;

(19) any liquidation or dissolution of a Restricted Subsidiary, provided that such Restricted Subsidiary's direct parent is also either the Company or a Restricted Subsidiary of the Company and immediately becomes the owner of such Restricted Subsidiary's assets;

(20) any issuance or transfer of debt obligations of the Company or any Restricted Subsidiary to the Company or any Restricted Subsidiary, or any exchange of debt obligations of the Company or any Restricted Subsidiary for other debt obligations of the Company or any Restricted Subsidiary having substantially the same principal amount or fair market value as the debt obligations so exchanged;

(21) [Reserved];

(22) [Reserved];

(23) any 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), made as part of such acquisition and in each case comprising all or a portion of the consideration in respect of such acquisition; and

(24) any sale, contribution, exchange, transfer or other disposition pursuant to or in connection with the Transactions.

In the event that a transaction (or any portion thereof) meets the criteria of a permitted Asset Sale and would also be a permitted Restricted Payment or Permitted Investment, the Company, in its sole discretion, will be entitled to divide and classify such transaction (or a portion thereof) as an Asset Sale and/or one or more of the types of permitted Restricted Payments or Permitted Investments.

"Bankruptcy Law" means Title 11, U.S. Code or any similar federal or state law for the relief of debtors.

"*Beneficial Owner*" has the meaning assigned to such term in Rule 13d-3 and Rule 13d-5 under the Exchange Act, except that in calculating the beneficial ownership of any particular "person" (as such term is used in Section 13(d)(3) of the Exchange Act), such "person" shall be deemed to have beneficial ownership of all securities that such "person" has the right to acquire, whether such right is currently exercisable or is exercisable only upon the occurrence of a subsequent condition.

"*Board of Directors*" means:

(1) with respect to a corporation, the board of directors of the corporation or any committee thereof duly authorized to act on behalf of such board;

(2) with respect to a partnership, the board of directors of the general partner of the partnership;

(3) with respect to a limited liability company, the managing member or members or any controlling committee of managing members, managers or the board of directors thereof; and

(4) with respect to any other Person, the board or committee of such Person serving a similar function.

"*Business Day*" means a day other than a Saturday, Sunday or other day on which the Trustee or banking institutions in New York are authorized or required by law to close.

"*Capital Lease Obligation*" means, at the time any determination thereof is to be made, the amount of the liability in respect of a capital lease that would at that time be required to be capitalized on a balance sheet in accordance with GAAP, and the Stated Maturity thereof shall be the date of the last

payment of rent or any other amount due under such lease prior to the first date upon which such lease may be prepaid by the lessee without payment of a penalty; *provided* that all obligations of the Company and its Restricted Subsidiaries that are or would be characterized as an operating lease as determined in accordance with GAAP as in effect for fiscal years beginning prior to December 15, 2018 (whether or not such operating lease was in effect on such date) shall continue to be accounted for as an operating lease (and not as a Capital Lease Obligation) for purposes of this Indenture regardless of any change in GAAP that would otherwise require such obligation to be characterized or recharacterized as a Capital Lease Obligation.

"*Capital Stock*" means:

(1) in the case of a corporation, corporate stock;

(2) in the case of an association or business entity, any and all shares, interests, participations, rights or other equivalents (however designated) of corporate stock;

(3) in the case of a partnership or limited liability company, partnership or membership interests (whether general or limited); and

(4) any other interest or participation that confers on a Person the right to receive a share of the profits and losses of, or distributions of assets of, the issuing Person.

"*Cash Equivalents" means:*

(1) marketable direct Obligations issued by, or unconditionally guaranteed by, the United States government or issued by any agency thereof and backed by the full faith and credit of the United States, in each case maturing within two years from the date of acquisition;

(2) certificates of deposit, time deposits, eurodollar time deposits or overnight bank deposits having maturities of one year or less from the date of acquisition issued by any commercial bank organized under the laws of the United States or any state thereof having combined capital and surplus of not less than $500,000,000 and a Thomson Bank Watch Rating of "B" or better;

(3) commercial paper of an issuer rated at least A-1 by S&P or P-1 by Moody's, or carrying an equivalent rating by a nationally recognized rating agency, if both of the two named rating agencies cease publishing ratings of commercial paper issuers generally, and maturing within two years from the date of acquisition;

(4) repurchase obligations of any commercial bank satisfying the requirements of clause (2) of this definition, having a term of not more than 7 days, with respect to securities of the type described in clause (1) of this definition;

(5) securities with maturities of one year or less from the date of acquisition issued or fully Guaranteed by any state, commonwealth or territory of the United States, by any political subdivision or taxing authority of any such state, commonwealth or territory, the securities of which state, commonwealth, territory, political subdivision or taxing authority (as the case may be) are rated at least A by S&P or A by Moody's;

(6) with respect to any Foreign Subsidiary: (i) obligations of the national government of the country in which such Foreign Subsidiary maintains its chief executive office and principal place of business, provided such country is a member of the Organization for Economic Cooperation and Development, in each case maturing within two years after the date of investment therein, (ii) certificates of deposit of, bankers' acceptance of, or time deposits with, any commercial bank which is organized and existing under the laws of the country in which such Foreign Subsidiary maintains its chief executive office and principal place of business provided such country is a member of the Organization for Economic Cooperation and Development, and whose short-term commercial paper rating from S&P is at least "A-2" or the equivalent thereof or from Moody's is at least "P-2" or the equivalent thereof (any such bank being an "*Approved Foreign Bank*"), and in each case with maturities of not more than 270 days from the date of acquisition and (iii) the equivalent of demand deposit accounts which are maintained with an Approved Foreign Bank;

(7) marketable short-term money market and similar securities, having a rating of at least "P-2" or "A-2" from either S&P or Moody's, respectively, (or, if at the time, neither S&P nor Moody's is rating such obligations, then a comparable rating from another Nationally Recognized Statistical Rating Organization selected by the Company);

(8) money market mutual or similar funds that invest at least 90% of their assets in instruments satisfying the requirements of clauses (1) through (7) of this definition; and

(9) credit card receivables and debit card receivables in the ordinary course of business or consistent with past practice, so long as such are considered cash equivalents under GAAP and are so reflected on the Company's balance sheet.

In the case of Investments by any Foreign Subsidiary that is a Restricted Subsidiary or Investments made in a country outside the United States of America, Cash Equivalents shall also include (a) investments of the type and maturity described in the clauses above of foreign obligors, which Investments or obligors (or the parents of such obligors) have ratings described in such clauses or equivalent ratings from comparable foreign rating agencies and (b) other short-term investments utilized by Foreign Subsidiaries that are Restricted Subsidiaries in accordance with normal investment practices for cash management in investments analogous to the foregoing investments in the clauses above and in this paragraph.

"*Change of Control*" means the occurrence of any of the following:

(1) the sale, lease, transfer, conveyance or other disposition (other than by way of merger or consolidation), in one transaction or a series of related transactions, of all or substantially all of the assets of the Company and its Restricted Subsidiaries, taken as a whole, to any "person" (as such term is used in Section 13(d)(3) of the Exchange Act), other than to the Company or any of its Restricted Subsidiaries; or

(2) the consummation of any transaction (including, without limitation, any merger or consolidation) the result of which is that any "person" (as defined above) becomes the Beneficial Owner, directly or indirectly, of 50% or more of the Voting Stock of the Company, measured by voting power rather than number of shares; *provided*, *however*, that an entity that conducts no other material activities other than holding Equity Interests in the Company or any direct or indirect parent of the Company and has no other material assets other than such Equity Interests will not itself be considered a "person" for purposes of this clause (2).

Notwithstanding the preceding or any provision of Section 13d-3 of the Exchange Act, (i) a Person or group shall not be deemed to beneficially own Voting Stock (x) subject to a stock or asset purchase agreement, merger agreement, or similar agreement (or voting or option or similar agreement related thereto) until the consummation of the acquisition of the Voting Stock in connection with the transactions contemplated by such agreement or (y) as a result of veto or approval rights in any joint venture agreement, shareholder agreement, investor rights agreement or other similar agreement and (ii) a Person or group will not be deemed to beneficially own the Voting Stock of another Person as a result of its ownership of Voting Stock or other securities of such other Person's parent entity (or related contractual rights) unless it owns 50% or more of the total voting power of the Voting Stock entitled to vote for the election of directors of such parent entity having a majority of the aggregate votes on the board of directors (or similar body) of such parent entity.

Notwithstanding the foregoing, (i) the consummation of any of the Transactions shall not give rise to a Change of Control and (ii) prior to the consummation of the Transactions, Post's and any of its Subsidiaries' and Affiliates' ownership of all of the Company's Voting Stock will not be deemed to constitute a Change of Control.

"*Clearstream*" means Clearstream Banking, S.A.

"*Common Stock*" means with respect to any Person, any and all shares, interests or other participations in, and other equivalents (however designated and whether voting or nonvoting) of such Person's common stock whether or not outstanding on the Issue Date, and includes, without limitation, all series and classes of such common stock.

"*Company*" means BellRing Distribution, LLC, a Delaware limited liability company, and its successors. Effective immediately following the conversion and re-naming of BellRing Distribution, LLC to BellRing Brands, Inc., a Delaware corporation, automatically without any further action by any party, references herein to the "Company" shall mean BellRing Brands, Inc., a Delaware corporation, and its successors.

"*Consolidated Cash Flow*" means, with respect to any Person for any period, the Consolidated Net Income of such Person for such period plus, without duplication:

(1) provision for taxes based on income or profits of such Person and its Restricted Subsidiaries for such period, to the extent that such provision for taxes was deducted in computing such Consolidated Net Income; plus

(2) consolidated net interest expense of such Person and its Restricted Subsidiaries for such period whether paid or accrued and whether or not capitalized (including, without limitation, amortization of original issue discount, non-cash interest payments, the interest component of any deferred payment Obligations, the interest component of all payments associated with Capital Lease Obligations, commissions, discounts and other fees and charges incurred in respect of letter of credit or bankers' acceptance financings, discounts, yield and other fees and charges (including any interest expense) related to any Qualified Receivables Transaction, and net payments, if any, pursuant to Hedging Obligations, but excluding amortization of debt issuance costs), to the extent that any such expense was deducted in computing such Consolidated Net Income; plus

(3) depreciation, amortization (including amortization of goodwill and other intangibles but excluding amortization of prepaid cash expenses that were paid in a prior period) and other non-cash expenses, write-offs, write-downs or impairment charges (excluding any such non-cash expense to the extent that it represents an accrual of or reserve for cash expenses in any future period or amortization of a prepaid cash expense that was paid in a prior period and any non-cash charge, expense or loss relating to write-offs, write-downs or reserves with respect to accounts receivable or inventory) of such Person and its Restricted Subsidiaries for such period to the extent that such depreciation, amortization and other non-cash expenses were deducted in computing such Consolidated Net Income; plus

(4) non-cash charges or expenses related to stock-based compensation and other non-cash charges or non-cash losses (including extraordinary, unusual or non-recurring non-cash losses) incurred or recognized to the extent deducted in computing such Consolidated Net Income; plus

(5) the amount of any earn-out and contingent consideration obligations incurred or accrued in connection with any acquisition or other Investment in the nature of an acquisition and paid or accrued during such period; plus

(6) the amount of any expected cost savings, operating improvements and expense reductions, product margin synergies and other synergies (net of the amount of actual amounts realized) reasonably identifiable and factually supportable (in the good faith determination of the Company) related to (i) the Transactions and (ii) after the Issue Date, permitted asset sales, mergers or other business combinations, acquisitions, Investments, dispositions or divestitures, optimizations, facility consolidations, operating improvements and expense reductions, restructurings, cost saving initiatives and other similar initiatives (in each case calculated on a pro forma basis as though such cost savings, operating improvements and expense reductions, product margin synergies and other synergies had been realized on the first day of such period and as if such cost savings, operating improvements and expense reductions, product margin synergies and other synergies were realized during the entirety of such period); *provided* that, such cost savings, operating improvements and expense reductions, product margin synergies and other synergies are reasonably expected to be realized within 24 months of the event giving rise thereto or the consummation of such transaction; *provided further* that, with respect to clause (ii) above, the aggregate amount of cost savings, operating improvements and expense reductions, product margin synergies and other synergies added-back pursuant to this clause (6) in any four consecutive fiscal quarter period, shall not exceed 25.0% of Consolidated Cash Flow for such period prior to giving effect to this clause (6); plus

(7) costs, charges, accruals, impairments, reserves or expenses attributable to the undertaking and/or implementation of cost savings initiatives or operating expense reductions, product margin synergies and other synergies and similar initiatives, integration, transition, reconstruction, decommissioning, recommissioning or reconfiguration of fixed assets for alternative uses, facilities opening and pre-opening, business optimization and other restructuring costs, charges, accruals, reserves and expenses including inventory optimization programs, software development costs and costs related to the closure or consolidation of facilities, branches or distribution centers, and plants, the closure, consolidation or transfer of production lines between facilities and curtailments, costs related to entry into new markets, consulting and other professional fees, signing costs and bonuses, retention or completion bonuses, executive recruiting costs, relocation expenses, severance payments, modifications to, or losses on settlement of, pension and post-retirement employee benefit plans, new systems design and implementation costs, and project startup costs, integration, transition, reconstruction, decommissioning, recommissioning or reconfiguration of fixed assets for alternative uses, facilities opening and pre-opening, business optimization and other restructuring costs, charges, accruals, reserves and expenses including inventory optimization programs, software development costs and costs related to the closure or consolidation of facilities, branches or distribution centers, and plants, the closure, consolidation or transfer of production lines between facilities and curtailments, costs related to entry into new markets, consulting and other professional fees, signing costs and bonuses, retention or completion bonuses, executive recruiting costs, relocation expenses, severance payments, modifications to, or losses on settlement of, pension and post-retirement employee benefit plans, new systems design and implementation costs, and project startup costs; plus

(8) unrealized losses relating to hedging transactions and mark-to-market of Indebtedness denominated in foreign currencies resulting from the application of FASB ASC 830 or any similar accounting standard shall be excluded; plus

(9) to the extent not otherwise included above, proceeds of business interruption insurance in an amount representing the earnings for the applicable period that such proceeds are intended to replace (whether or not received so long as such Person in good faith expects to receive the same within the next four fiscal quarters (it being understood that to the extent not actually received within such fiscal quarters, such proceeds shall be deducted in calculating Consolidated Cash Flow for such fiscal quarters)); minus

(10) non-cash items increasing such Consolidated Net Income for such period, other than items that were accrued in the ordinary course of business, in each case, on a consolidated basis for such Person and its Restricted Subsidiaries and determined in accordance with GAAP.

Unless otherwise expressly provided, Consolidated Cash Flow as of any date of determination shall mean Consolidated Cash Flow of the Company for the Company's most recently ended four full fiscal quarters for which internal financial statements are available.

"*Consolidated Leverage Ratio*" means, with respect to any specified Person for any period, the ratio of (i) funded Indebtedness for borrowed money of such Person (net of any unrestricted cash and Cash Equivalents of the Company and its Restricted Subsidiaries, excluding any cash proceeds from an incurrence of Indebtedness on the Consolidated Leverage Ratio Calculation Date (as defined below)) on such date to (ii) Consolidated Cash Flow for the period of four consecutive fiscal quarters for which internal financial statements are available immediately preceding the date of the event for which the calculation of the Consolidated Leverage Ratio is made (for purposes of this definition, the "Consolidated Leverage Ratio Reference Period"). In the event that the specified Person or any of its Restricted Subsidiaries incurs, assumes, Guarantees, repays, repurchases, redeems, defeases or otherwise discharges any funded Indebtedness for borrowed money (other than ordinary working capital borrowings) or issues, repurchases or redeems preferred stock, in each case, subsequent to the commencement of the Consolidated Leverage Ratio Reference Period and on or prior to the date of the event for which the calculation of the Consolidated Leverage Ratio is made (for purposes of this definition, the "Consolidated Leverage Ratio Calculation Date"), then the Consolidated Leverage Ratio shall be calculated giving pro forma effect to such incurrence, assumption, Guarantee, repayment, repurchase, redemption, defeasance or other discharge of funded Indebtedness for borrowed money, or such issuance, repurchase or redemption of preferred stock, and the use of the proceeds therefrom, as if the same had occurred at the beginning of the Consolidated Leverage Ratio Reference Period. In addition, the Consolidated Leverage Ratio shall be determined with such pro forma adjustments as are consistent with the pro forma adjustment provisions set forth in the definition of Fixed Charge Coverage Ratio (including, for avoidance of doubt and without limitation, the proviso to the first paragraph of the definition thereof). Notwithstanding the foregoing, solely for purposes of determining whether the Company or the Guarantors may issue any Disqualified Stock, or whether any Restricted Subsidiaries (other than the Guarantors), may issue any shares of preferred stock, pursuant to Section 4.09(a) or 4.09(b)(20), the aggregate face amount or liquidation preference, as applicable, of any outstanding Disqualified Stock issued by the Company or any Guarantor and of any shares of preferred stock issued by a Restricted Subsidiary (other than a Guarantor) shall be added to the amount in clause (i) of this definition when calculating the Consolidated Leverage Ratio.

"*Consolidated Net Income*" means, with respect to any specified Person for any period, the aggregate of the net income (or loss) of such Person and its Restricted Subsidiaries for such period, on a consolidated basis, determined in accordance with GAAP and before any reduction in respect of preferred stock dividends; *provided* that:

(1) the net income of any Restricted Subsidiary (other than a Guarantor) shall be excluded to the extent that the declaration or payment of dividends or similar distributions by that Restricted Subsidiary of that net income is not at the date of determination permitted without any prior governmental approval (that has not been obtained) or, directly or indirectly, by 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 shareholders;

(2) the net income (or loss) for such period of any Person that is not a Restricted Subsidiary, or that is accounted for by the equity method of accounting, shall be excluded; *provided* that Consolidated Net Income of the specified Person shall be increased by the amount of dividends or distributions or other payments that are actually paid in cash (or to the extent converted into cash) made by such Person that is a not a Restricted Subsidiary to the referent Person or a Restricted Subsidiary thereof in respect of such period;

(3) the cumulative effect of a change in accounting principles shall be excluded;

(4) income or loss attributable to discontinued operations (including, without limitation, operations disposed of during such period whether or not such operations were classified as discontinued) shall be excluded;

(5) any gain (or loss) realized upon the sale or other disposition of assets of such Person or its consolidated Subsidiaries, other than a sale or disposition in the ordinary course of business, and any gain (or loss) realized upon the sale or disposition of any Capital Stock of any Person shall be excluded;

(6) any impairment charge or asset write-off, including impairment charges or asset write-offs or write-downs related to intangible assets, long-lived assets, investments in debt and equity securities (including any losses with respect to the foregoing in bankruptcy, insolvency or similar proceedings) or as a result of a change in law or regulation, in each case pursuant to GAAP, shall be excluded;

(7) any non-cash compensation expense realized from employee benefit plans or postemployment benefit plans, grants of stock appreciation, restricted stock or similar rights, stock options or other rights to officers, managers, directors, and employees of such Person or any of its Restricted Subsidiaries shall be excluded;

(8) all extraordinary, unusual or non-recurring charges, gains and losses including, without limitation, all (i) restructuring costs, severance costs, one-time compensation charges, transition costs, facilities consolidation, closing or relocation costs, (ii) fees, costs, expenses and charges incurred in connection with (a) the Transactions entered into or consummated on or around the Issue Date and any other Transactions with respect to certain contributions of assets and liabilities among the Company and its Restricted Subsidiaries and the consummation of the debt-for-equity exchange, in each case, in connection with or as contemplated by the Transaction Agreement (as in effect on the Issue Date, or as amended, modified or restated from time to time in a manner not materially adverse to the interests of the Holders), or (b) any acquisition prior to or after the Issue Date (including integration costs), in each case including all fees, commissions,

expenses and other similar charges of accountants, attorneys, brokers and other financial advisors related thereto, (iii) cash severance payments made in connection with acquisitions, and (iv) any expense or charge related to the repurchase of Capital Stock or warrants or options to purchase Capital Stock), in each case together with any related provision for taxes, shall be excluded;

(9) the effects of purchase accounting adjustments, in amounts required or permitted by GAAP and related authoritative pronouncement, and amortization, write-off or impairment charges resulting therefrom, in each case from the application of purchase accounting in relation to any acquisition, shall be excluded;

(10) any fees and expenses, including prepayment premiums and similar amounts, incurred during such period, or any amortization thereof for such period, in connection with any acquisition, disposition, recapitalization, Investment, asset sale, issuance or repayment of Indebtedness (including any issuance of Notes), issuances of Capital Stock, financing transaction or amendment or modification of any debt instrument (including, in each case, any such transaction undertaken but not completed), shall be excluded;

(11) any unrealized gains and losses and with respect to Hedging Obligations for such period shall be excluded;

(12) any unrealized gains and losses related to fluctuations in currency exchange rates for such period shall be excluded;

(13) any gains and losses from any early extinguishment of Indebtedness shall be excluded;

(14) any gains and losses from any redemption or repurchase premiums paid with respect to the Notes shall be excluded;

(15) any write-off or amortization of deferred financing costs (including the amortization of original issue discount) associated with Indebtedness shall be excluded;

(16) any accruals and reserves established or adjusted, and any changes thereto as a result of the adoption or modification of accounting policies, shall be excluded; and

(17) non-cash losses on sales of Receivables that are sold, consigned, transferred, licensed, leased or otherwise disposed of in connection with a Qualified Receivables Transaction permitted hereunder, shall be excluded.

"*Consolidated Senior Secured Leverage Ratio*" means, with respect to any specified Person for any period, the ratio of (i) Senior Secured Indebtedness of such Person (net of any unrestricted cash and Cash Equivalents of the Company and its Restricted Subsidiaries, excluding any cash proceeds from an incurrence of Indebtedness on the Consolidated Senior Secured Leverage Ratio Calculation Date (as defined below)) on such date to (ii) Consolidated Cash Flow for the period of four consecutive fiscal quarters for which internal financial statements are available immediately preceding the date of the event for which the calculation of the Consolidated Senior Secured Leverage Ratio is made (for purposes of this definition, the "*Consolidated Senior Secured Leverage Ratio Reference Period*"). In the event that the specified Person or any of its Restricted Subsidiaries incurs, assumes, Guarantees, repays, repurchases, redeems, defeases or otherwise discharges any funded Indebtedness for borrowed money (other than ordinary working capital borrowings), in each case, subsequent to the commencement of the Consolidated Senior Secured Leverage Ratio Reference Period and on or prior to the date of the event for which the

calculation of the Consolidated Senior Secured Leverage Ratio is made (for purposes of this definition, the "*Consolidated Senior Secured Leverage Ratio Calculation Date*"), then the Consolidated Senior Secured Leverage Ratio shall be calculated giving pro forma effect to such incurrence, assumption, Guarantee, repayment, repurchase, redemption, defeasance or other discharge of funded Indebtedness for borrowed money, and the use of the proceeds therefrom, as if the same had occurred at the beginning of the Consolidated Senior Secured Leverage Ratio Reference Period. In addition, the Consolidated Senior Secured Leverage Ratio shall be determined with such pro forma adjustments as are consistent with the *pro forma* adjustment provisions set forth in the definition of Fixed Charge Coverage Ratio (including, for avoidance of doubt and without limitation, the proviso to the first paragraph of the definition thereof).

"*Consolidated Total Assets*" means, as of any date of determination, the consolidated total assets of the Company and its Restricted Subsidiaries, as shown on the most recent balance sheet of the Company then available, after giving pro forma effect for acquisitions or dispositions of Persons, divisions or lines of business that occurred on or after such balance sheet date and on or prior to such date of determination.

"*continuing*" means, with respect to any Default or Event of Default, that such Default or Event of Default has not been cured or waived.

"*Corporate Trust Office of the Trustee*" will be at the address of the Trustee specified in Section 12.02 or such other address as to which the Trustee may give notice to the Company and for purposes of Section 2.03, such office shall also mean the office or agency of the Trustee located at Corporate Trust Operations, MAC N9300-070, 600 South Fourth Street, 7th Floor, Minneapolis, MN 55415.

"*Credit Agreement*" means the Credit Agreement, to be dated the Issue Date, by and among the Company, JPMorgan Chase Bank, N.A., as administrative agent and collateral agent, and each lender from time to time party thereto, as amended, modified, supplemented, restated or replaced from time to time (in whole or in part, and without limitation as to amount, terms, conditions, covenants and other provisions), and any one or more agreements (and related documents) governing Indebtedness, including indentures, incurred to refinance, substitute, supplement, replace or add to (including increasing the amount available for borrowing or adding or removing any Person as a borrower, issuer or guarantor thereunder, in whole or in part; *provided* that such increase in borrowings is permitted under Section 4.09), the borrowings and commitments then outstanding or permitted to be outstanding under such Credit Agreement or one or more successors to the Credit Agreement or one or more new credit agreements.

"*Credit Facility*" means, with respect to the Company or any of its Restricted Subsidiaries, the Credit Agreement and one or more of any other debt facilities (which may be outstanding at the same time) or other financing arrangements (including, without limitation, commercial paper facilities, indentures, note purchase agreements or other agreements) providing for revolving credit loans, term loans, debt securities, letters of credit, bankers' acceptances or other indebtedness, including any notes, mortgages, guarantees, collateral documents, instruments and agreements executed in connection therewith, and, in each case, any amendments, supplements, modifications, extensions, renewals, restatements or refundings thereof and any debt facilities or other financing arrangements (including, without limitation, commercial paper facilities, indentures, note purchase agreements or other agreements) that replace, refund or refinance any part of the refinancing facility or indenture that increases the amount permitted to be borrowed thereunder (*provided* that such increase in borrowings is permitted under Section 4.09) or alters the maturity thereof or adds Restricted Subsidiaries as additional borrowers or guarantors thereunder and whether by the same or any other agent, lender or group of lenders.

"*Currency Protection Agreement*" means any currency protection agreement entered into with one or more financial institutions in the ordinary course of business that is designed to protect the Person or entity entering into the agreement against fluctuations in currency exchange rates with respect to Indebtedness incurred and not for purposes of speculation.

"Custodian" means the Trustee, as custodian with respect to the Notes in global form, or any successor entity thereto.

"*Default*" means any event that is, or with the passage of time or the giving of notice or both would be, an Event of Default.

"Definitive Note" means a certificated Note registered in the name of the Holder thereof and issued in accordance with Section 2.06, substantially in the form of Exhibit A hereto except that such Note shall not bear the Global Note Legend and shall not have the "Schedule of Exchanges of Interests in the Global Note" attached thereto.

"Depositary" means, with respect to the Notes issuable or issued in whole or in part in global form, the Person specified in Section 2.03 as the Depositary with respect to the Notes, and any and all successors thereto appointed as depositary hereunder and having become such pursuant to the applicable provision of this Indenture.

"*Derivative Instrument*" means, with respect to a Person, 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 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 or any one or more Guarantors.

"*Designated Noncash Consideration*" means the fair market value of noncash consideration received by the Company or one of its Restricted Subsidiaries in connection with an Asset Sale that is so designated as Designated Noncash Consideration pursuant to an Officer's Certificate, setting forth the basis of such valuation, executed by the principal executive officer or the principal financial officer of the Company, less the amount of cash and Cash Equivalents received in connection with a sale or collection of such Designated Noncash Consideration.

"*Designated Preferred Stock*" means preferred stock of the Company (other than Disqualified Stock) that is issued for cash (other than to a Restricted Subsidiary or an employee stock ownership plan or trust established by the Company or any of its Subsidiaries) and is so designated as Designated Preferred Stock pursuant to an Officer's Certificate on or prior to the issuance thereof.

"*Disqualified Stock*" means any Capital Stock that, by its terms (or by the terms of any security into which it is convertible, or for which it is exchangeable, in each case at the option of the holder thereof), or upon the happening of any event, matures or is mandatorily redeemable, pursuant to a sinking fund obligation or otherwise, or redeemable at the option of the holder thereof, in whole or in part, on or prior to the date that is 91 days after the date on which the Notes mature; *provided*, *however*, that only the portion of the Capital Stock which so matures, is mandatorily redeemable or is redeemable at the option of the holder prior to such date shall be deemed to be Disqualified Stock. Notwithstanding the preceding sentence, any Capital Stock that would constitute Disqualified Stock solely because the holders thereof have the right to require the Company to repurchase such Capital Stock upon the occurrence of a change of control or an asset sale or as a result of the bankruptcy, insolvency or similar event of the issuer shall

not constitute Disqualified Stock if the terms of such Capital Stock provide that the Company may not repurchase or redeem such Capital Stock pursuant to such provision unless such repurchase or redemption complies with Section 4.07. Disqualified Stock shall not include Capital Stock which is issued to any plan for the benefit of employees of the Company or its Restricted Subsidiaries or by any such plan to such employees solely because it may be required to be repurchased by the Company or its Subsidiaries in order to satisfy applicable statutory or regulatory obligations.

"*Distribution*" means the distribution by Post of shares of Company Common Stock as contemplated under the Transaction Agreement.

"*Domestic Subsidiary*" means, with respect to the Company, any Restricted Subsidiary that was formed under the laws of the United States of America or any State thereof, but excluding any direct or indirect Subsidiary of a Foreign Subsidiary.

"*Employee Matters Agreement*" means that certain Amended and Restated Employee Matters Agreement by and among Post, the Company, Old BRBR, and BellRing Brands, LLC to be dated on or about the Issue Date, as amended, modified, supplemented, restated or replaced from time to time.

"*Equity Interests*" means Capital Stock and all warrants, options or other rights to acquire Capital Stock (but excluding any debt security that is convertible into, or exchangeable for, Capital Stock).

"Euroclear" means Euroclear Bank, S.A./N.V., as operator of the Euroclear system.

"Exchange Act" means the Securities Exchange Act of 1934, as amended.

"*Exchange Agreement*" means that certain Exchange Agreement, dated as of the Issue Date, by and among Post, a Missouri corporation and the financial institutions party thereto as identified therein, as amended, modified, supplemented, restated or replaced from time to time.

"Excluded Contribution" means net cash proceeds, the fair market value of marketable securities or the fair market value of Qualified Proceeds received by the Company from:

(1) contributions to its common equity capital; and

(2) the sale (other than to a Subsidiary of the Company or to any management equity plan or stock option plan or any other management or employee benefit plan or agreement of the Company) of Capital Stock (other than Disqualified Stock, Designated Preferred Stock and Refunding Capital Stock) of the Company,

in each case designated as Excluded Contributions pursuant to an Officer's Certificate executed by the principal executive officer or the principal financial officer of the Company within ten (10) Business Days of the date such capital contributions are made, the date such dividends, distributions, fees or other payments are received or the date such Equity Interests are sold, as the case may be, which shall be excluded from the calculation set forth in Section 4.07(a)(3) (i.e., the "builder basket').

"*Excluded Subsidiary*" means any Domestic Subsidiary that is designated by the Company as an "Excluded Subsidiary" pursuant to an Officer's Certificate delivered to the Trustee; *provided* that each such Subsidiary shall be an Excluded Subsidiary only if and only for so long as:

(1) such Subsidiary accounts for less than 7.5% of the Company's Consolidated Total Assets and the consolidated total revenue (excluding revenue of Unrestricted Subsidiaries);

provided that the Consolidated Total Assets and consolidated total revenue (excluding revenue of Unrestricted Subsidiaries) of all Subsidiaries that would otherwise be deemed Excluded Subsidiaries under this clause (1) shall not exceed 10.0% of the Consolidated Total Assets and 10.0% of the consolidated total revenue (excluding revenue of Unrestricted Subsidiaries) of the Company and its Restricted Subsidiaries; or

(2) such Subsidiary is a Receivables Subsidiary.

"*Existing Indebtedness*" means any Indebtedness of the Company and its Restricted Subsidiaries in existence on the Issue Date (other than the Notes and Indebtedness under the Credit Agreement), until such amounts are repaid, refinanced or retired.

"*fair market value*" means, with respect to any asset or property, the value that would be paid by a willing buyer to an unaffiliated willing seller in a transaction not involving distress or necessity of either party, determined in good faith by the Company.

"*Fixed Charge Coverage Ratio*" means, with respect to any specified Person for any period (for purposes of this definition, the "*Reference Period*"), the ratio of Consolidated Cash Flow of such Person for the Reference Period to the Fixed Charges of such Person for the Reference Period. In the event that the specified Person or any of its Restricted Subsidiaries incurs, assumes, Guarantees, repays, repurchases, redeems, defeases or otherwise discharges any Indebtedness (other than ordinary working capital borrowings) or issues, repurchases or redeems preferred stock, in each case, subsequent to the commencement of the Reference Period and on or prior to the date of the event for which the calculation of the Fixed Charge Coverage Ratio is made (for purposes of this definition, the "*Calculation Date*"), then the Fixed Charge Coverage Ratio shall be calculated giving pro forma effect to such incurrence, assumption, Guarantee, repayment, repurchase, redemption, defeasance or other discharge of Indebtedness, or such issuance, repurchase or redemption of preferred stock, and the use of the proceeds therefrom, as if the same had occurred at the beginning of the Reference Period; *provided* that the pro forma calculation of the Fixed Charge Coverage Ratio shall not give effect to (i) any Indebtedness incurred on the Calculation Date in reliance on the provisions described in the definition of Permitted Debt (*provided*, *however*, that such calculation shall give effect to Indebtedness incurred on the Calculation Date in reliance on clause (20) of the definition of Permitted Debt) or (ii) any Indebtedness discharged on the Calculation Date to the extent that such discharge results from the proceeds of Indebtedness incurred on the Calculation Date in reliance on the provisions described in the definition of Permitted Debt.

In addition, for purposes of calculating the Fixed Charge Coverage Ratio:

(1) acquisitions that have been made by the specified Person or any of its Restricted Subsidiaries, including through mergers or consolidations, or any Person or any of its Restricted Subsidiaries acquired by the specified Person or any of its Restricted Subsidiaries, and including any related financing transactions and including increases in ownership of Restricted Subsidiaries, during the Reference Period or subsequent to the Reference Period and on or prior to the Calculation Date will be given pro forma effect as if they had occurred on the first day of the Reference Period, and Consolidated Cash Flow for such reference period will be calculated on a pro forma basis;

(2) the Consolidated Cash Flow attributable to discontinued operations, as determined in accordance with GAAP, and operations or businesses (and ownerships therein) disposed of prior to the Calculation Date, shall be excluded;

(3) the Fixed Charges attributable to discontinued operations, as determined in accordance with GAAP, and operations or businesses (and ownership interests) disposed of prior to the Calculation Date, shall be excluded, but only to the extent that the obligations giving rise to such Fixed Charges will not be obligations of the specified Person or any of its Restricted Subsidiaries following the Calculation Date; and

(4) pro forma effect will be given to the Transactions being consummated on or about the Issue Date.

For purposes of this definition, whenever pro forma effect is to be given to a transaction or a calculation is to be made on a pro forma basis, the pro forma calculations shall be made in good faith by a responsible financial or accounting officer of the Company and may include, without duplication, cost savings, synergies and operating expense reductions resulting from such transaction that have been realized or are expected, in the reasonable judgment of such financial or accounting officer, to be realized within 24 months of the date of calculation. Any such pro forma calculation may include adjustments appropriate, in the reasonable determination of the Company as set forth in an Officer's Certificate, to reflect all adjustments included in the calculation of Adjusted EBITDA as set forth in notes (b), (c) and (d) to the "Summary Historical Condensed Consolidated Financial Information" in the Offering Memorandum to the extent such adjustments, without duplication, continue to be applicable to such four-quarter period. If any Indebtedness bears a floating rate of interest and is being given pro forma effect, the interest on such Indebtedness shall be calculated as if the rate in effect on the Calculation Date had been the applicable rate for the entire period (taking into account any Hedging Obligations applicable to such Indebtedness), and for the avoidance of doubt, if any Indebtedness bears a fixed rate of interest and is being given pro forma effect, the interest on such Indebtedness shall be calculated as if the rate in effect on the Calculation Date had been the applicable rate for the entire period (taking into account any Hedging Obligations applicable to such Indebtedness). Interest on a Capital Lease Obligation shall be deemed to accrue at an interest rate reasonably determined by a responsible financial or accounting officer of the Company to be the rate of interest implicit in such Capital Lease Obligation in accordance with GAAP. For purposes of making the computation referred to above, interest on any Indebtedness under a revolving credit facility computed on a pro forma basis shall be computed based upon the average daily balance of such Indebtedness during the applicable period except as set forth in the first paragraph of this definition. Interest on Indebtedness that may optionally be determined at an interest rate based upon a factor of a prime or similar rate, a Eurocurrency interbank offering rate, or other rate, shall be deemed to have been based upon the rate actually chosen, or, if none, then based upon such optional rate chosen as the Company may designate.

"*Fixed Charges*" means, with respect to any Person for any period, the sum, without duplication, of:

(1) the consolidated interest expense of such Person and its Restricted Subsidiaries for such period, whether paid or accrued, including, without limitation, amortization of original issue discount, non-cash interest payments, the interest component of any deferred payment obligations, the interest component of all payments associated with Capital Lease Obligations, commissions, discounts and other fees and charges incurred in respect of letter of credit or bankers' acceptance financings, and net payments, if any, pursuant to Hedging Obligations, but excluding amortization of debt issuance costs and any redemption or repurchase premiums paid; plus

(2) the consolidated interest expense of such Person and its Restricted Subsidiaries that was capitalized during such period; plus

(3) any interest expense on Indebtedness of another Person that is Guaranteed by such Person or one of its Restricted Subsidiaries or secured by a Lien on assets of such Person or one of its Restricted Subsidiaries, whether or not such Guarantee or Lien is called upon; plus

(4) all dividend payments, whether paid or accrued and whether or not in cash, on any series of Disqualified Stock of such Person or its Restricted Subsidiaries or on any series of preferred stock of any of its Restricted Subsidiaries (other than a Guarantor), other than dividend payments on any such Equity Interests

(i) payable solely in Equity Interests of the Company or its Restricted Subsidiaries (other than Disqualified Stock of such Person or its Restricted Subsidiaries or preferred stock of any of its Restricted Subsidiaries (other than a Guarantor)), or

(ii) payable solely to the Company or a Restricted Subsidiary of the Company; minus

(5) interest income.

"*Foreign Subsidiary*" means, with respect to the Company, any Restricted Subsidiary that was not formed under the laws of the United States of America or any state thereof.

"*Formation Documents*" means the Employee Matters Agreement, the Legal Engagement Letter, the Master Services Agreement, the Master Transaction Agreement, the Registration Rights Agreement, the Tax Matters Agreement, the Tax Matters Agreement (2019), the Tax Receivable Agreement, the Trademark and Domain Name License Agreement and the Transaction Agreement.

"*GAAP*" means generally accepted accounting principles in the United States of America as in effect from time to time; *provided* that leases will be accounted for as provided in the definition of "Capital Lease Obligation"; *provided*, *further*, that if there occurs a change in GAAP, and such change would cause a change in the method of calculation of any standards, terms or measures used in this Indenture (an "*Accounting Change*"), then the Company may elect that such standards, terms or measures shall be calculated as if such Accounting Change had not occurred. In addition, at any time after the Issue Date, the Company may elect to apply International Financial Reporting Standards ("IFRS") accounting principles in lieu of GAAP and, upon any such election, references herein to GAAP shall thereafter be construed to mean IFRS (except as otherwise provided herein); *provided* that calculations or determinations herein that require the application of GAAP for periods that include fiscal quarters ended prior to the Company's election to apply IFRS shall remain as previously calculated or determined in accordance with GAAP. The Company will provide notice of any such election made in accordance with this definition to the Trustee and the Holders of Notes reasonably promptly following the taking of any action in reliance on such election.

"Global Note Legend" means the legend set forth in Section 2.06(f)(2), which is required to be placed on all Global Notes issued under this Indenture.

"Global Notes" means, individually and collectively, each of the Restricted Global Notes and the Unrestricted Global Notes deposited with or on behalf of and registered in the name of the Depositary or its nominee, substantially in the form of Exhibit A hereto and that bears the Global Note Legend and that has the "Schedule of Exchanges of Interests in the Global Note" attached thereto, issued in accordance with the applicable provisions of this Indenture.

"*Guarantee*" means a guarantee other than by endorsement of negotiable instruments for collection in the ordinary course of business, direct or indirect, in any manner including, without limitation, by way of a pledge of assets or through letters of credit or reimbursement agreements in respect thereof, of all or any part of any Indebtedness.

"*Guarantors*" means:

(1) beginning on March 24, 2022, each Subsidiary of the Company that guarantees the Credit Agreement and executes a Subsidiary Guarantee and related supplemental indenture in accordance with the provisions of this Indenture; and

(2) any other Subsidiary of the Company that executes a Subsidiary Guarantee and related supplemental indenture in accordance with the provisions of this Indenture;

and their respective successors and assigns, in each case, until such Person is released from its Subsidiary Guarantee in accordance with the terms of this Indenture. On the Issue Date, there are no Guarantors.

"*Hedging Obligations*" of any Person means the obligations of such Person under swap, cap, collar, forward purchase or similar agreements or arrangements dealing with interest rates, currency exchange rates or commodity prices, either generally or under specific contingencies.

"Holder" means a Person in whose name a Note is registered.

"IAI Global Note" means a Global Note substantially in the form of Exhibit A hereto bearing the Global Note Legend and the Private Placement Legend and deposited with or on behalf of and registered in the name of the Depositary or its nominee that will be issued in a denomination equal to the outstanding principal amount of the Notes sold to Institutional Accredited Investors.

"*Indebtedness*" means at any time (without duplication), with respect to any Person, whether recourse is to all or a portion of the assets of such Person, or non-recourse, the following:

(1) all indebtedness of such Person for money borrowed or for the deferred purchase price of property, excluding (A) any trade payables or other current liabilities incurred in the ordinary course of business and (B) any earn-out obligations until such obligation becomes a liability on the balance sheet of such Person in accordance with GAAP;

(2) all Obligations of such Person evidenced by bonds, debentures, notes or other similar instruments (including purchase-money obligations);

(3) all Obligations of such Person with respect to letters of credit, bankers' acceptances or similar facilities (including reimbursement obligations with respect thereto, except to the extent such reimbursement Obligation relates to a trade payable) issued for the account of such Person;

(4) all Indebtedness created or arising under any conditional sale or other title retention agreement with respect to property or assets acquired by such Person (even if the rights and remedies of the seller or lender under such agreement in the event of default are limited to repossession or sale of such property or assets);

(5) all Capital Lease Obligations of such Person;

(6) (A) the maximum fixed redemption, repayment or other repurchase price of Disqualified Stock of such Person at the time of determination and (B) with respect to any Restricted Subsidiary that is not a Guarantor, the principal component of all obligations, or liquidation preference, of any preferred stock (but excluding, in the case of each of the foregoing clauses (A) and (B), any accrued dividends);

(7) any Hedging Obligations of such Person at the time of determination (the amount of any such Obligations to be equal to the termination value of such agreement or arrangement giving rise to such Obligation that would be payable by such Person at such time); and

(8) all Obligations of the types referred to in clauses (1) through (7) of this definition of another Person and all dividends and other distributions of another Person, the payment of which, in either case, (A) such Person has Guaranteed, directly or indirectly, or that is otherwise its legal liability or which such Person has agreed to purchase or repurchase or in respect of which such Person has agreed contingently to supply or advance funds or (B) that is secured by (or the holder of such Indebtedness or the recipient of such dividends or other distributions has an existing right, whether contingent or otherwise, to be secured by) any Lien upon the property or other assets of such Person, even though such Person has not assumed or become liable for the payment of such Indebtedness, dividends or other distributions; *provided* that if the holder of such Indebtedness has no recourse to such Person other than to the asset, the amount of such Indebtedness will be deemed to equal the lesser of the value of such asset and the amount of the obligation so secured),

if and to the extent any of the preceding items (other than letters of credit and Hedging Obligations) would appear as a liability upon a balance sheet of the specified Person prepared in accordance with GAAP.

For purposes of the foregoing:

(1) the maximum fixed repurchase price of any Disqualified Stock that does not have a fixed repurchase price shall be calculated in accordance with the terms of such Disqualified Stock as if such Disqualified Stock was repurchased on any date on which Indebtedness shall be required to be determined pursuant to this Indenture; *provided, however*, that, if such Disqualified Stock is not then permitted to be repurchased, the repurchase price shall be the book value of such Disqualified Stock;

(2) the amount outstanding at any time of any Indebtedness issued with original issue discount is the principal amount of such Indebtedness less the remaining unamortized portion of the original issue discount of such Indebtedness at such time as determined in conformity with GAAP, but such Indebtedness shall be deemed incurred only as of the date of original issuance thereof;

(3) in the case of any Indebtedness not issued with original issue discount, the amount of any such Indebtedness outstanding as of any date will be the principal amount of the Indebtedness, together with any interest on the Indebtedness that is more than 30 days past due;

(4) the amount of any Indebtedness described in clause (8)(A) above shall be the maximum liability under any such Guarantee;

(5) the amount of any Indebtedness described in clause (8)(B) above shall be the lesser of (I) the maximum amount of the Obligations so secured and (II) the fair market value of such property or other assets; and

(6) except as described in clause (5) immediately above, interest, fees, premium, and expenses and additional payments, if any, will not constitute Indebtedness.

Notwithstanding the foregoing, in connection with the purchase or sale by the Company or any Restricted Subsidiary of any assets or business, the term "Indebtedness" will exclude (i) customary indemnification obligations, (ii) post-closing payment adjustments to which the other party may become entitled to the extent such payment is determined by a final closing balance sheet or such payment is otherwise contingent; *provided*, *however*, that, such amounts under this clause (ii) would not be required to be reflected as a liability on the face of a balance sheet prepared in accordance with GAAP, (iii) amounts owed to dissenting shareholders (including in connection with, or as a result of, exercise of dissenters' or appraisal rights and the settlement of any claims or action (whether actual, contingent or potential)), pursuant to or in connection with a consolidation, amalgamation, merger or transfer of assets not prohibited by the applicable provisions of this Indenture, and (iv) obligations under or in respect of operating leases, Sale and Leaseback Transactions (except any resulting Capital Lease Obligations) and Qualified Receivables Transactions.

"*Indenture*" means this Indenture, as amended or supplemented from time to time.

"*Indirect Participant*" means a Person who holds a beneficial interest in a Global Note through a Participant.

"*Initial Notes*" means the first $840.0 million aggregate principal amount of Notes issued under this Indenture on the Issue Date.

"*Initial Purchasers*" means J.P. Morgan Securities LLC, Barclays Capital Inc., BofA Securities, Inc., Citigroup Global Markets Inc., Credit Suisse Securities (USA) LLC, Goldman Sachs & Co. LLC, Morgan Stanley & Co. LLC, Wells Fargo Securities, LLC, BMO Capital Markets Corp., Rabo Securities USA, Inc., Stifel, Nicolaus & Company, Incorporated and Truist Securities, Inc., each in their capacity as an initial purchaser of the Initial Notes from the Selling Noteholders or otherwise as an initial purchaser in connection with the offering of the Initial Notes pursuant to the Offering Memorandum.

"*Institutional Accredited Investor*" means an institution that is an "accredited investor" as defined in Rule 501(a)(1), (2), (3) or (7) under the Securities Act, who is not also a QIB.

"*Internal Revenue Code*" means the United States Internal Revenue Code of 1986, as amended.

"*Investment Grade Rating*" means a debt rating of the Notes of BBB- or higher by S&P and Baa3 or higher by Moody's or the equivalent of such ratings by S&P and Moody's or, in the event S&P or Moody's shall cease rating the Notes and the Company shall select any other Rating Agency, the equivalent of such ratings by such other Rating Agency.

"*Investments*" means, with respect to any Person, all investments by such Person in other Persons (including Affiliates) in the forms of direct or indirect loans (including Guarantees of Indebtedness or other Obligations), advances or capital contributions (excluding accounts receivable, trade credit and advances to customers in the ordinary course of business and commission, travel and similar advances to officers and employees made in the ordinary course of business), prepaid expenses and accounts receivable, purchases or other acquisitions for consideration of Indebtedness, Equity Interests or other securities, together with all items that are or would be classified as investments on a balance sheet prepared in accordance with GAAP. If the Company or any Subsidiary of the Company sells or otherwise disposes of any Equity Interests of any direct or indirect Subsidiary of the Company such that, after giving effect to any such sale or disposition, such Person is no longer a direct or indirect Subsidiary of the

Company, the Company shall be deemed to have made an Investment on the date of any such sale or disposition equal to the fair market value of the Equity Interests of such Subsidiary not sold or disposed of in an amount determined as provided in the last paragraph of Section 4.07.

"*Issue Date*" means March 10, 2022, the date of issuance of the Initial Notes under this Indenture.

"*Legal Engagement Letter*" means that certain legal engagement letter to be dated on or about the Issue Date, by and between Post and the Company, as amended, modified, supplemented, restated or replaced from time to time.

"Legal Holiday" means a Saturday, a Sunday or a day on which banking institutions in the City of New York or at a place of payment are authorized by law, regulation or executive order to remain closed. If a payment date is a Legal Holiday at a place of payment, payment may be made at that place on the next succeeding day that is not a Legal Holiday, and no interest shall accrue on such payment for the intervening period.

"*Lien*" means, with respect to any asset, any mortgage, lien, pledge, charge, security interest or encumbrance of any kind in respect of such asset, whether or not filed, recorded or otherwise perfected under applicable law, including any conditional sale or other title retention agreement, any lease in the nature thereof, any option or other agreement to sell or give a security interest in and any filing of or agreement to give any financing statement under the Uniform Commercial Code (or equivalent statutes) of any jurisdiction; *provided* that in no event will an operating lease be deemed to constitute a Lien.

"*Limited Condition Transaction*" means (i) any Investment or acquisition (whether by merger, amalgamation, consolidation or other business combination or the acquisition of Capital Stock or otherwise), whose consummation is not conditioned on the availability of, or on obtaining, third-party financing, (ii) any redemption, repurchase, defeasance, satisfaction and discharge or repayment of Indebtedness, Disqualified Stock or preferred stock requiring notice in advance of such redemption, repurchase, defeasance, satisfaction and discharge or repayment and (iii) any Restricted Payment requiring notice in advance thereof or which is subject to a binding agreement.

"*Long Derivative Instrument*" means, as to any Person, a Derivative Instrument (i) the value of which to such Person generally increases, and/or the payment or delivery obligations of such Person under which generally decrease, with positive changes in the financial performance and/or position of the Company or any one or more Guarantors and/or (ii) the value of which to such Person generally decreases, and/or the payment or delivery obligations of such Person under which generally increase, with negative changes in the financial performance and/or position of the Company or any one or more Guarantors.

"*Market Capitalization*" means an amount equal to (i) the total number of issued and outstanding shares of the Company's Common Stock that are issued and outstanding on the date of the relevant Restricted Payment and listed on The New York Stock Exchange (or, if the primary listing of such Common Stock is on another exchange, on such other exchange) multiplied by (ii) the arithmetic mean of the closing price per share of such Common Stock as reported by The New York Stock Exchange (or, if the primary listing of such Common Stock is on another exchange, on such other exchange) for each of the 30 consecutive trading days immediately preceding the date of such Restricted Payment.

"*Master Services Agreement*" means that certain Amended and Restated Master Services Agreement to be dated on or about the Issue Date, by and among Post, the Company and certain Subsidiaries of the Company, as amended, modified, supplemented, restated or replaced from time to time.

"*Master Transaction Agreement*" means that certain Master Transaction Agreement dated as of October 7, 2019 by and among Post, BellRing Brands, LLC and Old BRBR, as amended, modified, supplemented, restated or replaced from time to time.

"*Moody's*" means Moody's Investors Service, Inc. or any successor rating agency.

"*Net Proceeds*" means the aggregate cash proceeds received by the Company or any of its Restricted Subsidiaries in respect of any Asset Sale (including, without limitation, any cash received upon the sale or other disposition of any non-cash consideration received in any Asset Sale), net of all costs relating to such Asset Sale, including, without limitation, legal, accounting, investment banking fees and broker fees, and sales and underwriting commissions, and any relocation expenses incurred as a result thereof, taxes paid or payable as a result thereof, in each case after taking into account any available tax credits or deductions and any tax sharing arrangements and amounts required to be applied to the repayment of Indebtedness, other than Indebtedness under a Credit Facility, secured by a Lien on the asset or assets that were the subject of such Asset Sale, any costs associated with unwinding any related Hedging Obligations in connection with such repayment and any reserve for adjustment in respect of the sale price of such asset or assets established in accordance with GAAP or in respect of liabilities associated with the asset disposed of and retained by the Company or its Restricted Subsidiaries.

"*Net Short*" means, with respect to a Holder or beneficial owner of the Notes, as of a date of determination, either (i) the value of its Short Derivative Instruments exceeds the sum of (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 ISDA Credit Derivatives Definitions) to have occurred with respect to the Company or any Guarantor immediately prior to such date of determination.

"*Non-Recourse Debt*" means Indebtedness:

(1) as to which neither the Company nor any of its Restricted Subsidiaries (a) provides credit support of any kind (including any undertaking, agreement or instrument that would constitute Indebtedness), (b) is directly or indirectly liable as a guarantor or otherwise, or (c) constitutes the lender;

(2) no default with respect to which (including any rights that the holders thereof may have to take enforcement action against an Unrestricted Subsidiary) would permit upon notice, lapse of time or both any holder of any other Indebtedness (other than the Notes) of the Company or any of its Restricted Subsidiaries to declare a default on such other Indebtedness or cause the payment thereof to be accelerated or payable prior to its Stated Maturity; and

(3) as to which the lenders have been notified in writing that they will not have any recourse to the stock or assets of the Company or any of its Restricted Subsidiaries.

"Non-U.S. Person" means a Person who is not a U.S. Person.

"*Notes*" has the meaning assigned to it in the preamble of this Indenture. The Initial Notes and the Additional Notes shall be treated as a single class for all purposes under this Indenture, and unless the context otherwise requires, all references to the Notes shall include the Initial Notes and any Additional Notes.

"*Obligations*" means 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 its Restricted Subsidiaries whether or not a claim for post-filing interest is allowed in such proceeding), penalties, fees, charges, expenses, indemnifications, reimbursement obligations, damages, including liquidated damages, Guarantees and other liabilities or amounts payable under the documentation governing any Indebtedness or in respect thereof.

"*Offering Memorandum*" means that certain Offering Memorandum with respect to the Initial Notes, dated March 1, 2022 for the offering of the Initial Notes issued on the Issue Date.

"*Officer*" means, with respect to any Person, the Chairman of the Board, the Chief Executive Officer, the President, the Chief Operating Officer, the Chief Financial Officer, the Treasurer, any Assistant Treasurer, the Controller, the Secretary, any Assistant Secretary, the General Counsel or any Vice President of such Person.

"*Officer's Certificate*" means a certificate signed on behalf of the Company by an Officer of the Company, who must be the principal executive officer, the principal financial officer, the principal accounting officer, the treasurer or the general counsel of the Company, that meets the requirements of Section 12.05.

"*Old BRBR*" means BellRing Intermediate Holdings, Inc., a Delaware corporation, formerly known as BellRing Brands, Inc., a Delaware corporation.

"*Opinion of Counsel*" means a written opinion from legal counsel, who may be internal or external counsel for the Company, or other counsel reasonably acceptable to the Trustee, complying with Section 12.05.

"*Parent Company*" means any Person of which the Company is a direct or indirect wholly-owned Subsidiary.

"*Participant*" means, with respect to the Depositary, Euroclear or Clearstream, a Person who has an account with the Depositary, Euroclear or Clearstream, respectively (and, with respect to DTC, shall include Euroclear and Clearstream).

"*Permitted Business*" means any business that is the same as, or reasonably related, ancillary or complementary to, any of the businesses in which the Company and its Restricted Subsidiaries are engaged on the Issue Date.

"*Permitted Investments*" means:

(1) any Investment in the Company or in a Restricted Subsidiary of the Company;

(2) any Investment in cash (including foreign currencies) or Cash Equivalents;

(3) any Investment by the Company or any Restricted Subsidiary of the Company in a Person engaged in a Related Business, if as a result of such Investment:

(i) such Person in one transaction or a series of related transactions becomes a Restricted Subsidiary of the Company; or

(ii) such Person, in one transaction or a series of related transactions, is merged, consolidated or amalgamated with or into, or transfers or conveys substantially all of its assets to, or is liquidated into, the Company or a Restricted Subsidiary of the Company;

(4) any Investment made as a result of the receipt of non-cash consideration from (a) an Asset Sale or any disposition of assets or property not constituting an Asset Sale, or (b) any disposition or issuance of Equity Interests of a Subsidiary, in each case which is not prohibited by Section 4.10;

(5) any Investments by the Company or any Restricted Subsidiary in a Receivables Subsidiary or a Special Purpose Vehicle or any Investment by a Receivables Subsidiary in any other Person in connection with a Qualified Receivables Transaction; *provided* that any Investment in a Receivables Subsidiary or a Special Purpose Vehicle is in the form of a Purchase Money Note or an Equity Interest or in the form of a purchase of Receivables and Receivables Related Assets pursuant to a Receivables Repurchase Obligation;

(6) any Investment solely in exchange for the issuance of Equity Interests (other than Disqualified Stock) of the Company;

(7) Investments in accounts or notes receivable owing to the Company or any Restricted Subsidiary of the Company acquired in the ordinary course of business and payable or dischargeable in accordance with customary trade terms; *provided*, *however*, that such trade terms may include such concessionary trade terms as the Company or any such Restricted Subsidiary deems reasonable under the circumstances;

(8) loans and advances to directors, officers, managers, employees and consultants of the Company and its Restricted Subsidiaries in the ordinary course of business for bona fide business purposes not in excess of $10.0 million at any one time outstanding;

(9) Investments in securities received in settlement of Obligations of trade creditors or customers in the ordinary course of business or in satisfaction of judgments or pursuant to any plan of reorganization or similar arrangement upon the bankruptcy or insolvency of trade creditors or customers;

(10) workers' compensation, utility, lease and similar deposits and prepaid expenses in the ordinary course of business and endorsements of negotiable instruments and documents in the ordinary course of business;

(11) commission, payroll, travel and similar advances to employees in the ordinary course of business;

(12) Hedging Obligations entered into in the ordinary course of the Company's or its Restricted Subsidiaries' businesses and not for speculative purposes and otherwise in compliance with this Indenture;

(13) Investments represented by Guarantees of Indebtedness that are otherwise permitted under this Indenture and performance guarantees in the ordinary course of business;

(14) other Investments in any Person having an aggregate fair market value (measured on the date each such Investment was made and without giving effect to subsequent changes in value), when taken together with all other Investments made pursuant to this clause (14) that are at any time outstanding, not to exceed (a) the greater of (i) $150.0 million and (ii) 60.0% of Consolidated Cash Flow as of the date of such Investment *plus* (b) 100% of the aggregate cash dividends and distributions received by the Company or any Restricted Subsidiary from any such Investments that are at any time outstanding pursuant to this clause (14), but only to the extent the

Company elects to include such dividends or distributions in this clause (14)(b), as evidenced by an Officer's Certificate delivered to the Trustee within 10 Business Days of the date of the dividend or distribution; *provided* that if an Investment made pursuant to this clause (14) is made in any Person that is not a Restricted Subsidiary of the Company at the date of the making of the Investment and such Person becomes a Restricted Subsidiary after such date, such Investment will thereafter be deemed to have been made pursuant to clause (1) above and shall cease to have been made pursuant to this clause (14);

(15) Investments consisting of the licensing or contribution of intellectual property pursuant to joint marketing arrangements with other Persons;

(16) loans by the Company in an aggregate principal amount not exceeding $10.0 million to employees of the Company or its Restricted Subsidiaries to finance the sale of the Company's Capital Stock by the Company to such employees; *provided* that the net cash proceeds from such sales respecting such loaned amounts will not be included in the calculation described in Section 4.07(a)(3)(B);

(17) any Investment (x) existing on the Issue Date, (y) made pursuant to binding commitments in effect on the Issue Date or (z) that replaces, refinances, refunds, renews or extends any Investment described under either of the immediately preceding clauses (x) or (y), *provided* that any such Investment is in an amount that does not exceed the amount replaced, refinanced, refunded, renewed or extended;

(18) Investments comprised of intercompany loans between the Company and any Restricted Subsidiary or between any Restricted Subsidiary and any other Restricted Subsidiary;

(19) Investments in the Notes;

(20) other Investments in any Unrestricted Subsidiary or joint venture of the Company or of any of its Restricted Subsidiaries having an aggregate fair market value (measured on the date each such Investment was made and without giving effect to subsequent changes in value), when taken together with all other Investments made pursuant to this clause (20) that are at any time outstanding, not to exceed (a) the greater of (i) $125.0 million and (ii) 50.0% of Consolidated Cash Flow as of the date of such Investment *plus* (b) 100% of the aggregate cash dividends and distributions received by the Company or any Restricted Subsidiary from any such Investments that are at any time outstanding pursuant to this clause (20), but only to the extent the Company elects to include such dividends or distributions in this clause (20)(b), as evidenced by an Officer's Certificate delivered to the Trustee within 10 Business Days of the date of dividend or distribution; *provided* that if an Investment made pursuant to this clause (20) is made in any Person that is not a Restricted Subsidiary of the Company at the date of the making of the Investment and such Person becomes a Restricted Subsidiary after such date, such Investment will thereafter be deemed to have been made pursuant to clause (1) above and shall cease to have been made pursuant to this clause (20);

(21) any Investment in an Unrestricted Subsidiary to the extent comprised of assets of, or Equity Interests in, an Unrestricted Subsidiary;

(22) any transaction to the extent it constitutes an Investment that is permitted by and made in accordance with the provisions of Section 4.11(b) (except transactions described in Section 4.11(b)(2), (5), (6), (12) and (14));

(23) other Investments so long as the Consolidated Leverage Ratio, calculated as of the date of such Investment and after giving pro forma effect thereto (including, without limitation, to the incurrence of any Indebtedness to finance such Investment), does not exceed 4.00 to 1.0; and

(24) any Investment pursuant to or in connection with the Transactions.

In the event that a Permitted Investment meets the criteria of more than one of the types of Permitted Investment (at the time of incurrence or at a later date), the Company in its sole discretion may divide, classify or from time to time reclassify all or any portion of such Permitted Investment in in any manner that complies with the definition of "Permitted Investments" and such Permitted Investment shall be treated as having been made pursuant only to the clause or clauses of this definition to which such Permitted Investment has been classified or reclassified.

"*Permitted Liens*" means:

(1) Liens securing Indebtedness of the Company or any Restricted Subsidiary incurred pursuant to Section 4.09(b)(1);

(2) Liens in favor of the Company or the Guarantors;

(3) Liens on property of a Person existing at the time such Person is merged with or into or consolidated with or becomes a Restricted Subsidiary of the Company or any Restricted Subsidiary of the Company; *provided* that such Liens were not entered into in contemplation of such merger or consolidation and do not extend to any assets other than those of the Person merged into or consolidated with the Company or such Subsidiary;

(4) Liens on property existing at the time of acquisition thereof by the Company or any Restricted Subsidiary of the Company; *provided* that such Liens were not entered into in contemplation of such acquisition and only extend to the property so acquired;

(5) Liens on assets of Foreign Subsidiaries securing Indebtedness of Foreign Subsidiaries;

(6) Liens to secure Indebtedness (including any Capital Lease Obligations) permitted by Sections 4.09(b)(4) or 4.09(b)(18), covering only the assets financed with such Indebtedness (or, in the case of Section 4.09(b)(18), that are the subject of the applicable Sale and Leaseback Transaction) and, in each case, any additions and improvements thereon;

(7) Liens existing on the Issue Date securing Existing Indebtedness;

(8) Liens for taxes, assessments or governmental charges or claims that are not yet delinquent or that are being contested in good faith by appropriate proceedings diligently conducted, *provided* that any reserve or other appropriate provision as shall be required in conformity with GAAP shall have been made therefor;

(9) Deposits' and landlords', lessors', carriers', warehousemen's, mechanics', suppliers', materialmen's, repairmen's and other like Liens imposed by law incurred in the ordinary course of business, in each case for sums not yet due or being contested in good faith by appropriate proceedings diligently conducted;

(10) pledges or deposits made in connection with workers' compensation, unemployment insurance and other types of social security or similar legislation, or good faith deposits to secure the performance of bids, tenders, government contracts (other than for the payment of Indebtedness) or leases to which the Company or any Restricted Subsidiary is a party, deposits to secure statutory obligations or bankers' acceptances of the Company or any Restricted Subsidiary and deposits to secure surety and appeal bonds to which the Company or a Restricted Subsidiary is a party, in each case incurred in the ordinary course of business;

(11) judgment Liens not giving rise to Default or an Event of Default so long as such Lien is adequately bonded and any appropriate legal proceedings which may have been duly initiated for the review of such judgment shall not have been finally terminated or the period within which such proceedings may be initiated shall not have expired;

(12) Liens on the assets of a Restricted Subsidiary of the Company that is not a Guarantor securing Indebtedness of that Restricted Subsidiary; *provided* that such Indebtedness was permitted to be incurred by Section 4.09;

(13) easements, rights-of-way, zoning restrictions and other similar charges or encumbrances affecting real property which do not materially adversely affect the value of said property or interfere in any material respect with the ordinary conduct of the business of the Company or such Restricted Subsidiary;

(14) any interest or title of a lessor under any capital lease or operating lease; *provided* that such Liens do not extend to any property or assets which is not leased property subject to such lease;

(15) Liens in favor of custom and revenue authorities arising as a matter of law to secure payment of non-delinquent customs duties in connection with the importation of goods;

(16) Liens securing reimbursement obligations with respect to letters of credit or bankers' acceptances incurred in accordance with this Indenture which encumber documents and other property relating to such letters of credit or bankers' acceptances and products and proceeds thereof;

(17) Liens arising from Uniform Commercial Code financing statement filings regarding operating leases entered into by the Company and its Restricted Subsidiaries in the ordinary course of business;

(18) leases or subleases, licenses or sublicenses, granted to others not interfering in any material respect with the business of the Company or any Restricted Subsidiary of the Company;

(19) Liens arising out of conditional sale, consignment, title retention or similar arrangements for the sale of goods entered into by the Company or any of its Restricted Subsidiaries in the ordinary course of business;

(20) Liens (i) of a collection bank arising under Section 4-210 of the Uniform Commercial Code on items in the course of collection; (ii) attaching to commodity trading accounts or other commodity brokerage accounts incurred in the ordinary course of business; and (iii) in favor of banking institutions arising as a matter of law encumbering deposits (including the right of set-off) and which are within the general parameters customary in the banking industry;

(21) Liens securing Permitted Refinancing Indebtedness which is incurred to refinance, renew, replace, defease or discharge any Refinanced Indebtedness which has been secured by a Lien permitted under this Indenture and which has been incurred in accordance with the provisions of this Indenture; *provided*, *however*, that such Liens: (i) are no less favorable to the Holders in any material respect and are not more favorable to the lienholders in any material respect with respect to such Liens than the Liens in respect of such Refinanced Indebtedness; and (ii) do not extend to or cover any property or assets of the Company or any of its Restricted Subsidiaries not securing such Refinanced Indebtedness;

(22) Liens upon specific items of inventory or other goods and proceeds of any Person securing such Person's obligations in respect of bankers' acceptances issued or created for the account of such Person to facilitate the purchase, shipment or storage of such inventory or other goods;

(23) Liens securing Hedging Obligations;

(24) Liens on Receivables Program Assets securing Receivables Program Obligations;

(25) deposits made in the ordinary course of business to secure liability to insurance carriers;

(26) Liens under licensing agreements for use of intellectual property entered into in the ordinary course of business;

(27) Liens incurred to secure cash management services and other bank products in the ordinary course of business;

(28) Liens on property or assets used to defease or to satisfy and discharge Indebtedness; *provided* that such defeasance or satisfaction and discharge is not prohibited by this Indenture;

(29) Liens solely on any cash earnest money deposits made by the Company or any of its Restricted Subsidiaries in connection with any letter of intent or purchase agreement;

(30) Liens incurred on assets or property of the Company or any Restricted Subsidiary of the Company with respect to Obligations that do not exceed the greater of $150.0 million and 60.0% of Consolidated Cash Flow (determined as of the date of any incurrence);

(31) additional Liens securing Obligations, provided that after giving effect to the incurrence of such Liens, the Consolidated Senior Secured Leverage Ratio, calculated as of the date of incurrence, (x) does not exceed 4.25 to 1.0 or (y) in the event that such Obligations are incurred to finance an acquisition or other Investment in the nature of an acquisition, does not exceed the greater of (i) 4.25 to 1.0 or (ii) the Consolidated Senior Secured Leverage Ratio calculated immediately prior to giving effect to such acquisition or other Investment in the nature of an acquisition;

(32) Liens created or arising pursuant to or in connection with the Transactions; and

(33) Liens on Equity Interests in joint ventures or Unrestricted Subsidiaries (i) securing obligations of such joint ventures or Unrestricted Subsidiaries or (ii) pursuant to the relevant joint venture agreement or arrangements.

During any Suspension Period, the relevant clauses of Section 4.09 shall be deemed to be in effect solely for purposes of determining the amount available under clause (7) above.

In the event that a Permitted Lien meets the criteria of more than one of the types of Permitted Liens (at the time of incurrence or at a later date), the Company in its sole discretion may divide, classify or from time to time reclassify all or any portion of such Permitted Lien in any manner that complies with the covenant described in Section 4.12 and such Permitted Lien shall be treated as having been made pursuant only to the clause or clauses of this definition to which such Permitted Lien has been classified or reclassified.

"*Permitted Refinancing Indebtedness*" means any Indebtedness of the Company or any of its Restricted Subsidiaries issued in exchange for, or the net proceeds of which are used to extend, refinance, refund, renew, replace, defease or discharge, other Indebtedness of the Company or any of its Restricted Subsidiaries (other than intercompany Indebtedness) (such other Indebtedness, "*Refinanced Indebtedness*"); *provided* that:

(1) the principal amount (or accreted value, if applicable) of such Permitted Refinancing Indebtedness does not exceed the principal amount of (or accreted value, if applicable), plus accrued interest on, the Refinanced Indebtedness (plus the amount of reasonable fees and expenses (including original issue discount, upfront fees or similar fees) incurred in connection therewith including premiums paid, if any, to the holders thereof);

(2) such Permitted Refinancing Indebtedness has a Weighted Average Life to Maturity equal to or greater than the Weighted Average Life to Maturity of the Refinanced Indebtedness;

(3) if the Refinanced Indebtedness is contractually subordinated in right of payment to the Notes, such Permitted Refinancing Indebtedness is contractually subordinated in right of payment to the Notes on terms at least as favorable to the Holders of Notes as those contained in the documentation governing the Refinanced Indebtedness;

(4) such Permitted Refinancing Indebtedness is incurred either by the Company or by the Restricted Subsidiary who is the obligor on the Refinanced Indebtedness; and

(5) (a) if the Stated Maturity of the Indebtedness being refinanced is earlier than the Stated Maturity of the Notes, the Permitted Refinancing Indebtedness has a Stated Maturity no earlier than the Stated Maturity of the Refinanced Indebtedness or (b) if the Stated Maturity of the Refinanced Indebtedness is later than the Stated Maturity of the Notes, the Permitted Refinancing Indebtedness has a Stated Maturity at least 91 days later than the Stated Maturity of the Notes.

"*Person*" means any individual, corporation, limited liability company, partnership, joint venture, association, joint-stock company, trust, estate or unincorporated organization or government or any agency or political subdivision thereof or any other entity (including any subdivision or ongoing business of any such entity, or substantially all of the assets of any such entity, subdivision or business).

"*Post*" means Post Holdings, Inc., a Missouri corporation, and its successors and assigns.

"Private Placement Legend" means the legend set forth in Section 2.06(f)(1) to be placed on all Notes issued under this Indenture except where otherwise permitted by the provisions of this Indenture.

"*Purchase Money Note*" means a promissory note evidencing the obligation of a Receivables Subsidiary or a Special Purpose Vehicle to pay the purchase price for Receivables or other Indebtedness to the Company or to any Restricted Subsidiary (or to a Receivables Subsidiary in the case of a transfer to a Special Purpose Vehicle) in connection with a Qualified Receivables Transaction, which note shall be repaid from cash available to the maker of such note, other than cash required to be held as reserves pursuant to Receivables Documents, amounts paid in respect of interest, principal and other amounts owing under Receivables Documents and amounts paid in connection with the purchase of newly generated Receivables.

"*QIB*" means a "qualified institutional buyer" as defined in Rule 144A.

"*Qualified Capital Stock*" means any Capital Stock that is not Disqualified Stock.

"*Qualified Proceeds*" means assets that are used or useful in, or Capital Stock of any Person engaged in, a Related Business.

"*Qualified Receivables Transaction*" means any transaction or series of transactions that may be entered into by the Company or any Restricted Subsidiary of the Company pursuant to which the Company or any such Restricted Subsidiary may sell, convey or otherwise transfer to a Receivables Subsidiary (in the case of a transfer by the Company or any of its Restricted Subsidiaries) and any other Person (in the case of a transfer by a Receivables Subsidiary), or may grant a security interest in, any Receivables Program Assets (whether existing on the Issue Date or arising thereafter); *provided* that:

(1) no portion of the Indebtedness or any other Obligations (contingent or otherwise) of a Receivables Subsidiary or Special Purpose Vehicle

(i) is Guaranteed by the Company or any of its Restricted Subsidiaries (other than a Receivables Subsidiary), excluding Guarantees of Obligations pursuant to Standard Securitization Undertakings,

(ii) is recourse to or obligates the Company or any of its Restricted Subsidiaries (other than a Receivables Subsidiary) in any way other than pursuant to Standard Securitization Undertakings, or

(iii) subjects any property or asset of the Company or any of its Restricted Subsidiaries (other than a Receivables Subsidiary), directly or indirectly, contingently or otherwise, to the satisfaction of Obligations incurred in such transactions, other than pursuant to Standard Securitization Undertakings;

(2) neither the Company nor any of its Restricted Subsidiaries (other than a Receivables Subsidiary) has any material contract, agreement, arrangement or understanding with a Receivables Subsidiary or a Special Purpose Vehicle (except in connection with a receivables securitization facility) other than on terms no less favorable to the Company or such Restricted Subsidiary than those that might be obtained at the time from Persons that are not Affiliates of the Company; and

(3) the Company and its Restricted Subsidiaries (other than a Receivables Subsidiary) do not have any obligation to maintain or preserve the financial condition of a Receivables Subsidiary or a Special Purpose Vehicle or cause such entity to achieve certain levels of operating results other than Standard Securitization Undertakings.

"*Rating Agency*" means each of S&P and Moody's, or if S&P or Moody's or both shall not make a rating on the Notes publicly available (for reasons outside the control of the Company), a statistical rating agency or agencies, as the case may be, nationally recognized in the United States and selected by the Company (as certified in an Officer's Certificate) which shall be substituted for S&P's or Moody's, or both, as the case may be.

"*Receivables*" means all rights of the Company or any of its Restricted Subsidiaries (other than a Receivables Subsidiary) to payments (whether constituting accounts, chattel paper, instruments, general intangibles or otherwise, and including the right to payment of any interest or finance charges), which rights are identified in the accounting records of the Company or such Restricted Subsidiary as accounts receivable.

"*Receivables Documents*" means:

(1) one or more receivables purchase agreements, pooling and servicing agreements, credit agreements, agreements to acquire undivided interests or other agreements to transfer or obtain loans or advances against, or create a security interest in, Receivables Program Assets, in each case as amended, modified, supplemented, restated or replaced from time to time and entered into by the Company, a Restricted Subsidiary and/or a Receivables Subsidiary, and

(2) each other instrument, agreement and other document entered into by the Company, a Restricted Subsidiary or a Receivables Subsidiary relating to the transactions contemplated by the agreements referred to in clause (a) above, in each case as amended, modified, supplemented, restated or replaced from time to time.

"*Receivables Fees*" means distributions or payments made directly or by means of discounts with respect to any accounts receivable or participation interest therein issued or sold in connection with, and other fees paid to a Person that is not a Restricted Subsidiary in connection with, any Qualified Receivables Transaction.

"*Receivables Program Assets*" means:

(1) all Receivables which are described as being transferred by the Company, a Restricted Subsidiary or a Receivables Subsidiary pursuant to the Receivables Documents;

(2) all Receivables Related Assets; and

(3) all collections (including recoveries) and other proceeds of the assets described in the foregoing clauses.

"*Receivables Program Obligations*" means:

(1) Indebtedness and other Obligations owing in respect of notes, trust certificates, undivided interests, partnership interests or other interests sold, issued and/or pledged, or otherwise incurred, in connection with a Qualified Receivables Transaction; and

(2) related obligations of the Company, a Subsidiary of the Company or a Special Purpose Vehicle (including, without limitation, Standard Securitization Undertakings).

"*Receivables Related Assets*" means:

(1) any rights arising under the documentation governing or relating to Receivables (including rights in respect of Liens securing such Receivables and other credit support in respect of such Receivables);

(2) any proceeds of such Receivables and any lockboxes or accounts in which such proceeds are deposited;

(3) spread accounts and other similar accounts (and any amounts on deposit therein) established in connection with a Qualified Receivables Transaction;

(4) any warranty, indemnity, dilution and other intercompany claim arising out of Receivables Documents; and

(5) other assets which are customarily transferred or in respect of which security interests are customarily granted in connection with asset securitization transactions involving accounts receivable.

"*Receivables Repurchase Obligation*" means any obligation of the Company or a Restricted Subsidiary (other than a Receivables Subsidiary) in a Qualified Receivables Transaction to repurchase receivables arising as a result of a breach of a representation, warranty or covenant or otherwise, including as a result of a receivable or portion thereof becoming subject to any asserted defense, dispute, off-set or counterclaim of any kind as a result of any action taken by, any failure to take action by or any other event relating to the Company or a Restricted Subsidiary (other than a Receivables Subsidiary).

"*Receivables Subsidiary*" means a special purpose Wholly Owned Restricted Subsidiary of the Company created in connection with the transactions contemplated by a Qualified Receivables Transaction, which Restricted Subsidiary engages in no activities other than those incidental to such Qualified Receivables Transaction and which is designated as a Receivables Subsidiary by the Company pursuant to an Officer's Certificate.

"Registration Rights Agreement" means that certain Registration Rights Agreement by and between Post and the Company, to be dated on or about the Issue Date, as amended, modified, supplemented, restated or replaced from time to time.

"*Regulated Bank*" means a commercial bank with a consolidated combined capital and surplus of at least $500,000,000 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 promulgated under the Securities Act.

"Regulation S Global Note" means a Global Note substantially in the form of Exhibit A hereto bearing the Global Note Legend and the Private Placement Legend and deposited with or on behalf of and registered in the name of the Depositary or its nominee, issued in a denomination equal to the outstanding principal amount of the Notes sold in reliance on Rule 903 of Regulation S.

"*Related Business*" means the business conducted by the Company and its Subsidiaries as of the Issue Date and any and all businesses that in the good faith judgment of the Company are similar or reasonably related, ancillary or complementary thereto or reasonable extensions thereof.

"*Responsible Officer,*" when used with respect to the Trustee, means any officer who shall have direct responsibility for the administration of this Indenture at the Corporate Trust Office and also means, with respect to a particular corporate trust matter, any other officer to whom such matter is referred because of his or her knowledge of and familiarity with the particular subject.

"*Restricted Definitive Note*" means a Definitive Note bearing the Private Placement Legend.

"*Restricted Global Note*" means a Global Note bearing the Private Placement Legend.

"*Restricted Investment*" means an Investment other than a Permitted Investment.

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

"*Restricted Subsidiary*" of a Person means any Subsidiary of the referent Person that is not an Unrestricted Subsidiary.

"*Rule 144*" means Rule 144 promulgated under the Securities Act.

"*Rule 144A*" means Rule 144A promulgated under the Securities Act.

"*Rule 903*" means Rule 903 promulgated under the Securities Act.

"*Rule 904*" means Rule 904 promulgated under the Securities Act.

"*S&P*" means Standard & Poor's Ratings Group or any successor rating agency.

"*Sale and Leaseback Transaction*" means with respect to any Person an arrangement with any bank, insurance company or other lender or investor or to which such lender or investor is a party, providing for the leasing by such Person of any asset of such Person which has been or is being sold or transferred by such Person to such lender or investor or to any Person to whom funds have been or are to be advanced by such lender or investor on the security of such asset.

"*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 Holders in connection with its investment in the Notes.

"*SEC*" means the Securities and Exchange Commission, or any governmental authority succeeding to any of its principal functions.

"*Securities Act*" means the Securities Act of 1933, as amended.

"Selling Noteholders" means J.P. Morgan Securities LLC, Barclays Capital Inc., Citigroup Global Markets Inc., Goldman Sachs & Co. LLC, and Morgan Stanley & Co. LLC, each in their capacity as a selling noteholder of the Initial Notes sold to the Initial Purchasers.

"*Senior Secured Indebtedness*" means, as of any date of determination, the aggregate principal amount of all funded Indebtedness for borrowed money (other than Subordinated Indebtedness) that is secured by a Lien on any asset or property of the Company or any Restricted Subsidiary. For avoidance of doubt, issued but undrawn letters of credit and undrawn capacity under any revolving credit facility are not funded Indebtedness for borrowed money, but all Indebtedness incurred pursuant to Section 4.09(b)(1) (other than any unsecured Indebtedness that, as of such date of determination, has been reclassified as incurred pursuant to another clause of the definition of Permitted Debt or Section 4.09(a)) will be deemed to be secured for purposes of calculating the Consolidated Senior Secured Leverage Ratio.

"*Separation*" means the series of separation transactions contemplated under the Transaction Agreement.

"*Short Derivative Instrument*" means, as to any Person, a Derivative Instrument (i) the value of which to such Person generally decreases, and/or the payment or delivery obligations of such Person under which generally increase, with positive changes in the financial performance and/or position of the Company or any one or more Guarantors and/or (ii) the value of which to such Person generally increases, and/or the payment or delivery obligations of such Person under which generally decrease, with negative changes in the financial performance and/or position of the Company or any one or more Guarantors.

"*Significant Subsidiary*" means (1) any Subsidiary that would be a "significant subsidiary" as defined in Article 1, Rule 1-02 of Regulation S-X, promulgated pursuant to the Exchange Act, as such Regulation is in effect on the Issue Date and (2) any Restricted Subsidiary that when aggregated with all other Restricted Subsidiaries that are not otherwise Significant Subsidiaries would constitute a Significant Subsidiary under clause (1) of this definition.

"*Special Purpose Vehicle*" means a trust, partnership or other special purpose Person established by the Company and/or any of its Restricted Subsidiaries to implement a Qualified Receivables Transaction.

"*Standard Securitization Undertakings*" means representations, warranties, covenants, performance guarantees and indemnities entered into by the Company or any Subsidiary of the Company which, in the good faith judgment of the Company, are reasonably customary in an accounts receivable transaction and includes, without limitation, any Receivables Repurchase Obligation.

"*Stated Maturity*" means, with respect to any installment of interest or principal on any series of Indebtedness, the date on which such payment of interest or principal was scheduled to be paid in the original documentation governing such Indebtedness, and shall not include any contingent obligations to repay, redeem or repurchase any such interest or principal prior to the date originally scheduled for the payment thereof.

"*Subordinated Indebtedness*" means Indebtedness that is contractually subordinated in right of payment to the Notes or the Subsidiary Guarantees.

"*Subsidiary*" means, with respect to any Person:

(1) any corporation, association or other business entity (other than a partnership) of which more than 50% of the total voting power of shares of Capital Stock 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 such Person or one or more of the other Subsidiaries of such Person (or a combination thereof); and

(2) any partnership (a) the sole general partner or the managing general partner of which is such Person or a Subsidiary of such Person or (b) the only general partners of which are such Person or of one or more Subsidiaries of such Person (or any combination thereof).

"*Subsidiary Guarantee*" means, individually, any Guarantee of payment of the Notes by a Guarantor pursuant to the terms of this Indenture, and, collectively, all such Guarantees.

"*Tax and Related Distributions*" means, without duplication, for any taxable period for which the Company is a member of a consolidated, combined, unitary or similar tax group for U.S. federal and/or applicable state or local tax purposes, payments to discharge the consolidated, combined, unitary or similar tax liabilities of such tax group when and as due, to the extent such liabilities are attributable to the income of the Company and/or any Restricted Subsidiary of the Company (or any Unrestricted Subsidiary of the Company to the extent such Unrestricted Subsidiary has distributed a corresponding amount to the Company or a Restricted Subsidiary), taking into account any carryovers of losses, excess interest deductions, and any available credits, in each case incurred on or following the Issue Date; *provided* that for each taxable period the amount of any such payment shall not be greater than the amount of such taxes that are reasonably expected to be due and payable by the Company and such Subsidiaries if the Company and such Subsidiaries filed a consolidated, combined, unitary or similar type tax return with the Company as the consolidated parent.

"*Tax Matters Agreement*" means that certain Tax Matters Agreement by and among Post, the Company, and Old BRBR, to be dated on or about the Issue Date, as amended, modified, supplemented, restated or replaced from time to time and the tax receivable agreement, if any, entered into in accordance with Section 2.09 thereof, as amended, modified, supplemented, restated or replaced from time to time.

"*Tax Matters Agreement (2019)*" means that certain Tax Matters Agreement by and among Post, the Company, and Old BRBR, dated as of October 21, 2019, as amended, modified, supplemented, restated or replaced from time to time.

"*Tax Receivable Agreement*" means that certain Tax Receivable Agreement by and among Post, BellRing Brands, LLC and Old BRBR, dated as of October 21, 2019, as amended, modified, supplemented, restated or replaced from time to time.

"*Trademark and Domain Name License Agreement*" means that certain Amended and Restated Trademark and Domain Name License Agreement, to be dated on or about the Issue Date, by and among Post, certain Subsidiaries of Post, the Company, and certain Subsidiaries of the Company, as amended, modified, supplemented, restated or replaced from time to time.

"*Transaction Agreement*" means the Transaction Agreement and Plan of Merger, dated as of October 26, 2021, among the Company, Post, BellRing Brands, Inc. and BellRing Merger Sub Corporation, as amended, modified, supplemented, restated or replaced from time to time.

"*Transactions*" means, collectively, the following transactions, agreements, activities or actions: (i) the Separation, the Distribution, the merger of BellRing Merger Sub Corporation with and into Old BRBR, (ii) the entry into and performance of the Transaction Agreement (including, each document

referenced therein and any other agreements or arrangements entered in accordance with the terms thereof), each of the other Formation Documents, and any transactions in furtherance of the transactions contemplated by any of the foregoing, (iii) any agreement or transaction to effectuate or facilitate the consummation of the debt-for-debt or debt-for-equity exchange contemplated by the Transaction Agreement, (iv) each of the corporate reorganization transactions, restructuring or similar activities or transactions in connection with or related to any of the foregoing and (v) cash payments pursuant to or in connection with any of the foregoing, including, without limitation, (a) the payment of the cash merger consideration to the holders of Equity Interests of Old BRBR, (b) payments to holders of Equity Interests under any management equity plan, stock option plan or any other management or employee benefit plan or agreement of Old BRBR, (c) payments of amounts (including, without limitation, any amounts treated as being paid on behalf of Old BRBR or any of its or the Company's Subsidiaries) pursuant to the Tax Matters Agreement, the Tax Matters Agreement (2019) or the Tax Receivable Agreement (in each case as in effect on the Issue Date, or as amended, modified, supplemented, restated or replaced from time to time in a manner not materially adverse to the interests of the Holders) or pursuant to any tax receivables agreement entered into pursuant to the terms of the Tax Matters Agreement, (d) payments pursuant to or in connection with the Formation Documents (as in effect on the Issue Date, or as amended, modified, supplemented, restated or replaced from time to time in a manner not materially adverse to the interests of the Holders), including, without limitation, all indemnity payments thereunder, all fees, costs and expenses thereunder, and all other payments and reimbursements owed thereunder, in each case whether currently due or paid in respect of accruals from prior periods, and (e) the payment of transaction fees and expenses in connection with any of the foregoing, in each case whether made or paid directly or to or on behalf of the Company, any Restricted Subsidiary of the Company or any Parent Company, in the case of each of the foregoing clauses (i) through (v), whether occurring prior to, on, or after the Issue Date, *provided* that the Transactions shall not include (1) the issuance of the Notes on the Issue Date and (2) the entry into the Credit Agreement on the Issue Date and any borrowings thereunder.

"*Treasury Rate*" means, as of any redemption date, the yield to maturity as of the earlier of (a) such redemption date or (b) the date on which the Notes are defeased or satisfied and discharged, of United States Treasury securities with a constant maturity (as compiled and published in the most recent Federal Reserve Statistical Release H.15 (519) that has become publicly available at least two Business Days prior to the redemption date (or, if such Statistical Release is no longer published, any publicly available source of similar market data)) most nearly equal to the period from the redemption date to March 15, 2027; *provided*, *however*, that if the period from the redemption date to March 15, 2027, is less than one year, the weekly average yield on actively traded United States Treasury securities adjusted to a constant maturity of one year will be used.

"*Trust Indenture Act*" means the Trust Indenture Act of 1939, as amended (15 U.S.C. §§ 77aaa-77bbbb), as in effect on the Issue Date and, to the extent required by law, as amended.

"*Trustee*" means Computershare Trust Company, N.A., until a successor replaces it in accordance with the applicable provisions of this Indenture and thereafter means the successor serving hereunder.

"*Unrestricted Definitive Note*" means a Definitive Note that does not bear and is not required to bear the Private Placement Legend.

"*Unrestricted Global Note*" means a Global Note that does not bear and is not required to bear the Private Placement Legend.

"*Unrestricted Subsidiary*" means any Subsidiary of the Company that is designated by the Company as an Unrestricted Subsidiary in accordance with Section 4.17, and any Subsidiary of such Subsidiary so designated; *provided* that any such Subsidiary:

(1) has no Indebtedness other than Non-Recourse Debt; and

(2) is not party to any agreement, contract, arrangement or understanding with the Company or any Restricted Subsidiary of the Company unless the terms of any such agreement, contract, arrangement or understanding are no less favorable to the Company or such Restricted Subsidiary than those that might be obtained at the time from Persons who are not Affiliates of the Company.

"*U.S. Dollar Equivalent*" means, with respect to any monetary amount in a currency other than U.S. dollars, at any time for determination thereof, the amount of U.S. dollars obtained by converting such foreign currency involved in such computation into U.S. dollars at the spot rate for the purpose of U.S. dollars with the applicable foreign currency as published in *The Wall Street Journal* in the "Exchange Rates" column under the heading "Currency Trading" on the date two Business Days prior to such determination.

"*U.S. Government Obligations*" means direct non-callable Obligations of, or Guaranteed as to the full and timely payment by, the United States of America for the payment of which Guarantee or Obligations the full faith and credit of the United States is pledged.

"U.S. Person" means a U.S. Person as defined in Rule 902(k) promulgated under the Securities Act.

"*Voting Stock*" of any Person as of any date means the Capital Stock of such Person that is at the time entitled to vote in the election of the Board of Directors of such Person.

"*Weighted Average Life to Maturity*" means, when applied to any Indebtedness at any date, the number of years obtained by dividing:

(1) the sum of the products obtained by multiplying (a) the amount of each then remaining installment, sinking fund, serial maturity or other required payments of principal, including payment at final maturity, in respect thereof, by (b) the number of years (calculated to the nearest one-twelfth) that will elapse between such date and the making of such payment; by

(2) the then outstanding principal amount of such Indebtedness.

"*Wholly Owned Restricted Subsidiary*" of any Person means a Restricted Subsidiary of such Person all of the outstanding Capital Stock or other ownership interests of which (other than directors' qualifying shares) shall at the time be owned by such Person and/or by one or more Wholly Owned Restricted Subsidiaries of such Person.

Section 1.02 *Other Definitions.*

Term	Defined in Section
"Accounting Change"	1.01
"Automatic Exchange"	2.06
"Automatic Exchange Date"	2.06
"Accounting Change"	1.01
"Approved Foreign Bank"	1.01
"Automatic Exchange Notice"	2.06
"Automatic Exchange Notice Date"	2.06
"Affiliate Transaction"	4.11
"Authentication Order"	2.02
"BellRing"	1.01
"Change of Control Offer"	4.14
"Change of Control Payment"	4.14
"Change of Control Payment Date"	4.14
"Covenant Defeasance"	8.03
"Deemed Date"	4.09
"Directing Holder"	6.02
"DTC"	2.03
"Event of Default"	6.01
"IFRS"	1.01
"incur"	4.09
"Incurrence Clauses"	4.07
"LCT Election"	4.19
"LCT Test Date"	4.19
"Legal Defeasance"	8.02
"Net Proceeds Offer"	4.10
"Net Proceeds Offer Amount"	4.10
"Net Proceeds Offer Payment Date"	4.10
"Net Proceeds Offer Trigger Date"	4.10
"Noteholder Direction"	6.02
"Pari Passu Indebtedness"	4.10
"Paying Agent"	2.03
"Payment Default"	6.01
"Permitted Debt"	4.09
"Position Representation"	6.02
"Purchase Date"	3.09
"Refunding Capital Stock"	4.07
"Registrar"	2.03
"Reinstatement Date"	4.18
"Restricted Payments"	4.07
"Signature Law"	12.12
"Surviving Entity"	5.01
"Suspended Covenants"	4.18
"Suspension Period"	4.18
"Treasury Capital Stock"	4.07
"Verification Covenant"	6.02

Section 1.03 *Rules of Construction.*

Unless the context otherwise requires:

(1) a term has the meaning assigned to it;

(2) an accounting term not otherwise defined has the meaning assigned to it in accordance with GAAP;

(3) "or" is not exclusive;

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

(5) "will" shall be interpreted to express a command;

(6) all section references contained herein will be deemed to be references to sections of this Indenture, unless otherwise specified;

(7) provisions apply to successive events and transactions; and

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

ARTICLE 2
THE NOTES

Section 2.01 *Form and Dating.*

(a) *General*. The Notes and the Trustee's certificate of authentication will be substantially in the form of Exhibit A hereto. The Notes may have notations, legends or endorsements required by law, stock exchange rule or usage. Each Note will be dated the date of its authentication. The Notes shall be in denominations of $2,000 and integral multiples of $1,000 in excess thereof.

The terms and provisions contained in the Notes will constitute, and are hereby expressly made, a part of this Indenture and the Company, the Guarantors and the Trustee, by their execution and delivery of this Indenture, 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.

(b) *Global Notes*. Notes issued in global form will be substantially in the form of Exhibit A hereto (including the Global Note Legend thereon and the "Schedule of Exchanges of Interests in the Global Note" attached thereto). Notes issued in definitive form will be substantially in the form of Exhibit A hereto (but without the Global Note Legend thereon and without the "Schedule of Exchanges of Interests in the Global Note" attached thereto). Each Global Note will represent such of the outstanding Notes as will be specified therein and each shall provide that it represents the aggregate principal amount of outstanding Notes from time to time endorsed thereon and that the aggregate principal amount of outstanding Notes represented thereby may from time to time be reduced or increased, as appropriate, to reflect exchanges, redemptions and transfers of interests. Any endorsement of a Global Note to reflect the amount of any increase or decrease in the aggregate principal amount of outstanding Notes represented thereby will be made by the Trustee or the Custodian, at the direction of the Trustee, in accordance with instructions given by the Holder thereof as required by Section 2.06.

(c) *Euroclear and Clearstream Procedures Applicable.* The provisions of the "Operating Procedures of the Euroclear System" and "Terms and Conditions Governing Use of Euroclear" and the "General Terms and Conditions of Clearstream Banking" and "Customer Handbook" of Clearstream will be applicable to transfers of beneficial interests in the Regulation S Global Note that are held by Participants through Euroclear or Clearstream.

Section 2.02 *Execution and Authentication.*

At least one Officer must sign the Notes for the Company by manual or facsimile signature.

If an Officer whose signature is on a Note no longer holds that office at the time a Note is authenticated, the Note will nevertheless be valid.

A Note will not be valid until authenticated by the manual signature of the Trustee. The signature will be conclusive evidence that the Note has been authenticated under this Indenture.

The Trustee will, upon receipt of one or more written orders of the Company signed by at least one Officer (each an "*Authentication Order*"), authenticate Notes for original issue that may be validly issued under this Indenture, including any Additional Notes. The aggregate principal amount of Notes outstanding at any time may not exceed the aggregate principal amount of Notes authorized for issuance by the Company pursuant to one or more Authentication Orders, except as provided in Section 2.07.

The Trustee may appoint an authenticating agent acceptable to the Company to authenticate Notes. An authenticating agent may authenticate Notes whenever the Trustee may do so. Each reference in this Indenture to authentication by the Trustee includes authentication by such agent. An authenticating agent has the same rights as an Agent to deal with Holders or an Affiliate of the Company.

The Company will be responsible for making calculations called for under the Notes, including but not limited to determination of redemption price, premium, if any, and any additional amounts or other amounts payable on the Notes. The Company will make the calculations in good faith and, absent manifest error, its calculations will be final and binding on the Holders. The Company will provide a schedule of its calculations to the Trustee when requested by the Trustee, and the Trustee is entitled to rely conclusively on the accuracy of the Company's calculations without independent verification.

Section 2.03 *Registrar and Paying Agent.*

The Company will maintain an office or agency where Notes may be presented for registration of transfer or for exchange ("*Registrar*") and an office or agency where Notes may be presented for payment ("*Paying Agent*"). The Registrar will keep a register of the Notes and of their transfer and exchange. The Company may appoint one or more co-registrars and one or more additional paying agents. The term "Registrar" includes any co-registrar and the term "Paying Agent" includes any additional paying agent. The Company may change any Paying Agent or Registrar without notice to any Holder. The Company will notify the Trustee in writing of the name and address of any Agent not a party to this Indenture. If the Company fails to appoint or maintain another entity as Registrar or Paying Agent, the Trustee shall act as such. The Company or any of its Subsidiaries may act as Paying Agent or Registrar.

The Company initially appoints The Depository Trust Company (*"DTC"*) to act as Depositary with respect to the Global Notes.

The Company initially appoints the Trustee to act as the Registrar and Paying Agent and to act as Custodian with respect to the Global Notes. The Company has entered into a letter of representations with the Depositary in the form provided by the Depositary, and the Trustee and each Agent are hereby authorized to act in accordance with such letter and Applicable Procedures.

Section 2.04 *Paying Agent to Hold Money in Trust.*

The Company will require each Paying Agent other than the Trustee to agree in writing that the Paying Agent will hold in trust for the benefit of Holders or the Trustee all money held by the Paying Agent for the payment of principal of, premium on, if any, or interest, if any, on, the Notes, and will notify the Trustee of any default by the Company in making any such payment. While any such default continues, the Trustee may require a Paying Agent to pay all money held by it to the Trustee. The Company at any time may require a Paying Agent to pay all money held by it to the Trustee. Upon payment over to the Trustee, the Paying Agent (if other than the Company or a Subsidiary) will have no further liability for the money. If the Company or a Subsidiary acts as Paying Agent, it will segregate and hold in a separate trust fund for the benefit of the Holders all money held by it as Paying Agent. Upon any bankruptcy or reorganization proceedings relating to the Company, the Trustee will serve as Paying Agent for the Notes.

Section 2.05 *Holder Lists.*

The Trustee will preserve in as current a form as is reasonably practicable the most recent list available to it of the names and addresses of all Holders. If the Trustee is not the Registrar, the Company will furnish to the Trustee at least seven Business Days before each interest payment date, and at such other times as the Trustee may request in writing, a list in such form and as of such date as the Trustee may reasonably require of the names and addresses of the Holders of Notes.

Section 2.06 *Transfer and Exchange.*

(a) *Transfer and Exchange of Global Notes*. A Global Note may not be transferred except as a whole by the Depositary to a nominee of the Depositary, by a nominee of the Depositary to the Depositary or to another nominee of the Depositary, or by the Depositary or any such nominee to a successor Depositary or a nominee of such successor Depositary. All Global Notes will be exchanged by the Company for Definitive Notes if:

(1) the Company delivers to the Trustee notice from the Depositary that it is unwilling or unable to continue to act as Depositary or that it is no longer a clearing agency registered under the Exchange Act and, in either case, a successor Depositary is not appointed by the Company within 120 days after the date of such notice from the Depositary;

(2) the Company in its sole discretion determines that the Global Notes (in whole but not in part) should be exchanged for Definitive Notes and delivers a written notice to such effect to the Trustee; or

(3) there has occurred and is continuing a Default or Event of Default with respect to the Notes and the Registrar or Trustee has received a request from the Depositary to issue such Definitive Notes.

Upon the occurrence of any of the preceding events in (1), (2) or (3) above, Definitive Notes shall be issued in such names as the Depositary shall instruct the Trustee. Global Notes also may be exchanged or replaced, in whole or in part, as provided in Sections 2.07 and 2.10. Every Note authenticated and delivered in exchange for, or in lieu of, a Global Note or any portion thereof, pursuant to this Section 2.06 or Section 2.07 or 2.10, shall be authenticated and delivered in the form of, and shall be, a Global Note. A Global Note may not be exchanged for another Note other than as provided in this Section 2.06(a), however, beneficial interests in a Global Note may be transferred and exchanged as provided in Section 2.06(b), (c) or (f).

(b) *Transfer and Exchange of Beneficial Interests in the Global Notes*. The transfer and exchange of beneficial interests in the Global Notes will be effected through the Depositary, in accordance with the provisions of this Indenture and the Applicable Procedures. Beneficial interests in the Restricted Global Notes will be subject to restrictions on transfer comparable to those set forth herein to the extent required by the Securities Act. Transfers of beneficial interests in the Global Notes also will require compliance with either subparagraph (1) or (2) below, as applicable, as well as one or more of the other following subparagraphs, as applicable:

(1) *Transfer of Beneficial Interests in the Same Global Note*. Beneficial interests in any Restricted Global Note may be transferred to Persons who take delivery thereof in the form of a beneficial interest in the same Restricted Global Note in accordance with the transfer restrictions set forth in the Private Placement Legend; *provided, however*, that prior to the expiration of the Restricted Period, transfers of beneficial interests in the Regulation S Global Note may not be made to a U.S. Person or for the account or benefit of a U.S. Person (other than an Initial Purchaser). Beneficial interests in any Unrestricted Global Note may be transferred to Persons who take delivery thereof in the form of a beneficial interest in an Unrestricted Global Note. No written orders or instructions shall be required to be delivered to the Registrar to effect the transfers described in this Section 2.06(b)(1).

(2) *All Other Transfers and Exchanges of Beneficial Interests in Global Notes.* In connection with all transfers and exchanges of beneficial interests that are not subject to Section 2.06(b)(1) above, the transferor of such beneficial interest must deliver to the Registrar either:

(A) both:

(i) a written order from a Participant or an Indirect Participant given to the Depositary in accordance with the Applicable Procedures directing the Depositary to credit or cause to be credited a beneficial interest in another Global Note in an amount equal to the beneficial interest to be transferred or exchanged; and

(ii) instructions given in accordance with the Applicable Procedures containing information regarding the Participant account to be credited with such increase; or

(B) both:

(i) a written order from a Participant or an Indirect Participant given to the Depositary in accordance with the Applicable Procedures directing the Depositary to cause to be issued a Definitive Note in an amount equal to the beneficial interest to be transferred or exchanged; and

(ii) instructions given by the Depositary to the Registrar containing information regarding the Person in whose name such Definitive Note shall be registered to effect the transfer or exchange referred to in (1) above.

Upon satisfaction of all of the requirements for transfer or exchange of beneficial interests in Global Notes contained in this Indenture and the Notes or otherwise applicable under the Securities Act, the Trustee shall adjust the principal amount of the relevant Global Note(s) pursuant to Section 2.06(g).

(3) *Transfer of Beneficial Interests to Another Restricted Global Note.* A beneficial interest in any Restricted Global Note may be transferred to a Person who takes delivery thereof in the form of a beneficial interest in another Restricted Global Note if the transfer complies with the requirements of Section 2.06(b)(2) above and the Registrar receives the following:

(A) if the transferee will take delivery in the form of a beneficial interest in the 144A Global Note, then the transferor must deliver a certificate in the form of Exhibit B hereto, including the certifications in item (1) thereof;

(B) if the transferee will take delivery in the form of a beneficial interest in the Regulation S Global Note, then the transferor must deliver a certificate in the form of Exhibit B hereto, including the certifications in item (2) thereof; and

(C) if the transferee will take delivery in the form of a beneficial interest in the IAI Global Note, then the transferor must deliver a certificate in the form of Exhibit B hereto, including the certifications, certificates and Opinion of Counsel required by item (3) thereof, if applicable.

(4) *Transfer and Exchange of Beneficial Interests in a Restricted Global Note for Beneficial Interests in an Unrestricted Global Note.* A beneficial interest in any Restricted Global Note may be exchanged by any holder thereof for a beneficial interest in an Unrestricted Global Note or transferred to a Person who takes delivery thereof in the form of a beneficial interest in an Unrestricted Global Note if the exchange or transfer complies with the requirements of Section 2.06(b)(2) above and the Registrar receives the following:

(A) if the holder of such beneficial interest in a Restricted Global Note proposes to exchange such beneficial interest for a beneficial interest in an Unrestricted Global Note, a certificate from such holder in the form of Exhibit C hereto, including the certifications in item (1)(a) thereof; or

(B) if the holder of such beneficial interest in a Restricted Global Note proposes to transfer such beneficial interest to a Person who shall take delivery thereof in the form of a beneficial interest in an Unrestricted Global Note, a certificate from such holder in the form of Exhibit B hereto, including the certifications in item (4) thereof;

and, in each such case set forth in this subparagraph (4), if the Registrar so requests or if the Applicable Procedures so require, an Opinion of Counsel in form reasonably acceptable to the Registrar to the effect that such exchange or transfer is in compliance with the Securities Act and that the restrictions on transfer contained herein and in the Private Placement Legend are no longer required in order to maintain compliance with the Securities Act.

If any such transfer is effected at a time when an Unrestricted Global Note has not yet been issued, the Company shall issue and, upon receipt of an Authentication Order in accordance with Section 2.02, the Trustee shall authenticate one or more Unrestricted Global Notes in an aggregate principal amount equal to the aggregate principal amount of beneficial interests transferred.

Beneficial interests in an Unrestricted Global Note cannot be exchanged for, or transferred to Persons who take delivery thereof in the form of, a beneficial interest in a Restricted Global Note.

(5) *Automatic Exchange of Beneficial Interests in a Restricted Global Note for Beneficial Interests in an Unrestricted Global Note*.

Upon the Company's satisfaction that the Private Placement Legend shall no longer be required in order to maintain compliance with the Securities Act, beneficial interests in a Restricted Global Note may be automatically exchanged into beneficial interests in an Unrestricted Global Note without any action required by or on behalf of the Holder (the "Automatic Exchange") at any time on or after the date that is the 366th calendar day after (A) with respect to the Notes issued on the Issue Date, the Issue Date or (B) with respect to Additional Notes, if any, the issue date of such Additional Notes, or, in each case, if such day is not a Business Day, on the next succeeding Business Day (the "Automatic Exchange Date"). Upon the Company's satisfaction that the Private Placement Legend shall no longer be required in order to maintain compliance with the Securities Act, the Company may, but shall not be obligated to, (i) provide written notice to the Trustee at least 10 calendar days prior to the Automatic Exchange, instructing the Trustee to direct the Depositary to exchange all of the outstanding beneficial interests in a particular Restricted Global Note to the Unrestricted Global Note, which the Company shall have previously otherwise made eligible for exchange with the Depositary, (ii) provide prior written notice (the "Automatic Exchange Notice") to each Holder at such Holder's address appearing in the register of Holders at least 10 calendar days prior to the Automatic Exchange (the "Automatic Exchange Notice Date"), which notice must include (w) the Automatic Exchange Date, (x) the section of this Indenture pursuant to which the Automatic Exchange shall occur, (y) the "CUSIP" number of the Restricted Global Note from which such Holder's beneficial interests will be transferred and the (z) "CUSIP" number of the Unrestricted Global Note into which such Holder's beneficial interests will be transferred, and (iii) on or prior to the date of the Automatic Exchange, deliver to the Trustee for authentication one or more Unrestricted Global Notes, duly executed by the Company, in an aggregate principal amount equal to the aggregate principal amount of Restricted Global Notes to be exchanged. At the Company's request on no less than 5 calendar days' notice, the Trustee shall deliver, in the Company's name and at its expense, the Automatic Exchange Notice to each Holder at such Holder's address appearing in the register of Holders. Notwithstanding anything to the contrary in this Section 2.06, during the 10 day period between the Automatic Exchange Notice Date and the Automatic Exchange Date, no transfers or exchanges other than pursuant to this Section 2.06(b)(5)(v) shall be permitted without the prior written consent of the Company. As a condition to any Automatic Exchange, the Company shall provide, and the Trustee shall be entitled to rely upon, an Officer's Certificate in form reasonably acceptable to the Trustee to the effect that the Automatic Exchange shall be effected in compliance with the Securities Act and that the restrictions on transfer contained herein and in the Private Placement Legend shall no longer be required in order to maintain compliance with the Securities Act and that the aggregate principal amount of the particular Restricted Global Note is to be transferred to the particular Unrestricted Global Note by adjustment made on the records of the Trustee, as custodian for the Depositary to reflect the Automatic Exchange. Upon such exchange of beneficial interests pursuant to this Section 2.06(b)(5)(v), the aggregate principal amount of the Global Notes shall be increased or decreased by adjustments made on the records of the Trustee, as custodian for the Depositary, to reflect the relevant increase or decrease in the principal amount of such Global Note resulting from the applicable exchange. The Restricted Global Note from which beneficial interests are transferred pursuant to an Automatic Exchange shall be canceled following the Automatic Exchange.

(c) *Transfer or Exchange of Beneficial Interests for Definitive Notes.*

(1) *Beneficial Interests in Restricted Global Notes to Restricted Definitive Notes.* If any holder of a beneficial interest in a Restricted Global Note proposes to exchange such beneficial interest for a Restricted Definitive Note or to transfer such beneficial interest to a Person who takes delivery thereof in the form of a Restricted Definitive Note, then, upon receipt by the Registrar of the following documentation:

(A) if the holder of such beneficial interest in a Restricted Global Note proposes to exchange such beneficial interest for a Restricted Definitive Note, a certificate from such holder in the form of Exhibit C hereto, including the certifications in item (2)(a) thereof;

(B) if such beneficial interest is being transferred to a QIB in accordance with Rule 144A, a certificate to the effect set forth in Exhibit B hereto, including the certifications in item (1) thereof;

(C) if such beneficial interest is being transferred to a Non-U.S. Person in an offshore transaction in accordance with Rule 903 or Rule 904, a certificate to the effect set forth in Exhibit B hereto, including the certifications in item (2) thereof;

(D) if such beneficial interest is being transferred pursuant to an exemption from the registration requirements of the Securities Act in accordance with Rule 144, a certificate to the effect set forth in Exhibit B hereto, including the certifications in item (3)(a) thereof;

(E) if such beneficial interest is being transferred to an Institutional Accredited Investor in reliance on an exemption from the registration requirements of the Securities Act other than those listed in subparagraphs (B) through (D) above, a certificate to the effect set forth in Exhibit B hereto, including the certifications, certificates and Opinion of Counsel required by item (3) thereof, if applicable;

(F) if such beneficial interest is being transferred to the Company or any of its Subsidiaries, a certificate to the effect set forth in Exhibit B hereto, including the certifications in item (3)(b) thereof; or

(G) if such beneficial interest is being transferred pursuant to an effective registration statement under the Securities Act, a certificate to the effect set forth in Exhibit B hereto, including the certifications in item (3)(c) thereof,

the Trustee shall cause the aggregate principal amount of the applicable Global Note to be reduced accordingly pursuant to Section 2.06(g), and the Company shall execute and the Trustee shall authenticate and deliver to the Person designated in the instructions a Definitive Note in the appropriate principal amount. Any Definitive Note issued in exchange for a beneficial interest in a Restricted Global Note pursuant to this Section 2.06(c) shall be registered in such name or names and in such authorized denomination or denominations as the holder of such beneficial interest shall instruct the Registrar through instructions from the Depositary and the Participant or Indirect Participant. The Trustee shall deliver such Definitive Notes to the Persons in whose names such Notes are so registered. Any Definitive Note issued in exchange for a beneficial interest in a Restricted Global Note pursuant to this Section 2.06(c)(1) shall bear the Private Placement Legend and shall be subject to all restrictions on transfer contained therein.

(2) *Beneficial Interests in Restricted Global Notes to Unrestricted Definitive Notes.* A holder of a beneficial interest in a Restricted Global Note may exchange such beneficial interest for an Unrestricted Definitive Note or may transfer such beneficial interest to a Person who takes delivery thereof in the form of an Unrestricted Definitive Note only if the Registrar receives the following:

(A) if the holder of such beneficial interest in a Restricted Global Note proposes to exchange such beneficial interest for an Unrestricted Definitive Note, a certificate from such holder in the form of Exhibit C hereto, including the certifications in item (1)(b) thereof; or

(B) if the holder of such beneficial interest in a Restricted Global Note proposes to transfer such beneficial interest to a Person who shall take delivery thereof in the form of an Unrestricted Definitive Note, a certificate from such holder in the form of Exhibit B hereto, including the certifications in item (4) thereof;

and, in each such case set forth in this subparagraph (2), if the Company or Registrar so requests or if the Applicable Procedures so require, an Opinion of Counsel in form reasonably acceptable to the Company or the Registrar to the effect that such exchange or transfer is in compliance with the Securities Act and that the restrictions on transfer contained herein and in the Private Placement Legend are no longer required in order to maintain compliance with the Securities Act.

(3) *Beneficial Interests in Unrestricted Global Notes to Unrestricted Definitive Notes.* If any holder of a beneficial interest in an Unrestricted Global Note proposes to exchange such beneficial interest for a Definitive Note or to transfer such beneficial interest to a Person who takes delivery thereof in the form of a Definitive Note, then, upon satisfaction of the conditions set forth in Section 2.06(b)(2), the Trustee will cause the aggregate principal amount of the applicable Global Note to be reduced accordingly pursuant to Section 2.06(g), and the Company will execute and the Trustee will authenticate and deliver to the Person designated in the instructions a Definitive Note in the appropriate principal amount. Any Definitive Note issued in exchange for a beneficial interest pursuant to this Section 2.06(c)(3) will be registered in such name or names and in such authorized denomination or denominations as the holder of such beneficial interest requests through instructions to the Registrar from or through the Depositary and the Participant or Indirect Participant. The Trustee will deliver such Definitive Notes to the Persons in whose names such Notes are so registered. Any Definitive Note issued in exchange for a beneficial interest pursuant to this Section 2.06(c)(3) will not bear the Private Placement Legend.

(d) *Transfer and Exchange of Definitive Notes for Beneficial Interests.*

(1) *Restricted Definitive Notes to Beneficial Interests in Restricted Global Notes.* If any Holder of a Restricted Definitive Note proposes to exchange such Note for a beneficial interest in a Restricted Global Note or to transfer such Restricted Definitive Notes to a Person who takes delivery thereof in the form of a beneficial interest in a Restricted Global Note, then, upon receipt by the Registrar of the following documentation:

(A) if the Holder of such Restricted Definitive Note proposes to exchange such Note for a beneficial interest in a Restricted Global Note, a certificate from such Holder in the form of Exhibit C hereto, including the certifications in item (2)(b) thereof;

(B) if such Restricted Definitive Note is being transferred to a QIB in accordance with Rule 144A, a certificate to the effect set forth in Exhibit B hereto, including the certifications in item (1) thereof;

(C) if such Restricted Definitive Note is being transferred to a Non-U.S. Person in an offshore transaction in accordance with Rule 903 or Rule 904, a certificate to the effect set forth in Exhibit B hereto, including the certifications in item (2) thereof;

(D) if such Restricted Definitive Note is being transferred pursuant to an exemption from the registration requirements of the Securities Act in accordance with Rule 144, a certificate to the effect set forth in Exhibit B hereto, including the certifications in item (3)(a) thereof;

(E) if such Restricted Definitive Note is being transferred to an Institutional Accredited Investor in reliance on an exemption from the registration requirements of the Securities Act other than those listed in subparagraphs (B) through (D) above, a certificate to the effect set forth in Exhibit B hereto, including the certifications, certificates and Opinion of Counsel required by item (3) thereof, if applicable;

(F) if such Restricted Definitive Note is being transferred to the Company or any of its Subsidiaries, a certificate to the effect set forth in Exhibit B hereto, including the certifications in item (3)(b) thereof; or

(G) if such Restricted Definitive Note is being transferred pursuant to an effective registration statement under the Securities Act, a certificate to the effect set forth in Exhibit B hereto, including the certifications in item (3)(c) thereof,

the Trustee will cancel the Restricted Definitive Note and increase or cause to be increased the aggregate principal amount of, in the case of clause (A) above, the appropriate Restricted Global Note, in the case of clause (B) above, the 144A Global Note, in the case of clause (C) above, the Regulation S Global Note, and in all other cases, the IAI Global Note.

(2) *Restricted Definitive Notes to Beneficial Interests in Unrestricted Global Notes.* A Holder of a Restricted Definitive Note may exchange such Note for a beneficial interest in an Unrestricted Global Note or transfer such Restricted Definitive Note to a Person who takes delivery thereof in the form of a beneficial interest in an Unrestricted Global Note only if the Registrar receives the following:

(A) if the Holder of such Definitive Notes proposes to exchange such Notes for a beneficial interest in the Unrestricted Global Note, a certificate from such Holder in the form of Exhibit C hereto, including the certifications in item (1)(c) thereof; or

(B) if the Holder of such Definitive Notes proposes to transfer such Notes to a Person who shall take delivery thereof in the form of a beneficial interest in the Unrestricted Global Note, a certificate from such Holder in the form of Exhibit B hereto, including the certifications in item (4) thereof;

and, in each such case set forth in this subparagraph (2), if the Company or the Registrar so requests or if the Applicable Procedures so require, an Opinion of Counsel in form reasonably acceptable to the Company or the Registrar to the effect that such exchange or transfer is in compliance with the Securities Act and that the restrictions on transfer contained herein and in the Private Placement Legend are no longer required in order to maintain compliance with the Securities Act.

Upon satisfaction of the conditions of any of the subparagraphs in this Section 2.06(d)(2), the Trustee will cancel the Definitive Notes and increase or cause to be increased the aggregate principal amount of the Unrestricted Global Note.

(3) *Unrestricted Definitive Notes to Beneficial Interests in Unrestricted Global Notes.* A Holder of an Unrestricted Definitive Note may exchange such Note for a beneficial interest in an Unrestricted Global Note or transfer such Definitive Notes to a Person who takes delivery thereof in the form of a beneficial interest in an Unrestricted Global Note at any time. Upon receipt of a request for such an exchange or transfer, the Trustee will cancel the applicable Unrestricted Definitive Note and increase or cause to be increased the aggregate principal amount of one of the Unrestricted Global Notes.

If any such exchange or transfer from a Definitive Note to a beneficial interest is effected pursuant to subparagraphs (2) or (3) above at a time when an Unrestricted Global Note has not yet been issued, the Company will issue and, upon receipt of an Authentication Order in accordance with Section 2.02, the Trustee will authenticate one or more Unrestricted Global Notes in an aggregate principal amount equal to the principal amount of Definitive Notes so transferred.

(e) *Transfer and Exchange of Definitive Notes for Definitive Notes.* Upon request by a Holder of Definitive Notes and such Holder's compliance with the provisions of this Section 2.06(e), the Registrar will register the transfer or exchange of Definitive Notes. Prior to such registration of transfer or exchange, the requesting Holder must present or surrender to the Registrar the Definitive Notes duly endorsed or accompanied by a written instruction of transfer in form satisfactory to the Registrar duly executed by such Holder or by its attorney, duly authorized in writing. In addition, the requesting Holder must provide any additional certifications, documents and information, as applicable, required pursuant to the following provisions of this Section 2.06(e).

(1) *Restricted Definitive Notes to Restricted Definitive Notes.* Any Restricted Definitive Note may be transferred to and registered in the name of Persons who take delivery thereof in the form of a Restricted Definitive Note if the Registrar receives the following:

(A) if the transfer will be made pursuant to Rule 144A, then the transferor must deliver a certificate in the form of Exhibit B hereto, including the certifications in item (1) thereof;

(B) if the transfer will be made pursuant to Rule 903 or Rule 904, then the transferor must deliver a certificate in the form of Exhibit B hereto, including the certifications in item (2) thereof; and

(C) if the transfer will be made pursuant to any other exemption from the registration requirements of the Securities Act, then the transferor must deliver a certificate in the form of Exhibit B hereto, including the certifications, certificates and Opinion of Counsel required by item (3) thereof, if applicable.

(2) *Restricted Definitive Notes to Unrestricted Definitive Notes.* Any Restricted Definitive Note may be exchanged by the Holder thereof for an Unrestricted Definitive Note or transferred to a Person or Persons who take delivery thereof in the form of an Unrestricted Definitive Note if the Registrar receives the following:

(A) if the Holder of such Restricted Definitive Notes proposes to exchange such Notes for an Unrestricted Definitive Note, a certificate from such Holder in the form of Exhibit C hereto, including the certifications in item (1)(d) thereof; or

(B) if the Holder of such Restricted Definitive Notes proposes to transfer such Notes to a Person who shall take delivery thereof in the form of an Unrestricted Definitive Note, a certificate from such Holder in the form of Exhibit B hereto, including the certifications in item (4) thereof;

and, in each such case set forth in this subparagraph (2), if the Company or the Registrar so requests, an Opinion of Counsel in form reasonably acceptable to the Company or the Registrar to the effect that such exchange or transfer is in compliance with the Securities Act and that the restrictions on transfer contained herein and in the Private Placement Legend are no longer required in order to maintain compliance with the Securities Act.

(3) *Unrestricted Definitive Notes to Unrestricted Definitive Notes.* A Holder of Unrestricted Definitive Notes may transfer such Notes to a Person who takes delivery thereof in the form of an Unrestricted Definitive Note. Upon receipt of a request to register such a transfer, the Registrar shall register the Unrestricted Definitive Notes pursuant to the instructions from the Holder thereof.

(f) *Legends.* The following legends will appear on the face of all Global Notes and Definitive Notes issued under this Indenture unless specifically stated otherwise in the applicable provisions of this Indenture.

(1) *Private Placement Legend*.

(A) Except as permitted by subparagraph (B) below, each Global Note and each Definitive Note (and all Notes issued in exchange therefor or substitution thereof) shall bear the legend in substantially the following form:

"THIS SECURITY 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. NEITHER THIS SECURITY NOR ANY INTEREST OR PARTICIPATION HEREIN MAY BE REOFFERED, SOLD, ASSIGNED, TRANSFERRED, PLEDGED, ENCUMBERED OR OTHERWISE DISPOSED OF IN THE ABSENCE OF SUCH REGISTRATION OR UNLESS SUCH TRANSACTION IS EXEMPT FROM, OR NOT SUBJECT TO, SUCH REGISTRATION. THE HOLDER OF THIS SECURITY, BY ITS ACCEPTANCE HEREOF, AGREES ON ITS OWN BEHALF AND ON BEHALF OF ANY INVESTOR ACCOUNT FOR WHICH IT HAS PURCHASED SECURITIES, TO OFFER, SELL OR OTHERWISE TRANSFER SUCH SECURITY, PRIOR TO THE DATE (THE "RESALE RESTRICTION TERMINATION DATE") THAT IS THE DATE ONE YEAR AFTER THE LAST ORIGINAL ISSUE DATE HEREOF OR SUCH LATER DATE, IF ANY, AS MAY BE REQUIRED UNDER RULE 144 UNDER THE SECURITIES ACT OR ANY SUCCESSOR PROVISION THEREOF, ONLY (A) TO THE COMPANY OR ANY SUBSIDIARY OF THE COMPANY, (B) PURSUANT TO A REGISTRATION STATEMENT THAT HAS BEEN DECLARED EFFECTIVE UNDER THE SECURITIES ACT, (C) FOR SO LONG AS THE SECURITIES ARE ELIGIBLE FOR RESALE PURSUANT TO RULE 144A UNDER THE SECURITIES ACT, TO A PERSON IT REASONABLY BELIEVES IS A "QUALIFIED INSTITUTIONAL BUYER" AS DEFINED IN RULE 144A UNDER THE SECURITIES ACT THAT PURCHASES FOR ITS OWN ACCOUNT OR FOR THE ACCOUNT OF A QUALIFIED INSTITUTIONAL BUYER TO WHOM NOTICE IS GIVEN THAT THE TRANSFER IS BEING MADE IN RELIANCE ON RULE 144A, (D) IN AN OFFSHORE TRANSACTION COMPLYING WITH RULE 903 OR RULE 904 OF REGULATION S UNDER THE SECURITIES ACT, OR (E) PURSUANT TO ANOTHER AVAILABLE EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT, SUBJECT TO THE COMPANY'S AND THE TRUSTEE'S RIGHT PRIOR TO ANY SUCH OFFER, SALE OR TRANSFER PURSUANT TO CLAUSES (D) OR (E) TO REQUIRE THE DELIVERY OF AN OPINION OF COUNSEL, CERTIFICATION AND/OR OTHER INFORMATION SATISFACTORY TO EACH OF THEM. THIS LEGEND WILL BE REMOVED UPON THE REQUEST OF THE HOLDER AFTER THE RESALE RESTRICTION TERMINATION DATE."

(B) Notwithstanding the foregoing, any Global Note or Definitive Note issued pursuant to subparagraphs (b)(4), (c)(2), (c)(3), (d)(2), (d)(3), (e)(2), or (e)(3) of this Section 2.06 (and all Notes issued in exchange therefor or substitution thereof) will not bear the Private Placement Legend.

(2) *Global Note Legend*. Each Global Note will bear a legend in substantially the following form:

"THIS GLOBAL NOTE IS HELD BY THE DEPOSITARY (AS DEFINED IN THE INDENTURE GOVERNING THIS NOTE) OR ITS NOMINEE IN CUSTODY FOR THE BENEFIT OF THE BENEFICIAL OWNERS HEREOF, AND IS NOT TRANSFERABLE TO ANY PERSON UNDER ANY CIRCUMSTANCES EXCEPT THAT (1) THE TRUSTEE MAY MAKE SUCH NOTATIONS HEREON AS MAY BE REQUIRED PURSUANT TO SECTION 2.06 OF THE INDENTURE, (2) THIS GLOBAL NOTE MAY BE EXCHANGED IN WHOLE BUT NOT IN PART PURSUANT TO SECTION 2.06(a) OF THE INDENTURE, (3) THIS GLOBAL NOTE MAY BE DELIVERED TO THE TRUSTEE FOR CANCELLATION PURSUANT TO SECTION 2.11 OF THE INDENTURE AND (4) THIS GLOBAL NOTE MAY BE TRANSFERRED TO A SUCCESSOR DEPOSITARY WITH THE PRIOR WRITTEN CONSENT OF BELLRING DISTRIBUTION, LLC.

UNLESS AND UNTIL IT IS EXCHANGED IN WHOLE OR IN PART FOR NOTES IN DEFINITIVE FORM, THIS NOTE MAY NOT BE TRANSFERRED EXCEPT AS A WHOLE BY THE DEPOSITARY TO A NOMINEE OF THE DEPOSITARY OR BY A NOMINEE OF THE DEPOSITARY TO THE DEPOSITARY OR ANOTHER NOMINEE OF THE DEPOSITARY OR BY THE DEPOSITARY OR ANY SUCH NOMINEE TO A SUCCESSOR DEPOSITARY OR A NOMINEE OF SUCH SUCCESSOR DEPOSITARY. UNLESS THIS CERTIFICATE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY (55 WATER STREET, NEW YORK, NEW YORK) ("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 SUCH OTHER NAME AS MAY BE REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC (AND ANY PAYMENT IS MADE TO CEDE & CO. OR SUCH OTHER ENTITY AS MAY BE 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."

(g) *Cancellation and/or Adjustment of Global Notes.* At such time as all beneficial interests in a particular Global Note have been exchanged for Definitive Notes or a particular Global Note has been redeemed, repurchased or canceled in whole and not in part, each such Global Note will be returned to or retained and canceled by the Trustee in accordance with Section 2.11. At any time prior to such cancellation, if any beneficial interest in a Global Note is exchanged for or transferred to a Person who will take delivery thereof in the form of a beneficial interest in another Global Note or for Definitive Notes, the principal amount of Notes represented by such Global Note will be reduced accordingly and an endorsement will be made on the Schedule of Exchange of Interests on such Global Note by the Trustee or by the Depositary at the direction of the Trustee to reflect such reduction; and if the beneficial interest is being exchanged for or transferred to a Person who will take delivery thereof in the form of a beneficial interest in another Global Note, such other Global Note will be increased accordingly and an endorsement will be made on the Schedule of Exchanges of Interests on such Global Note by the Trustee or by the Depositary at the direction of the Trustee to reflect such increase.

(h) *General Provisions Relating to Transfers and Exchanges.*

(1) To permit registrations of transfers and exchanges, the Company will execute and the Trustee will authenticate Global Notes and Definitive Notes upon receipt of an Authentication Order in accordance with Section 2.02 or at the Registrar's request.

(2) No service charge will be made to a Holder of a beneficial interest in a Global Note or to a Holder of a Definitive Note for any registration of transfer or exchange, but the Company may require payment of a sum sufficient to cover any transfer tax or similar governmental charge payable in connection therewith (other than any such transfer taxes or similar governmental charge payable upon exchange or transfer pursuant to Sections 2.10, 3.06, 3.09, 4.10, 4.14 and 9.05).

(3) The Registrar will not be required to register the transfer of or exchange of any Note selected for redemption in whole or in part, except the unredeemed portion of any Note being redeemed in part.

(4) All Global Notes and Definitive Notes issued upon any registration of transfer or exchange of Global Notes or Definitive Notes will be the valid obligations of the Company, evidencing the same debt, and entitled to the same benefits under this Indenture, as the Global Notes or Definitive Notes surrendered upon such registration of transfer or exchange.

(5) Neither the Registrar nor the Company will be required:

(A) to issue, to register the transfer of or to exchange any Notes during a period beginning at the opening of business 15 days before the day of any selection of Notes for redemption under Section 3.02 and ending at the close of business on the day of selection;

(B) to register the transfer of or to exchange any Note selected for redemption in whole or in part, except the unredeemed portion of any Note being redeemed in part; or

(C) to register the transfer of or to exchange a Note between a record date and the next succeeding interest payment date.

(6) Prior to due presentment for the registration of a transfer of any Note, the Trustee, any Agent and the Company may deem and treat the Person in whose name any Note is registered on the books of the Registrar as the absolute owner of such Note for the purpose of receiving payment of principal of and interest on such Notes and for all other purposes, and none of the Trustee, any Agent or the Company shall be affected by notice to the contrary.

(7) The Trustee will authenticate Global Notes and Definitive Notes in accordance with the provisions of Section 2.02.

(8) All certifications, certificates and Opinions of Counsel required to be submitted to the Registrar pursuant to this Section 2.06 to effect a registration of transfer or exchange may be submitted by facsimile or electronically via email.

(9) Neither the Trustee nor the Registrar shall have any duty to monitor the Company's compliance with or have any responsibility with respect to the Company's compliance with any federal or state securities laws in connection with registrations of transfers and exchanges of the Notes. The Trustee shall have no obligation or duty to monitor, determine or inquire as to compliance with any restrictions on transfer imposed under this Indenture or under applicable law

with respect to any transfer of any interest in any Notes (including any transfers between or among the Depositary's participants or beneficial owners of interests in any Global Note) other than to require delivery of such certificates and other documentation, as is expressly required by, and to do so if and when expressly required by, the terms of this Indenture and to examine the same to determine substantial compliance as to form with the express requirements hereof.

(10) Neither the Trustee nor any Agent shall have responsibility for any actions taken or not taken by the Depositary.

(11) The Company, the Trustee, and the Registrar reserve the right to require the delivery of such legal opinions, certifications or other evidence as may reasonably be required in order to determine that the proposed transfer of any Restricted Global Note or Restricted Definitive Note is being made in compliance with the Securities Act or the Exchange Act, or rules or regulations adopted by the SEC from time to time thereunder, and applicable state securities laws.

(12) Notwithstanding anything herein to the contrary, no certificate of transfer in the form attached hereto as Exhibit B or Exhibit C, and no legal opinion, certification, or other documentation shall be required to effect the registration and transfer of the Initial Notes to any Selling Noteholder or Initial Purchaser on the Issue Date, any Selling Noteholder to Selling Noteholder on the Issue Date, or any Selling Noteholder who wishes to further transfer to the form of Restricted Global Note on the Issue Date other than (a) a duly completed Assignment Form, in the form included within Exhibit A hereto, (b) an instruction letter to the Trustee in form and substance reasonably satisfactory to the Company and the Trustee and (c) in the case where the Initial Notes to be so transferred will be delivered as beneficial interests in a Global Note, an instruction letter to the Trustee for delivery pursuant to DTC's Deposit and Withdrawal at Custodian (DWAC) service, such instruction letter to be in form and substance reasonably satisfactory to the Company and the Trustee.

Section 2.07 *Replacement Notes.*

If any mutilated Note is surrendered to the Trustee or the Company and the Trustee receives evidence to its satisfaction of the destruction, loss or theft of any Note, the Company will issue and the Trustee, upon receipt of an Authentication Order, will authenticate a replacement Note if the Trustee's requirements are met. If required by the Trustee or the Company, an indemnity bond must be supplied by the Holder that is sufficient in the judgment of the Trustee and the Company to protect the Company, the Trustee, any Agent and any authenticating agent from any loss that any of them may suffer if a Note is replaced. The Company may charge for its expenses in replacing a Note.

Every replacement Note is an additional obligation of the Company and will be entitled to all of the benefits of this Indenture equally and proportionately with all other Notes duly issued hereunder.

Section 2.08 *Outstanding Notes.*

The Notes outstanding at any time are all the Notes authenticated by the Trustee except for those canceled by it, those delivered to it for cancellation, those reductions in the interest in a Global Note effected by the Trustee in accordance with the provisions hereof, and those described in this Section 2.08 as not outstanding. Except as set forth in Section 2.09, a Note does not cease to be outstanding because the Company or an Affiliate of the Company holds the Note.

If a Note is replaced pursuant to Section 2.07, it ceases to be outstanding unless the Trustee receives proof satisfactory to it that the replaced Note is held by a protected purchaser.

If the principal amount of any Note is considered paid under Section 4.01, it ceases to be outstanding and interest on it ceases to accrue.

If the Paying Agent (other than the Company, a Subsidiary or an Affiliate of any thereof) holds, on a redemption date or maturity date, money sufficient to pay Notes payable on that date, then on and after that date such Notes will be deemed to be no longer outstanding and will cease to accrue interest.

Section 2.09 *Treasury Notes.*

In determining whether the Holders of the required principal amount of Notes have concurred in any direction, waiver or consent, Notes owned by the Company or any Guarantor, or by any Person directly or indirectly controlling or controlled by or under direct or indirect common control with the Company or any Guarantor, will be considered as though not outstanding, except that for the purposes of determining whether the Trustee will be protected in relying on any such direction, waiver or consent, only Notes that the Trustee knows are so owned will be so disregarded.

Section 2.10 *Temporary Notes.*

Until certificates representing Notes are ready for delivery, the Company may prepare and the Trustee, upon receipt of an Authentication Order, will authenticate temporary Notes. Temporary Notes will be substantially in the form of certificated Notes but may have variations that the Company considers appropriate for temporary Notes and as may be reasonably acceptable to the Trustee. Without unreasonable delay, the Company will prepare and the Trustee will authenticate definitive Notes in exchange for temporary Notes.

Holders of temporary Notes will be entitled to all of the benefits of this Indenture.

Section 2.11 *Cancellation.*

The Company at any time may deliver Notes to the Trustee for cancellation. The Registrar and Paying Agent will forward to the Trustee any Notes surrendered to them for registration of transfer, exchange or payment. The Trustee and no one else will cancel all Notes surrendered for registration of transfer, exchange, payment, replacement or cancellation. All cancelled Notes held by the Trustee shall be retained and disposed of by the Trustee in accordance with its customary procedures and applicable law. Certification of the cancellation of all canceled Notes will be delivered to the Company upon request. The Company may not issue new Notes to replace Notes that it has paid or that have been delivered to the Trustee for cancellation.

Section 2.12 *Defaulted Interest.*

If the Company defaults in a payment of interest on the Notes, it will pay the defaulted interest in any lawful manner plus, to the extent lawful, interest payable on the defaulted interest, to the Persons who are Holders on a subsequent special record date, in each case at the rate provided in the Notes and in Section 4.01. The Company will notify the Trustee in writing of the amount of defaulted interest proposed to be paid on each Note and the date of the proposed payment. The Company will fix or cause to be fixed each such special record date and payment date; *provided* that no such special record date may be less than 10 days prior to the related payment date for such defaulted interest. At least 15 days before the special record date, the Company (or, upon the written request of the Company, the Trustee in the name and at the expense of the Company) will mail or cause to be mailed to Holders a notice that states the special record date, the related payment date and the amount of such interest to be paid.

Section 2.13 *CUSIP Numbers.*

The Company in issuing the Notes may use CUSIP, ISIN or other similar numbers, if then generally in use, and thereafter with respect to such Notes the Trustee may use such numbers in any notice provided that any such notice may state that no representation is made as to the correctness of such numbers either as printed on the Notes or as contained in any notice and that reliance may be placed only on the other identification numbers printed on the Notes, and any such notice shall not be affected by any defect in or omission of such numbers. The Company will promptly notify the Trustee in writing of any change in the CUSIP, ISIN or other similar numbers.

ARTICLE 3
REDEMPTION AND PREPAYMENT

Section 3.01 *Notices to Trustee.*

If the Company elects to redeem Notes pursuant to the optional redemption provisions of Section 3.07, it must furnish to the Trustee, at least 10 days but not more than 60 days before a redemption date, an Officer's Certificate setting forth:

(1) the clause of this Indenture pursuant to which the redemption shall occur;

(2) the redemption date;

(3) the principal amount of Notes to be redeemed; and

(4) the redemption price.

Section 3.02 *Selection of Notes to Be Redeemed or Purchased.*

If less than all of the Notes are to be redeemed or purchased at any time and the Notes are not in global form, unless otherwise required by law or applicable stock exchange or depositary requirements, the Trustee will select Notes for redemption or purchase as follows:

(1) if the Notes are listed, in compliance with the requirements of the principal national securities exchange on which the Notes are listed; or

(2) if the Notes are not so listed, on a *pro rata* basis subject to adjustment for minimum denominations.

If less than all of the Notes are to be redeemed at any time and the Notes are Global Notes, the Notes to be redeemed will be selected in accordance with the Applicable Procedures.

In the event of partial redemption or purchase by lot, the particular Notes to be redeemed or purchased will be selected, unless otherwise provided herein, not less than 15 days nor more than 60 days prior to the redemption or purchase date by the Trustee from the outstanding Notes not previously called for redemption or purchase.

The Trustee will promptly notify the Company in writing of the Notes selected for redemption or purchase and, in the case of any Note selected for partial redemption or purchase, the principal amount thereof to be redeemed or purchased. Notes and portions of Notes selected will be in minimum amounts of $2,000 or whole multiples of $1,000 in excess thereof; except that if all of the Notes of a Holder are to be redeemed or purchased, the entire outstanding amount of Notes held by such Holder shall be redeemed or purchased. Except as provided in the preceding sentence, provisions of this Indenture that apply to Notes called for redemption or purchase also apply to portions of Notes called for redemption or purchase.

Section 3.03 *Notice of Redemption.*

Subject to the provisions of Section 3.09, at least 10 days but not more than 60 days before a redemption date, the Company will send or cause to be sent in accordance with the Applicable Procedures, or by first class mail with respect to Definitive Notes, a notice of redemption to each Holder whose Notes are to be redeemed at its registered address, except that redemption notices may be mailed more than 60 days prior to a redemption date if the notice is issued in connection with a defeasance of the Notes or a satisfaction and discharge of this Indenture pursuant to Articles 8 or 11.

The notice will identify the Notes to be redeemed and will state:

(1) the redemption date;

(2) the redemption price;

(3) if any Note is being redeemed in part, the portion of the principal amount of such Note to be redeemed and that, after the redemption date upon surrender of such Note, a new Note or Notes in principal amount equal to the unredeemed portion will be issued (or transferred by book entry) upon cancellation of the original Note;

(4) the name and address of the Paying Agent;

(5) that Notes called for redemption must be surrendered to the Paying Agent to collect the redemption price;

(6) that, unless the Company defaults in making such redemption payment, interest on Notes called for redemption ceases to accrue on and after the redemption date;

(7) the paragraph of the Notes and/or Section of this Indenture pursuant to which the Notes called for redemption are being redeemed;

(8) that no representation is made as to the correctness or accuracy of the CUSIP number, if any, listed in such notice or printed on the Notes; and

(9) any conditions precedent to such redemption in reasonable detail.

At the Company's request, the Trustee will give the notice of redemption in the Company's name and at its expense; *provided, however*, that the Company has delivered to the Trustee, at least 5 days prior to the date the notice of redemption is to be sent (unless a shorter period shall be satisfactory to the Trustee), an Officer's Certificate requesting that the Trustee give such notice together with the notice to be given setting forth the information to be stated in such notice as provided in the preceding paragraph.

Any redemption or notice of any redemption may, at the Company's discretion, be subject to one or more conditions precedent, including, but not limited to, a Change of Control, other debt or equity financing, acquisition or other corporate transaction or event (or series of related transactions), and, at the Company's discretion, the redemption date may be delayed until such time (including more than 60 days after the date the notice of redemption was mailed or delivered, including by electronic transmission) as

any or all of such conditions have been satisfied or waived, or such notice may be rescinded at any time in the Company's discretion if in the good faith judgment of the Company any or all of such conditions will not be satisfied or waived. In addition, the Company may provide in any notice of redemption that payment of the redemption price and the performance of its obligations with respect to such redemption may be performed by another Person; *provided*, *however*, that the Company will remain obligated to pay the redemption price and perform its obligations with respect to such redemption in the event such other Person fails to do so.

Any such condition(s) precedent will be described in the notice of redemption in reasonable detail. If any notice of redemption is rescinded as provided in the immediately preceding paragraph, the Company shall provide written notice to the Trustee not later than 11:00 a.m. New York City time on the redemption date if such notice has been delayed or rescinded, and upon receipt the Trustee shall provide such notice to each Holder of the Notes in the same manner in which the notice of redemption was given. The Trustee makes no representations or warranties about the Depositary's ability to prevent a redemption, and shall have no liability for the Depositary's inability or unwillingness to prevent the redemption.

Section 3.04 *Effect of Notice of Redemption.*

Once notice of redemption is sent in accordance with Section 3.03 hereof, except as may be provided in Section 3.03 if any such redemption is subject to any condition precedent, Notes called for redemption become irrevocably due and payable on the redemption date at the redemption price.

Section 3.05 *Deposit of Redemption or Purchase Price.*

At or prior to 11:00 a.m. Eastern Time, on or prior to the redemption or purchase date, the Company will deposit with the Trustee or with the Paying Agent money sufficient to pay the redemption or purchase price of, and accrued and unpaid interest on, if any, all Notes to be redeemed or purchased on that date. The Trustee or the Paying Agent will promptly return to the Company any money deposited with the Trustee or the Paying Agent by the Company in excess of the amounts necessary to pay the redemption or purchase price of, and accrued and unpaid interest on, if any, all Notes to be redeemed or purchased.

If the Company complies with the provisions of the preceding paragraph, on and after the redemption or purchase date, interest will cease to accrue on the Notes or the portions of Notes called for redemption or purchase. If a Note is redeemed or purchased on or after an interest record date but on or prior to the related interest payment date, then any accrued and unpaid interest shall be paid to the Person in whose name such Note was registered at the close of business on such record date. If any Note called for redemption or purchase is not so paid upon surrender for redemption or purchase because of the failure of the Company to comply with the preceding paragraph, interest shall be paid on the unpaid principal, from the redemption or purchase date until such principal is paid, and to the extent lawful on any interest not paid on such unpaid principal, in each case at the rate provided in the Notes and in Section 4.01.

Section 3.06 *Notes Redeemed or Purchased in Part.*

Upon surrender of a Note that is redeemed or purchased in part, the Company will issue (or deliver by book entry transaction pursuant to Applicable Procedures) and, upon receipt of an Authentication Order, the Trustee will authenticate for the Holder at the expense of the Company a new Note equal in principal amount to the unredeemed or unpurchased portion of the Note surrendered.

Section 3.07 *Optional Redemption.*

(a) Except as provided in this Section 3.07, the Notes will not be redeemable at the Company's option prior to March 15, 2027.

(b) [Reserved].

(c) At any time prior to March 15, 2027, the Company may on any one or more occasions redeem all or a part of the Notes upon not less than 10 days' nor more than 60 days' notice, at a redemption price equal to 100% of the principal amount of the Notes redeemed, plus the Applicable Premium as of, and accrued and unpaid interest, if any, to, the date of redemption, subject to the rights of holders of Notes on the relevant record date to receive interest due on the relevant interest payment date. The Company shall notify the Trustee of the Applicable Premium promptly after the calculation, and the Trustee shall not be responsible for such calculation.

(d) On or after March 15, 2027, the Company may on any one or more occasions redeem all or a part of the Notes, upon not less than 10 days' nor more than 60 days' notice, at the redemption prices (expressed as a percentage of principal amount of the Notes) set forth below, plus accrued and unpaid interest, if any, to the applicable redemption date, if redeemed during the twelve-month period beginning on March 15 of the years indicated below:

Year	Percentage
2027	101.750%
2028	101.750%
2029 and thereafter	100.000%

If an optional redemption date is on or after an interest record date and on or before the related interest payment date, the accrued and unpaid interest, if any, will be paid to the Person in whose name the Notes are registered at the close of business on such record date, and no additional interest will be payable to Holders whose Notes will be subject to such redemption by the Company.

Notwithstanding the foregoing, in connection with a Change of Control Offer or Net Proceeds Offer, if not less than 90% in aggregate principal amount of the outstanding Notes are validly tendered and not withdrawn in such offer and the Company, or any third party making such offer in lieu of the Company, purchases all of the Notes validly tendered and not withdrawn, the Company or such third party will have the right upon not less than 10 days' nor more than 60 days' prior notice, given not more than 10 days following such purchase date, to redeem (and the Holders of the remaining Notes shall be deemed to have agreed to surrender) all Notes that remain outstanding following such purchase at a redemption price equal to 101% (in the case of a Change of Control Offer) or 100% (in the case of a Net Proceeds Offer) of the principal amount thereof in such offer, plus accrued and unpaid interest, if any, thereon, to, but excluding, the date of such redemption.

The Company or any of its Restricted Subsidiaries may at any time and from time to time purchase Notes in the open market or otherwise.

Unless the Company defaults in the payment of the redemption price, interest will cease to accrue on the Notes or portions thereof called for redemption on the applicable redemption date.

(e) Any redemption pursuant to this Section 3.07 shall be made pursuant to the provisions of Sections 3.01 through 3.06.

Section 3.08 *Mandatory Redemption.*

The Company is not required to make mandatory redemption payments or sinking fund payments with respect to the Notes.

Section 3.09 *Offer to Repurchase by Application of Excess Proceeds of Asset Sales.*

In the event that, pursuant to Section 4.10, the Company is required to commence a Net Proceeds Offer, it will follow the procedures specified below.

Upon the commencement of a Net Proceeds Offer, the Company will send, in accordance with Applicable Procedures, or by first class mail with respect to Definitive Notes, a notice to the Trustee and each of the Holders. The notice will contain all instructions and materials necessary to enable such Holders to tender Notes pursuant to the Net Proceeds Offer. The notice, which will govern the terms of the Net Proceeds Offer, will state:

(1) that the Net Proceeds Offer is being made pursuant to this Section 3.09 and Section 4.10 and the length of time the Net Proceeds Offer will remain open;

(2) the Net Proceeds Offer Amount, the purchase price and the date of purchase (the "*Purchase Date*");

(3) that any Note not tendered or accepted for payment will continue to accrete or accrue interest;

(4) that, unless the Company defaults in making such payment, any Note accepted for payment pursuant to the Net Proceeds Offer will cease to accrue interest on the Purchase Date;

(5) that Holders electing to have a Note purchased pursuant to a Net Proceeds Offer may elect to have Notes purchased in minimum denominations of $2,000 or an integral multiple of $1,000 in excess thereof;

(6) that Holders electing to have Notes purchased pursuant to any Net Proceeds Offer will be required to surrender the Note, with the form entitled "Option of Holder to Elect Purchase" attached to the Notes completed, or transfer by book-entry transfer, to the Company, a Depositary, if appointed by the Company, or a Paying Agent at the address specified in the notice at least three Business Days before the Purchase Date;

(7) that , until the close of business on the tenth Business Day after the date such notice is sent (or such later time and date as the Company may decide in its sole discretion) (such time and date, the "*withdrawal deadline*"), Holders will be entitled to withdraw their election if the Company, the Depositary or the Paying Agent, as the case may be, receives, not later than the withdrawal deadline, a facsimile, email transmission or letter setting forth the name of the Holder, the principal amount of the Note the Holder delivered for purchase and a statement that such Holder is withdrawing his election to have such Note purchased;

(8) that, if the aggregate principal amount of Notes and other Pari Passu Indebtedness surrendered by holders thereof exceeds the Offer Amount, the Company will select the Notes and other Pari Passu Indebtedness to be purchased or repaid on a *pro rata* basis based on the principal amount of Notes and such other Pari Passu Indebtedness surrendered (with such adjustments as may be deemed appropriate by the Company so that only Notes in minimum denominations of $2,000, or an integral multiple of $1,000 in excess thereof, will be purchased); and

(9) that Holders whose Notes were purchased only in part will be issued new Notes equal in principal amount to the unpurchased portion of the Notes surrendered (or transferred by book-entry transfer).

On or before the Purchase Date, the Company will, to the extent lawful, accept for payment, on a *pro rata* basis to the extent necessary, the Offer Amount (less any *pro rata* portion thereof attributable to other Pari Passu Indebtedness) of Notes or portions thereof tendered pursuant to the Net Proceeds Offer, or if less than the Offer Amount attributable to the Notes has been tendered, all Notes tendered, and will deliver or cause to be delivered to the Trustee the Notes properly accepted together with an Officer's Certificate stating that such Notes or portions thereof were accepted for payment by the Company in accordance with the terms of this Section 3.09. The Company, the Depositary or the Paying Agent, as the case may be, will promptly mail or deliver to each tendering Holder an amount equal to the purchase price of the Notes tendered by such Holder and accepted by the Company for purchase, and the Company will promptly issue a new Note, and the Trustee, upon written request from the Company, will authenticate and mail or deliver (or cause to be transferred by book entry) such new Note to such Holder, in a principal amount equal to any unpurchased portion of the Note surrendered. Any Note not so accepted shall be promptly mailed or delivered by the Company to the Holder thereof. The Company will publicly announce the results of the Net Proceeds Offer on the Purchase Date.

If the Purchase Date is on or after an interest record date and on or before the related interest payment date, any accrued and unpaid interest, if any, will be paid to the Person in whose name a Note is registered at the close of business on such record date, and no additional interest will be payable to Holders who tender Notes pursuant to the Net Proceeds Offer.

Other than as specifically provided in this Section 3.09 or Section 4.10, any purchase pursuant to this Section 3.09 shall be made pursuant to the provisions of Sections 3.01 through 3.06.

ARTICLE 4
COVENANTS

Section 4.01 *Payment of Notes.*

The Company will pay or cause to be paid the principal of, premium on, if any, and interest on the Notes on the dates and in the manner provided in the Notes. Principal, premium, if any, and interest will be considered paid on the date due if the Paying Agent, if other than the Company or a Subsidiary thereof, holds as of 10:00 a.m. Eastern Time on the due date money deposited by the Company in immediately available funds and designated for and sufficient to pay all principal, premium, if any, and interest then due.

The Company will pay interest (including post-petition interest in any proceeding under any Bankruptcy Law) on overdue principal at the then applicable interest rate on the Notes to the extent lawful; it will pay interest (including post-petition interest in any proceeding under any Bankruptcy Law) on overdue installments of interest, if any (without regard to any applicable grace period), at the same rate to the extent lawful.

Section 4.02 *Maintenance of Office or Agency.*

The Company will maintain an office or agency (which may be an office of the Trustee or an affiliate of the Trustee, Registrar or co-registrar) where Notes may be surrendered for registration of transfer or for exchange and where notices and demands to or upon the Company in respect of the Notes and this Indenture may be served. The Company will give prompt written notice to the Trustee of the location, and any change in the location, of such office or agency. If at any time the Company fails to maintain any such required office or agency or fails to furnish the Trustee with the address thereof, such presentations, surrenders, notices and demands may be made or served at the Corporate Trust Office of the Trustee.

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 such purposes and may from time to time rescind such designations; *provided, however*, that no such designation or rescission will in any manner relieve the Company of its obligation to maintain an office or agency for such purposes. The Company will give prompt written notice to the Trustee of any such designation or rescission and of any change in the location of any such other office or agency.

The Company hereby designates the Corporate Trust Office of the Trustee as one such office or agency of the Company in accordance with Section 2.03.

Section 4.03 *Reports.*

(a) Beginning on the Issue Date, so long as any Notes are outstanding, the Company will furnish to the Trustee:

(1) within 90 days after the end of each fiscal year, beginning with the fiscal year ending September 30, 2022, annual financial information of the Company containing substantially all of the financial information that would have been required to be contained in an Annual Report on Form 10-K under the Exchange Act if the Company had been a reporting company under the Exchange Act (but only to the extent similar information was included or incorporated by reference in the Offering Memorandum), consisting of (A) "Management's Discussion and Analysis of Financial Condition and Results of Operations," and (B) audited financial statements prepared in accordance with GAAP;

(2) within 45 days after the end of each of the first three fiscal quarters of each fiscal year, beginning with the fiscal quarter ending March 31, 2022, quarterly financial information of the Company containing substantially all of the financial information that would have been required to be contained in a Quarterly Report on Form 10-Q under the Exchange Act if the Company had been a reporting company under the Exchange Act (but only to the extent similar information was included or incorporated by reference in the Offering Memorandum), consisting of (A) "Management's Discussion and Analysis of Financial Condition and Results of Operations," and (B) unaudited quarterly financial statements prepared in accordance with GAAP and reviewed pursuant to Statement on Auditing Standards No. 100 (or any successor provision); and

(3) within 10 Business Days after the occurrence of each event that would have been required to be reported in a Current Report on Form 8-K under the Exchange Act if the Company had been a reporting company under the Exchange Act, current reports containing substantially all of the information that would have been required to be contained in a Current Report on Form 8-K under the Exchange Act if the Company had been a reporting company under the Exchange Act; *provided, however*, that no such current report or any information required to be contained in such report will be required to be furnished if the Company determines in its good faith judgment that such event, or any information with respect to such event which is not included in any report that is furnished, is not material to noteholders or the business, assets, operations, financial positions or prospects of the Company and its Restricted Subsidiaries, taken as a whole, or such current report relates solely to information required under Items 3.01, 3.02, or 3.03, insofar as it relates to securities other than the Notes and the Subsidiary Guaranties, 4.01, 5.02(a), 5.02(d), 5.02(e), 5.04, 5.06 or 5.07 of Form 8-K or any successor provisions thereto;

provided, however, that (i) any information required by part III of Form 10-K shall be deemed to be timely delivered in accordance with the foregoing requirements so long as it is included in a definitive proxy statement or amendment to Form 10-K filed with the Commission within the period permitted under the SEC's rules and regulations and (ii) all such reports (A) will not be required to comply with Section 302, 906 or Section 404 of the Sarbanes-Oxley Act of 2002, or related Items 307 and 308 of Regulation S-K promulgated by the Commission, or Item 10(e) of Regulation S-K (with respect to any non-GAAP financial measures contained therein), (B) will not be required to contain the information required by Items 201, 402, 403, 405, 406, 407, 701 or 703 of Regulation S-K, (C) will not be required to contain the separate financial information for Guarantors contemplated by Rule 3-10 of Regulation S-X promulgated by the Commission or any financial statements required by Rule 3-05, 3-09, 3-16, 4-08, 13-01 or 13-02 of Regulation S-X promulgated by the Commission or comply with Article 11 of Regulation S-X, (D) will not be required to contain any "segment reporting" or any earnings per share information, (E) will not be required to contain any document that would be required under the SEC's rules and regulations to be filed as an exhibit to Form 10-K, Form 10-Q or Form 8-K, (F) will not be required to include any summary of the terms of, any employment or compensatory arrangement, agreement, plan or understanding between the Company or any of its Subsidiaries and any director, officer or manager of the Company or any of its Subsidiaries and (G) will not be required to include any trade secrets, privileged or confidential information obtained from another Person and competitively sensitive information and other proprietary information.

Notwithstanding any of the foregoing, the delivery requirements of clauses (1), (2) or (3) above will be deemed satisfied if the foregoing materials are publicly available on the Commission's EDGAR system (or a successor thereto) within the applicable time periods specified above.

(b) So long as any Notes are outstanding and the Company is not subject to the periodic reporting requirements under the Exchange Act, if the foregoing materials are not publicly available on the SEC's EDGAR system (or a successor thereto) within the applicable time periods specified above, the Company will also:

(1) issue a press release to an internationally recognized wire service no fewer than three Business Days prior to the first public disclosure of the annual and quarterly reports required by clauses (1) and (2) of Section 4.03(a) announcing the date on which such reports will become publicly available and directing noteholders, prospective investors, broker-dealers and securities analysts to contact the investor relations office of the Company to obtain copies of such reports; and

(2) maintain a website to which noteholders, bona fide prospective investors, broker-dealers and securities analysts are given access and to which all of the reports and press releases required by this Section 4.03 are posted; *provided* that the Company may deny access to any competitively-sensitive information or reports otherwise to be provided pursuant to this paragraph to any such noteholder, bona fide prospective investor or security analyst that is a competitor of the Company and its Subsidiaries to the extent that the Company determines in good faith that the provision of such information or reports to such Person would be competitively harmful to the Company and its Subsidiaries; and provided, further, that such noteholder, bona fide prospective investor or security analyst shall agree to (i) treat all such reports (and the information contained therein) and information as confidential, (ii) not use such reports and the information contained therein for any purpose other than their investment or potential investment in the Notes and (iii) not publicly disclose any such reports (and the information contained therein).

(c) So long as any Notes are outstanding, the Company (or any Parent Company) will also:

(1) at any time after the Company releases its earnings for any annual or quarterly period, but in no event later than 10 Business Days after furnishing to the Trustee (or filing with the Commission) the financial information required by clauses (1) and (2) of Section 4.03(a), hold a conference call to discuss such financial information and the results of operations for the relevant reporting period (which conference call may, at the option of the Company, be the same conference call that the Company's shareholders and/or equity research analysts are invited to); and

(2) issue a press release or otherwise announce (which announcement may be made available on the nonpublic website referred to in clause (2) of the immediately preceding paragraph) no fewer than three Business Days prior to the date of the conference call required to be held in accordance with this paragraph, announcing the time and date of such conference call and either including all information necessary to access the call or directing noteholders, prospective investors, broker-dealers and securities analysts to contact the appropriate person at the Company to obtain such information.

Notwithstanding any of the foregoing, the Company may satisfy its obligations pursuant to this Section 4.03 with respect to financial information relating to the Company by furnishing financial information relating to any Parent Company; *provided* that the same is accompanied by consolidating information that explains in reasonable detail the differences between the information relating to such Parent Company (and other parent entities included in such information, if any), on the one hand, and the information relating to the Company and its Restricted Subsidiaries on a standalone basis, on the other hand. For the avoidance of doubt, the consolidating information referred to in the proviso in the preceding sentence need not be audited.

(d) In addition, the Company shall furnish to noteholders, prospective investors, broker-dealers and securities analysts, upon their request, any information required to be delivered pursuant to Rule 144A(d)(4) under the Securities Act so long as the Notes are not freely transferable under the Securities Act.

Notwithstanding anything herein to the contrary, any failure to comply with this Section 4.03 shall be automatically cured when the Company provides all required reports to the Trustee or the Holders, as applicable, or files all required reports with the SEC, or holds such conference call, as applicable.

Delivery of the above reports to the Trustee is for informational purposes only and the Trustee's receipt of such reports shall not constitute actual or constructive notice of any information contained therein or determinable from information contained therein, including the Company's or any Subsidiary's compliance with any of their respective covenants hereunder (as to which the Trustee is entitled to rely exclusively on Officer's Certificates or certificates delivered pursuant to Section 4.04) or any other agreement or document. The Trustee shall not be obligated to monitor or confirm, on a continuing basis or otherwise, the Company's compliance with the covenants or with respect to any reports or other documents filed with the SEC or EDGAR or any website under this Indenture, or participate in any conference calls.

Section 4.04 *Compliance Certificate.*

(a) The Company shall deliver to the Trustee, within 90 days after the end of each fiscal year, an Officer's Certificate signed by the principal executive officer, the principal financial officer or the principal accounting officer that need not comply with Section 12.05 stating that a review of the activities of the Company and its Subsidiaries during the preceding fiscal year has been made under the supervision of the signing Officer with a view to determining whether the Company has kept, observed, performed and fulfilled its obligations under this Indenture, and further stating, as to such Officer signing such certificate, that to his or her knowledge the Company has kept, observed, performed and fulfilled each and every covenant contained in this Indenture and is not in default in the performance or observance of any of the terms, provisions and conditions of this Indenture (or, if a Default or Event of Default has occurred, describing all such Defaults or Events of Default of which he or she may have knowledge and what action the Company is taking or proposes to take with respect thereto).

(b) So long as any of the Notes are outstanding, the Company will deliver to the Trustee, promptly upon any Officer obtaining knowledge of any Default or Event of Default, an Officer's Certificate describing such Default or Event of Default and the status thereof.

Section 4.05 [Reserved].

Section 4.06 *Stay, Extension and Usury Laws.*

The Company and each of the Guarantors covenants (to the extent that it may lawfully do so) that it will not at any time insist upon, plead, or in any manner whatsoever claim or take the benefit or advantage of, any stay, extension or usury law wherever enacted, now or at any time hereafter in force, that may affect the covenants or the performance of this Indenture; and the Company and each of the Guarantors (to the extent that it may lawfully do so) hereby expressly waives all benefit or advantage of any such law, and covenants that it will not, by resort to any such law, 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 has been enacted.

Section 4.07 *Restricted Payments.*

(a) The Company will not, and will not permit any of its Restricted Subsidiaries to, directly or indirectly:

(1) declare or pay any dividend or make any other payment or distribution on account of the Company's or any of its Restricted Subsidiaries' Equity Interests (including, without limitation, any payment in connection with any merger or consolidation involving the Company or any of its Restricted Subsidiaries) or to the direct or indirect holders of the Company's or any of its Restricted Subsidiaries' Equity Interests in their capacity as such (other than dividends or distributions payable in Equity Interests (other than Disqualified Stock) of the Company and other than dividends or distributions payable to the Company or a Restricted Subsidiary of the Company);

(2) purchase, repurchase, redeem, defease or otherwise acquire or retire for value (including, without limitation, in connection with any merger or consolidation involving the Company) any Equity Interests of the Company or any direct or indirect parent of the Company, in each case held by Persons other than the Company or a Restricted Subsidiary of the Company;

(3) make any principal payment on or with respect to, or purchase, repurchase, redeem, defease or otherwise acquire or retire for value any Subordinated Indebtedness (other than the payment, purchase, repurchase, redemption, defeasance, acquisition or retirement of (i) intercompany Indebtedness between or among the Company and its Restricted Subsidiaries, and (ii) Subordinated Indebtedness in anticipation of satisfying a sinking fund obligation, principal installment or final maturity thereof, in each case due within one year of the date of such payment, purchase, repurchase, redemption, defeasance, acquisition or retirement); or

(4) make any Restricted Investment (all such payments and other actions set forth in clauses (1) through (4) above being collectively referred to as "*Restricted Payments*"),

unless, at the time of and after giving effect to such Restricted Payment:

(1) no Event of Default shall have occurred and be continuing or would occur as a consequence of such Restricted Payment;

(2) the Company would, at the time of such Restricted Payment and after giving pro forma effect thereto as if such Restricted Payment had been made at the beginning of the applicable four-quarter period, have been permitted to incur at least $1.00 of additional Indebtedness (other than Permitted Debt) pursuant to Section 4.09; and

(3) such Restricted Payment, together with the aggregate amount of all other Restricted Payments made by the Company and its Restricted Subsidiaries after the Issue Date (excluding Restricted Payments permitted by clause (2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (12), (13), (14), (15), (16), (17), (18), (19), (20), (21), (22) or (23) of Section 4.07(b)), is less than the sum, without duplication, of:

(A) an amount, not less than zero, equal to (a) 100% of the cumulative Consolidated Cash Flow (excluding the amount of any dividends or distributions included in the calculation of Consolidated Cash Flow to the extent the Company elects to include such dividends or distributions in clause (14)(b) or 20(b) of the definition of "Permitted Investments" in accordance with such clause) of the Company for the period (taken as one accounting period) commencing on October 1, 2021, and ending on the last day of the fiscal quarter ended immediately prior to the date of such calculation for which internal financial statements are available at the time of such Restricted Payment *minus* (b) 1.5 times the Fixed Charges of the Company for the same period (taken as one accounting period); *plus*

(B) 100% of the aggregate net proceeds, and the fair market value of property other than cash, received by the Company after the Issue Date, as a contribution to its common equity capital or as consideration for the issue or sale (other than to a Subsidiary of the Company) of:

(i) Equity Interests (other than Disqualified Stock or Designated Preferred Stock) of the Company; or

(ii) Disqualified Stock, Designated Preferred Stock or Indebtedness of the Company that in each case have been converted into or exchanged for Equity Interests (other than Disqualified Stock or Designated Preferred Stock) of the Company, *provided*, *however*, that this clause (ii) shall not include the proceeds from (x) Refunding Capital Stock or (y) Excluded Contributions; *plus*

(C) 100% of the fair market value as of the date of issuance of any Equity Interests (other than Disqualified Stock) issued since the Issue Date, by the Company as consideration for the purchase or other acquisition by the Company or any of its Restricted Subsidiaries of all or substantially all of the assets of, or a majority of the Voting Stock of, a Related Business (including by means of a merger, consolidation or other business combination permitted under this Indenture); *plus*

(D) to the extent that any Restricted Investment that was made after the Issue Date is sold for cash or other property or otherwise liquidated or repaid for cash, in each case to the extent such cash or other property is received by the Company or any Restricted Subsidiary, the cash return of capital with respect to such Restricted Investment or the fair market value of such other property, except to the extent increasing the amount available to make Restricted Payments pursuant to Section 4.07(b)(15); *plus*

(E) 100% of the aggregate net proceeds (including the fair market value of property other than cash) received by the Company or any Restricted Subsidiary after the Issue Date from:

(i) the issuance, sale or other disposition (other than to the Company or a Restricted Subsidiary) or the Equity Interests or assets of an Unrestricted Subsidiary; and

(ii) any distribution or dividend from an Unrestricted Subsidiary,

in each case, except to the extent any such amount has already been included in the calculation of Consolidated Cash Flow or to the extent increasing the amount available to make (i) Restricted Payments pursuant to Section 4.07(b)(15) or (ii) Investments pursuant to clause (14)(b) or (20)(b) of the definition of "Permitted Investments", *provided*, *however*, that this clause (E) shall not include the proceeds from Excluded Contributions; *plus*

(F) in the event any Unrestricted Subsidiary has been redesignated as a Restricted Subsidiary or has been merged, consolidated or amalgamated with or into, or transfers or conveys its assets to, or is liquidated into, the Company or any of its Restricted Subsidiaries, the fair market value of the Company's or its Restricted Subsidiaries' Investment in such Subsidiary as of the date of such redesignation, merger, consolidation or amalgamation, or of the assets transferred or conveyed, as applicable, except to the extent increasing the amount available to make (i) Restricted Payments pursuant to Section 4.07(b)(15) or (ii) Investments pursuant to clause (14)(b) or (20)(b) of the definition of "Permitted Investments"; *plus*

(G) $125.0 million.

For avoidance of doubt, none of the Transactions being consummated on the Issue Date will increase the amount available for Restricted Payments pursuant to this Section 4.07(a).

(b) The provisions of Section 4.07(a) will not prohibit:

(1) the payment of any dividend or distribution or consummation of any irrevocable redemption within 90 days after the date of declaration thereof or the giving of any redemption notice related thereto, if at said date of declaration or notice such payment would have complied with the provisions of this Indenture;

(2) the making of any Restricted Payment in exchange for, or out of the net cash proceeds of the substantially concurrent sale (other than to a Restricted Subsidiary of the Company) of, Equity Interests of the Company (other than Disqualified Stock) or from the contribution of common equity capital to the Company within 10 Business Days; *provided* that the amount of any such net cash proceeds that are utilized for any such Restricted Payment shall be excluded from clause (3)(B) of Section 4.07(a);

(3) the redemption, repurchase, retirement, defeasance or other acquisition or retirement for value of Subordinated Indebtedness or Disqualified Stock of the Company or any of its Restricted Subsidiaries with the net cash proceeds from a substantially concurrent (i) incurrence of Permitted Refinancing Indebtedness or (ii) issuance of Disqualified Stock permitted to be issued under this Indenture;

(4) the payment of any dividend (or, in the case of any partnership, limited liability company or other business entity, any similar distribution) by a Restricted Subsidiary of the Company to the holders of its Equity Interests on a pro rata basis;

(5) the repurchase, redemption or other acquisition or retirement for value of any Equity Interests of the Company or any Parent Company or any Restricted Subsidiary of the Company held by any current or former officer, manager, director or employee of the Company (or any of its Restricted Subsidiaries or such Parent Company) pursuant to any equity subscription agreement, stock option agreement, employment agreement, severance agreement or other executive compensation arrangement or any other management or employee benefit plan or agreement, shareholders' agreement or similar agreement; *provided* that the aggregate price paid for all such repurchased, redeemed, acquired or retired Equity Interests shall not exceed $10.0 million in any calendar year (with unused amounts in any calendar year being carried over to subsequent calendar years; *provided* that the aggregate purchase price for all such repurchased, redeemed, acquired or retired Equity Interests shall not exceed $20.0 million in any calendar year); and *provided*, *further*, that such amount in any calendar year may be increased by an amount not to exceed the cash proceeds received by the Company from sales of Equity Interests (other than Disqualified Stock) of the Company to officers, managers, directors or employees of the Company or any of its Restricted Subsidiaries or any such Parent Company that occur after the Issue Date (*provided* that the amount of such cash proceeds used for any such repurchase, redemption, acquisition or retirement will not increase the amount available for Restricted Payments under clause (3)(B) of Section 4.07(a); and *provided*, *further,* that the Company may elect to apply all or any portion of the aggregate increase contemplated by this proviso in any calendar year); and *provided*, *further*, that cancellation of Indebtedness owing to the Company from members of management of the Company or any Restricted Subsidiary of the Company in connection with a repurchase of Equity Interests of the Company will not be deemed to constitute a Restricted Payment;

(6) the repurchase of Equity Interests deemed to occur (i) upon the exercise of stock options to the extent such Equity Interests represent a portion of the exercise price of those stock options and (ii) in connection with the withholding of a portion of the Equity Interests granted or awarded to a director or an employee to pay for the taxes payable by such director or employee upon such grant or award;

(7) payments to holders of the Company's capital stock in lieu of the issuance of fractional shares of its Capital Stock;

(8) the redemption, repurchase, retirement, defeasance or other acquisition of Disqualified Stock of the Company in exchange for Disqualified Stock of the Company or with the net cash proceeds from a substantially concurrent issuance of Disqualified Stock by the Company, in each case that is permitted to be issued as described under Section 4.09;

(9) the repurchase, redemption or other acquisition or retirement for value of any Subordinated Indebtedness in accordance with the provisions similar to those described under Sections 4.10 and 4.14, provided that all Notes validly tendered by Holders in connection with a Change of Control Offer or Net Proceeds Offer, as applicable, have been repurchased, redeemed or acquired for value;

(10) the declaration and payment of dividends to holders of any class or series of Disqualified Stock of the Company or any of its Restricted Subsidiaries or any class or series of preferred stock of a Restricted Subsidiary issued in accordance with Section 4.09 to the extent such dividends are included in the definition of "Fixed Charges";

(11) (i) the declaration and payment of dividends to holders of any class or series of Designated Preferred Stock of the Company and (ii) the declaration and payment of dividends on Refunding Capital Stock that is preferred stock; *provided* that in the case of each of sub-clauses (i) and (ii) of this clause (11), the Fixed Charge Coverage Ratio for the Company's most recently ended four full fiscal quarters for which internal financial statements are available immediately preceding the date on which such Designated Preferred Stock or Refunding Capital Stock, as applicable, was issued would have been at least 2.0 to 1.0;

(12) the distribution, as a dividend or otherwise, of Capital Stock of, or Indebtedness owed to the Company or a Restricted Subsidiary by, any Unrestricted Subsidiary;

(13) payments or distributions to satisfy dissenters' rights, pursuant to or in connection with a consolidation, merger or transfer of assets that complies with the provisions of this Indenture applicable to mergers, consolidations and transfers of all or substantially all of the property and assets of the Company;

(14) the purchase, redemption, acquisition, cancellation or other retirement for a nominal value per right of any rights granted to all of the holders of Common Stock of the Company pursuant to any shareholders' rights plan adopted for the purpose of protecting shareholders from unfair takeover tactics; *provided* that any such purchase, redemption, acquisition, cancellation or other retirement of such rights is not for the purpose of evading the limitations of this Section 4.07 (all as determined in good faith by a senior financial officer of the Company);

(15) Restricted Payments in an aggregate amount under this clause (15) at any time outstanding not to exceed the greater of $100.0 million and 40.0% of Consolidated Cash Flow (determined as of the date of any Restricted Payment pursuant to this clause (15));

(16) Restricted Payments in an aggregate amount in any fiscal year not to exceed an amount equal to 3.0% of the Market Capitalization; *provided*, that at least one class of the Company's Common Stock has been listed on The New York Stock Exchange (or, if the primary listing of such Common Stock is on another exchange, on such other exchange) for the 30 consecutive trading days immediately preceding the date of such Restricted Payment;

(17) other Restricted Payments so long as the Consolidated Leverage Ratio, calculated as of the date of such Restricted Payment and after giving pro forma effect thereto (including, without limitation, to the incurrence of any Indebtedness to finance such Restricted Payment), does not exceed 3.75 to 1.0;

(18) (i) the prepayment, redemption, purchase, repurchase, defeasance, discharge, retirement, exchange or other acquisition of any Equity Interests, including any accrued and unpaid dividends thereon ("*Treasury Capital Stock*") or Subordinated Indebtedness of the Company or any Restricted Subsidiary or any Equity Interests of any parent entity of which the Company is a wholly owned Subsidiary, in exchange for, or in an amount equal to or less than the proceeds of a sale or issuance (other than to a Restricted Subsidiary) of Equity Interests of the Company or any such parent entity to the extent such amount was contributed to the Company (in each case, other than any Disqualified Stock) within 120 days of such sale or issuance and is designated as "Refunding Capital Stock" pursuant to an Officer's Certificate executed by the principal executive officer or the principal financial officer of the Company and delivered to the Trustee within ten (10) Business Days following receipt by the Company of such proceeds ("*Refunding Capital Stock*") and (ii) if immediately prior to the retirement of Treasury Capital Stock, the declaration and payment of dividends thereon was permitted under clause (11) of this paragraph, the declaration and payment of dividends on the Refunding Capital Stock (other than Refunding Capital Stock the proceeds of which were used to redeem, purchase, repurchase, defease, retire or otherwise acquire any Equity Interests of any Parent Entity) in an aggregate amount per year no greater than the aggregate amount of dividends per annum that were declarable and payable on such Treasury Capital Stock immediately prior to such retirement;

(19) distributions or payments of Receivables Fees and purchases of Receivables in connection with any Qualified Receivables Transaction or any repurchase obligation in connection therewith;

(20) Restricted Payments in an amount that does not exceed the aggregate amount of Excluded Contributions received since the Issue Date;

(21) [Reserved];

(22) any Restricted Payments pursuant to or in connection with the Transactions; and

(23) Restricted Payments comprised of (A) Tax and Related Distributions and (B) to the extent necessary to permit any Parent Company to pay (i) general administrative fees, costs and expenses (including corporate overhead, corporate maintenance, insurance premiums, audit and other accounting and reporting fees, costs and expenses, SEC fees, costs and expenses, legal or similar fees, costs and expenses and customary wages, salary, bonus and other benefits payable to directors, officers, employees, members of management, consultants and/or independent contractors of any Parent Company, fees, costs and expenses in connection with debt or equity offerings (whether or not consummated), and fees, costs and expenses in connection with Investments (whether or not consummated), in the case of such Investments or debt or equity offerings, so long as and to the extent that such Investments or the proceeds of such debt or equity offerings are contributed or were intended to be contributed (if such Investment, debt or equity offerings were not consummated) to the Company or its Restricted Subsidiaries), in each case, which are reasonable and customary and incurred in the ordinary course of business by such Parent Company, and (ii) any reasonable and customary indemnification claims made by current or former directors, officers, members of management, employees or consultants of any Parent Company, in the case of each of clauses (i) and (ii), solely to the extent (1) attributable to the ownership by such

Parent Company of the Company and/or its Subsidiaries or to the payment by such Parent Company of any of such expenses on behalf of the Company and its Subsidiaries and (2) that the Company and its Restricted Subsidiaries have not otherwise made payments to such Parent Company or any of its Affiliates in respect of such fees, costs and expenses; provided that Restricted Payments under this sub-clause (B) of this clause (23) that are attributable to any Unrestricted Subsidiary shall be permitted only to the extent that either (x) such Unrestricted Subsidiary has made one or more cash distributions, advances or loans to the Company or any of its Restricted Subsidiaries for such purpose in an amount up to the amount of such Unrestricted Subsidiary's proportionate share of such fees, costs and expenses or (y) the amount of such Restricted Payments made by the Company on behalf of such Unrestricted Subsidiary is treated as an Investment that is subject to this Section 4.07;

provided that in the case of clauses (16) and (17), no Default shall have occurred and be continuing.

The amount of all Restricted Payments (other than cash) shall be the fair market value on the date of the Restricted Payment of the asset(s) or securities proposed to be transferred or issued by the Company or such Restricted Subsidiary, as the case may be, pursuant to the Restricted Payment. For purposes of determining compliance with this Section 4.07, in the event that a Restricted Payment meets the criteria of more than one of the exceptions described in clauses (1) through (23) above or is entitled to be made pursuant to this Section 4.07(a) or one or more clauses of the definition of "Permitted Investments", the Company will be permitted, in its sole discretion, to classify the Restricted Payment and/or Permitted Investment, or later reclassify the Restricted Payment or Permitted Investment in whole or in part among such clauses (1) through (23) and such first paragraph and/or one or more of the clauses contained in the definition of "Permitted Investments," in any manner that complies with this Section 4.07. In the event that a Restricted Payment (or any portion thereof) or Permitted Investment (or any portion thereof) is divided, classified or reclassified under clause (17) above or clause (23) of the definition of "Permitted Investments" (such clauses, the "*Incurrence Clauses*"), the determination of the amount of such Restricted Payment or Permitted Investment that may be made pursuant to the Incurrence Clauses shall be made without giving pro forma effect to any substantially concurrent incurrence of Indebtedness to finance any other portion of such Restricted Payment or Permitted Investment or any other Restricted Payment or Permitted Investment divided, classified or reclassified under the first paragraph of this covenant and/or one or more of the preceding clauses or one or more clauses of the definition of "Permitted Investments" other than an Incurrence Clause. For avoidance of doubt, nothing in this Indenture will restrict the repurchase, redemption, defeasance or other acquisition or retirement for value of the Notes or any of the Company's other from time to time outstanding senior notes, including any call premium paid in connection therewith.

Section 4.08 *Dividend and Other Payment Restrictions Affecting Restricted Subsidiaries.*

(a) The Company will not, and will not permit any of its Restricted Subsidiaries to, directly or indirectly, create or permit to exist or become effective any consensual encumbrance or restriction on the ability of any Restricted Subsidiary to:

(1) pay dividends or make any other distributions on its Capital Stock to the Company or any of the Company's Restricted Subsidiaries, or with respect to any other interest or participation in, or measured by, its profits, or pay any Indebtedness owed to the Company or any of the Company's Restricted Subsidiaries;

(2) make loans or advances to the Company or any of the Company's Restricted Subsidiaries; or

(3) transfer any of its properties or assets to the Company or any of the Company's Restricted Subsidiaries.

(b) The restrictions in Section 4.08(a) will not apply to encumbrances or restrictions existing under or by reason of:

(1) agreements governing Existing Indebtedness and any other agreement (including the Credit Agreement) as in effect on the Issue Date and any amendments, modifications, restatements, renewals, increases, supplements, refundings, replacements or refinancings of those agreements; *provided* that such amendments, modifications, restatements, renewals, increases, supplements, refundings, replacements or refinancings are not materially more restrictive, taken as a whole, with respect to such dividend and other payment restrictions than those contained in such agreements on the Issue Date;

(2) this Indenture, the Notes and the related Subsidiary Guarantees;

(3) applicable law, rule, regulation or administrative or court order;

(4) any instrument governing Indebtedness or Capital Stock of a Person acquired by the Company or any of its Restricted Subsidiaries as in effect at the time of such acquisition (except to the extent such Indebtedness was incurred or Capital Stock was issued in connection with or in contemplation of such acquisition), which encumbrance or restriction is not applicable to any Person, or the properties or assets of any Person, other than the Person, or the property or assets of the Person, so acquired;

(5) customary non-assignment provisions in leases, licenses, contracts and other agreements entered into in the ordinary course of business;

(6) purchase money obligations for property acquired in the ordinary course of business and Capital Lease Obligations that impose restrictions on the property so acquired of the nature described in Section 4.08(a)(3);

(7) any agreement for the sale or other disposition of all or substantially all of the Capital Stock or assets of a Restricted Subsidiary that restricts distributions by such Restricted Subsidiary pending the closing of such sale or other disposition;

(8) agreements governing Permitted Refinancing Indebtedness; *provided* that the restrictions contained in the agreements governing such Permitted Refinancing Indebtedness are, in the good faith judgment of the Company, not materially more restrictive, taken as a whole, than those contained in the agreements governing the Indebtedness being refinanced;

(9) any agreement creating a Lien securing Indebtedness otherwise permitted to be incurred pursuant to the provisions of Section 4.12, to the extent limiting the right of the Company or any of its Restricted Subsidiaries to dispose of the assets subject to such Lien;

(10) provisions with respect to the disposition or distribution of assets or property in joint venture agreements, asset sale agreements, stock sale agreements and other similar agreements entered into in the ordinary course of business or with the approval of the Company's Board of Directors;

(11) customary restrictions on a Receivables Subsidiary and Receivables Program Assets effected in connection with a Qualified Receivables Transaction;

(12) restrictions on cash or other deposits or net worth imposed by customers under contracts entered into in the ordinary course of business;

(13) in the case of the provision described in Section 4.08(a)(3): (a) that restrict in a customary manner the subletting, assignment or transfer of any property or asset that is a lease, license, conveyance or contract or similar property or asset or (b) arising or agreed to in the ordinary course of business, not relating to any Indebtedness, and that do not, individually or in the aggregate, detract from the value of property or assets of the Company or any Restricted Subsidiary thereof in any manner material to the Company or any Restricted Subsidiary thereof;

(14) existing under, by reason of or with respect to customary provisions contained in leases or licenses of intellectual property and other agreements, in each case, entered into in the ordinary course of business;

(15) existing under, by reason of or with respect to Indebtedness of the Company or a Restricted Subsidiary not prohibited to be incurred under this Indenture; *provided* that (a) such encumbrances or restrictions are customary for the type of Indebtedness being incurred and the jurisdiction of the obligor and (b) such encumbrances or restrictions will not affect in any material respect the Company's or any Guarantor's ability to make principal and interest payments on the Notes, as determined in good faith by the Company;

(16) agreements governing Indebtedness incurred in compliance with Section 4.09(b)(4), provided that such encumbrances or restrictions apply only to assets financed with the proceeds of such Indebtedness;

(17) any other agreement governing Indebtedness incurred after the Issue Date that contains encumbrances or other restrictions that are, in the good faith judgment of the Company, no more restrictive in any material respect taken as a whole than those encumbrances and other restrictions that are customary in comparable financings;

(18) any encumbrances or restrictions imposed by any amendments, modifications, restatements, renewals, increases, supplements, refundings, replacements or refinancings of the contracts, instruments or obligations referred to in clauses (1) through (17) above; *provided* that such amendments, modifications, restatements, renewals, increases, supplements, refundings, replacements or refinancings are, in the good faith judgment of the Company, not materially more restrictive as a whole with respect to such encumbrances or restrictions than prior to such amendment, modification, restatement, renewal, increase, supplement, refunding, replacement or refinancing; and

(19) any agreement or arrangement entered into pursuant to or in connection with the Transactions.

Section 4.09 *Incurrence of Indebtedness and Issuance of Preferred Stock.*

(a) The Company will not, and will not permit any of its Restricted Subsidiaries to, directly or indirectly, create, incur, issue, assume, guarantee or otherwise become directly or indirectly liable, contingently or otherwise, with respect to (collectively, "*incur*") any Indebtedness (including Acquired Debt), and the Company and the Guarantors will not issue any Disqualified Stock and the Company will

not permit any of its Restricted Subsidiaries (other than the Guarantors) to issue any shares of preferred stock; *provided*, *however*, that the Company and any of the Guarantors may incur Indebtedness (including Acquired Debt) or issue Disqualified Stock, if either (a) the Fixed Charge Coverage Ratio for the Company's most recently ended four full fiscal quarters for which internal financial statements are available immediately preceding the date on which such additional Indebtedness is incurred or such Disqualified Stock is issued would have been at least 2.0 to 1.0 or (b) the Consolidated Leverage Ratio for the Company's most recently ended four full fiscal quarters for which internal financial statements are available immediately preceding the date on which such additional Indebtedness is incurred of such Disqualified Stock is issued would have been no more than 6.00 to 1.0, in the case of each of clauses (a) and (b), determined on a pro forma basis (including a pro forma application of the net proceeds therefrom) as if the additional Indebtedness had been incurred, or the Disqualified Stock had been issued, as the case may be, at the beginning of such four-quarter period.

(b) The provisions of Section 4.09(a) will not prohibit the incurrence of any of the following items of Indebtedness (collectively, "*Permitted Debt*"):

(1) the incurrence by the Company and its Restricted Subsidiaries of (a) Indebtedness, letters of credit and bankers' acceptances under Credit Facilities in an aggregate amount at any time outstanding as of any date of incurrence of any such Indebtedness (together with the aggregate amount of any Permitted Refinancing Indebtedness outstanding as of such date that was incurred pursuant to clause (1)(b) and that is not deemed to be incurred pursuant to another clause of the definition of Permitted Debt or clause (a) above as a result of reclassification) not to exceed (x) $250.0 million *plus* (y) the greater of $250.0 million and 100% of Consolidated Cash Flow (determined as of the date of such incurrence) *plus* (z) an amount such that, after giving pro forma effect to the incurrence thereof, the Consolidated Senior Secured Leverage Ratio, calculated as of the date of incurrence, does not exceed 3.50 to 1.0, and (b) any Permitted Refinancing Indebtedness incurred to extend, refinance, refund, renew, replace, defease or discharge any Indebtedness that was incurred pursuant to this clause (1) and was not, as of the date of incurrence of such Permitted Refinancing Indebtedness, deemed to be incurred pursuant to another clause of the definition of Permitted Debt or clause (a) above as a result of reclassification;

(2) the incurrence by the Company and its Restricted Subsidiaries of Existing Indebtedness;

(3) the incurrence by the Company and the Guarantors of Indebtedness represented by the Notes to be issued on the Issue Date and the Subsidiary Guarantees thereof;

(4) the incurrence by the Company or any of its Restricted Subsidiaries of Indebtedness represented by Capital Lease Obligations, mortgage financings or purchase money obligations, in each case, incurred for the purpose of financing all or any part of the purchase price or cost of construction or improvement of property, plant or equipment used in the business of the Company or such Restricted Subsidiary (whether through the direct purchase of assets or the Equity Interests of any Person owning such assets), in an aggregate principal amount at any time outstanding, as of the date of incurrence of any Indebtedness pursuant to this clause (4), including all Permitted Refinancing Indebtedness incurred to refund, refinance or replace any Indebtedness incurred pursuant to this clause (4), not to exceed the greater of (a) $100.0 million and (b) 40.0% of Consolidated Cash Flow (determined as of the date of incurrence);

(5) the incurrence by the Company or any of its Restricted Subsidiaries of Permitted Refinancing Indebtedness in exchange for, or the net proceeds of which are used to refund, refinance or replace, Indebtedness incurred under clauses (2), (3) or (4) above, this clause (5), clauses (17), (18), (20), (26) or (28) below or pursuant to Section 4.09(a);

(6) the incurrence by the Company or any of its Restricted Subsidiaries of Indebtedness owed to the Company or any of its Restricted Subsidiaries; *provided*, *however*, that:

(A) if the Company or any Guarantor is the obligor on such Indebtedness, and the payee is not the Company or a Guarantor, such Indebtedness must be expressly subordinated to the prior payment in full in cash of all Obligations with respect to the Notes, in the case of the Company, or the Subsidiary Guarantee of such Guarantor, in the case of a Guarantor; and

(B) (1) any subsequent issuance or transfer of Equity Interests that results in any such Indebtedness being held by a Person other than the Company or a Restricted Subsidiary thereof and (2) any sale or other transfer of any such Indebtedness to a Person that is not either the Company or a Restricted Subsidiary thereof shall be deemed, in each case, to constitute an incurrence of such Indebtedness by the Company or such Restricted Subsidiary, as the case may be, that was not permitted by this clause (6);

(7) the incurrence by the Company or any of its Restricted Subsidiaries of Indebtedness under Hedging Obligations that are not entered into for the purpose of speculation;

(8) the issuance by any of the Company's Restricted Subsidiaries to the Company or to any of its Restricted Subsidiaries of shares of preferred stock; *provided*, *however*, that:

(a) any subsequent issuance or transfer of Equity Interests (other than the incurrence of a Permitted Lien) that results in any such preferred stock being held by a Person other than the Company or a Restricted Subsidiary of the Company, and

(b) any sale or other transfer of any such preferred stock to a Person that is not either the Company or a Restricted Subsidiary of the Company,

will be deemed, in each case, to constitute an issuance of such preferred stock by such Restricted Subsidiary that was not permitted by this clause (8);

(9) the Guarantee by the Company or any of its Restricted Subsidiaries of Indebtedness of the Company or a Restricted Subsidiary of the Company that was permitted to be incurred by another provision of this Section 4.09 and could have been incurred (in compliance with this Section 4.09) by the Person so Guaranteeing such Indebtedness;

(10) the incurrence of Indebtedness arising from the honoring by a bank or other financial institution of a check, draft or similar instrument inadvertently (except in the case of daylight overdrafts) drawn against insufficient funds in the ordinary course of business; *provided*, *however*, that such Indebtedness is extinguished within five Business Days of incurrence;

(11) the incurrence of Indebtedness of the Company or any of its Restricted Subsidiaries in respect of security for workers' compensation claims, payment obligations in connection with self- insurance, health, disability or other employee benefits or property, casualty or liability insurance provided to the Company or any of its Restricted Subsidiaries, bankers' acceptances, performance, surety and similar bonds and completion guarantees provided by the Company or any of its Restricted Subsidiaries in the ordinary course of business; *provided* that the underlying obligation to perform is that of the Company and its Restricted Subsidiaries and not that of the Company's Unrestricted Subsidiaries; and *provided further* that such underlying obligation is not in respect of borrowed money;

(12) the incurrence of Indebtedness that may be deemed to arise as a result of agreements of the Company or any Restricted Subsidiary of the Company providing for indemnification, adjustment of purchase price, earn-out or similar Obligations, in each case, incurred or assumed in connection with the disposition of any business or assets of the Company or any Restricted Subsidiary or Equity Interests of a Restricted Subsidiary; *provided* that (a) any amount of such Obligations included on the face of the balance sheet of the Company or any Restricted Subsidiary shall not be permitted under this clause (12) and (b) the maximum aggregate liability in respect of all such Obligations outstanding under this clause (12) shall at no time exceed the gross proceeds including non-cash proceeds (the fair market value of such non-cash proceeds being measured at the time received and without giving effect to any subsequent changes in value) actually received by the Company and the Restricted Subsidiaries in connection with such disposition;

(13) Indebtedness incurred under commercial letters of credit issued for the account of the Company or any of its Restricted Subsidiaries in the ordinary course of business (and not for the purpose of, directly or indirectly, incurring Indebtedness or providing credit support or a similar arrangement in respect of Indebtedness); or Indebtedness of the Company or any of its Restricted Subsidiaries under letters of credit and bank guarantees backstopped by letters of credit under the Credit Facilities;

(14) pledges, deposits or payments made or given in the ordinary course of business in connection with or to secure statutory, regulatory or similar obligations, including obligations under health, safety or environmental obligations, or arising from guarantees to suppliers, lessors, licenses, contractors, franchisees or customers of obligations, other than Indebtedness, made in the ordinary course of business;

(15) the incurrence of Indebtedness by the Company or any of its Restricted Subsidiaries issued to directors, officers, managers or employees of the Company or any of its Restricted Subsidiaries in connection with the redemption or purchase of Capital Stock that, by its terms, is subordinated to the Notes, is not secured by any assets of the Company or any of its Restricted Subsidiaries and does not require cash payments prior to the Stated Maturity of the Notes, in an aggregate principal amount at any time outstanding not to exceed $10.0 million;

(16) [Reserved];

(17) the incurrence by any Foreign Subsidiary of Indebtedness and/or the guarantee by the Company and/or any of its Restricted Subsidiaries of such Indebtedness in an aggregate principal amount (or accreted value, as applicable) at any time outstanding, as of the date of incurrence of any Indebtedness pursuant to this clause (17), including all Permitted Refinancing Indebtedness incurred to refund, refinance or replace any Indebtedness incurred pursuant to this clause (17), not to exceed the greater of (a) $75.0 million and (b) 30.0% of Consolidated Cash Flow (determined as of the date of incurrence);

(18) the incurrence by the Company or any of its Restricted Subsidiaries of any Capital Lease Obligation resulting from a Sale and Leaseback Transaction in an aggregate principal amount at any time outstanding, as of the date of incurrence of any Indebtedness pursuant to this clause (18), including all Permitted Refinancing Indebtedness incurred to refund, refinance or replace any Indebtedness incurred pursuant to this clause (18), not to exceed the greater of $100.0 million and 40.0% of Consolidated Cash Flow (determined as of the date of incurrence);

(19) Indebtedness in respect of Receivables Program Obligations;

(20) the incurrence of Acquired Debt or other Indebtedness incurred in connection with, or in contemplation of, an acquisition (including by way of merger or consolidation) by the Company or any of its Restricted Subsidiaries; *provided* that after giving pro forma effect to such acquisition, immediately following such acquisition and incurrence (including a pro forma application of the net proceeds therefrom), either (a) the Company's Fixed Charge Coverage Ratio for the Company's most recently ended four full fiscal quarters for which internal financial statements are available would be at least 2.0 to 1.0 or the Company's Consolidated Leverage Ratio would be no more than 6.0 to 1.0 or (b) the Company's pro forma Fixed Charge Coverage Ratio for the Company's most recently ended four full fiscal quarters for which internal financial statements are available would be equal to or greater than the actual Fixed Charge Coverage Ratio of the Company immediately prior to such acquisition and incurrence or the Company's pro forma Consolidated Leverage Ratio would be equal to or less than the actual Consolidated Leverage Ratio of the Company immediately prior to such acquisition and incurrence;

(21) Indebtedness incurred by the Company or any Restricted Subsidiary of the Company to the extent that the net proceeds thereof are promptly deposited to defease, redeem or to satisfy and discharge the Notes;

(22) Indebtedness of the Company or any Restricted Subsidiary of the Company consisting of obligations to pay insurance premiums or take-or-pay obligations contained in supply arrangements incurred in the ordinary course of business;

(23) Indebtedness in respect of overdraft facilities, employee credit card programs and other cash management arrangements in the ordinary course of business;

(24) Indebtedness representing deferred compensation to employees of the Company and its Restricted Subsidiaries incurred in the ordinary course of business;

(25) cash management obligations and other Indebtedness in respect of netting services, automatic clearinghouse arrangements, overdraft protections and similar arrangements in each case in connection with deposit accounts;

(26) the incurrence of Indebtedness by any Restricted Subsidiary of the Company that is not a Guarantor, and/or the guarantee by the Company or any of its Restricted Subsidiaries of Indebtedness of any joint venture of the Company or any of its Restricted Subsidiaries, in an aggregate principal amount (or accreted value, as applicable) at any time outstanding, as of the date of incurrence of any Indebtedness pursuant to this clause (26), including all Permitted Refinancing Indebtedness incurred to refund, refinance or replace any Indebtedness incurred pursuant to this clause (26), not to exceed the greater of $150.0 million and 60.0% of Consolidated Cash Flow (determined as of the date of incurrence);

(27) [Reserved]; and

(28) the incurrence by the Company or any of its Restricted Subsidiaries of additional Indebtedness in an aggregate principal amount (or accreted value, as applicable) at any time outstanding, as of the date of incurrence of any Indebtedness pursuant to this clause (28), including

all Permitted Refinancing Indebtedness incurred to refund, refinance or replace any Indebtedness incurred pursuant to this clause (28), not to exceed the greater of $150.0 million and 60.0% of Consolidated Cash Flow (determined as of the date of incurrence).

The Company will not, and will not permit any Guarantor to, directly or indirectly, incur any Indebtedness that is contractually subordinated in right of payment to any other Indebtedness of the Company or of such Guarantor, as the case may be, unless such Indebtedness is also contractually subordinated in the right of payment to the Notes and the applicable Subsidiary Guarantee on substantially the same terms. For purposes of the foregoing, no Indebtedness will be deemed to be contractually subordinated in right of payment to any other Indebtedness of the Company or any Guarantor solely by virtue of being unsecured or secured by a junior priority Lien or by virtue of the fact that the holders of such Indebtedness have entered into intercreditor agreements or other arrangements giving one or more of such holders priority over the other holders in the collateral held by them, including intercreditor agreements that contain customary provisions requiring turnover by holders of junior priority Liens of proceeds of collateral in the event that the security interests in favor of the holders of the senior priority in such intended collateral are not perfected or invalidated and similar customary provisions protecting the holders of senior priority Liens.

For purposes of determining compliance with this Section 4.09, in the event that an item of proposed Indebtedness meets the criteria of more than one of the categories of Permitted Debt described in clauses (1) through (28) above, or is entitled to be incurred pursuant to Section 4.09(a), the Company will be permitted to classify such item of Indebtedness on the date of its incurrence (or later reclassify such Indebtedness in whole or in part) in any manner that complies with this Section 4.09. In addition, the accrual of interest, accretion or amortization of original issue discount, the payment of interest on any Indebtedness in the form of additional Indebtedness with the same terms, the reclassification of preferred stock as Indebtedness due to a change in accounting principles, and the payment of dividends on Disqualified Stock in the form of additional shares of the same class of Disqualified Stock will not be treated as an incurrence of Indebtedness or an issuance of Disqualified Stock for purposes of this Section 4.09.

In connection with the incurrence or issuance, as applicable, of (x) revolving loan Indebtedness under this covenant or (y) any commitment or other transaction relating to the incurrence or issuance of Indebtedness, Disqualified Stock or preferred stock under this covenant and the granting of any Lien to secure such Indebtedness, the Company or applicable Restricted Subsidiary may designate such incurrence or issuance and the granting of any Lien therefor as having occurred on the date of first incurrence of such revolving loan Indebtedness or commitment or intention to consummate such transaction (such date, the "*Deemed Date*"), and any related subsequent actual incurrence or issuance and granting of such Lien therefor will be deemed for all purposes under this Indenture to have been incurred or issued and granted on such Deemed Date, including, without limitation, for purposes of calculating the Fixed Charge Coverage Ratio, usage of any baskets hereunder (if applicable), the Consolidated Leverage Ratio, the Consolidated Senior Secured Leverage Ratio, Total Assets and Consolidated Cash Flow (and all such calculations on and after the Deemed Date until the termination or funding of such commitment or until such transaction is consummated or abandoned or such election is rescinded shall be made on a pro forma basis giving effect to the deemed incurrence or issuance, the granting of any Lien therefor and related transactions in connection therewith).

Notwithstanding the foregoing, the maximum amount of Indebtedness that may be incurred pursuant to this Section 4.09 shall not be deemed to be exceeded with respect to any outstanding Indebtedness due solely to the result of fluctuations in the exchange rates of currencies.

For purposes of determining compliance with any U.S. dollar denominated restriction on the incurrence of Indebtedness where the Indebtedness incurred, or any Indebtedness outstanding pursuant to the clause or clauses of the definition of Permitted Debt under which such Indebtedness is being incurred, is denominated in a different currency, the amount of any such Indebtedness being incurred and such outstanding Indebtedness, if any, will in each case be the U.S. Dollar Equivalent determined on the date any such Indebtedness was incurred, in the case of term Indebtedness, or first committed or first incurred (whichever yields the lower U.S. Dollar Equivalent), in the case of revolving credit Indebtedness, which U.S. Dollar Equivalent will be reduced by any repayment on such Indebtedness in proportion to the reduction in principal amount; *provided*, *however*, that if any such Indebtedness denominated in a different currency is subject to a Currency Protection Agreement with respect to U.S. dollars covering all principal, premium, if any, and interest, if any, payable on such Indebtedness, the amount of such Indebtedness expressed in U.S. dollars will be as provided in such Currency Protection Agreement. The principal amount of any Permitted Refinancing Indebtedness incurred in the same currency as the Indebtedness being refinanced will be the U.S. Dollar Equivalent of the Indebtedness refinanced, except to the extent that (1) such U.S. Dollar Equivalent was determined based on a Currency Protection Agreement, in which case the Permitted Refinancing Indebtedness will be determined in accordance with the preceding sentence, and (2) if the principal amount of the Permitted Refinancing Indebtedness exceeds the principal amount of the Indebtedness being refinanced, the U.S. Dollar Equivalent of such excess, as appropriate, will be determined on the date such Permitted Refinancing Debt is incurred.

Section 4.10 *Asset Sales.*

(a) The Company will not, and will not permit any of its Restricted Subsidiaries to, consummate an Asset Sale unless:

(1) the Company (or the Restricted Subsidiary, as the case may be) receives consideration at the time of such Asset Sale at least equal to the fair market value (measured as of the date of the definitive agreement with respect to such Asset Sale) of the assets or Equity Interests issued or sold or otherwise disposed of, as approved in good faith by the Company; and

(2) at least 75% of the consideration received in the Asset Sale by the Company or such Restricted Subsidiary together with all other Asset Sales by the Company or any Restricted Subsidiary since the Issue Date (on a cumulative basis), is in the form of cash or Cash Equivalents. For purposes of this provision only (and specifically not for the purposes of the definition of "Net Proceeds"), each of the following shall be deemed to be cash:

(A) (a) any liabilities (as shown on the Company's or such Restricted Subsidiary's most recent balance sheet, or if incurred, accrued or increased subsequent to the date of such balance sheet, such liabilities that would have been reflected on the Company's or such Restricted Subsidiary's balance sheet if such incurrence had taken place on or prior to the date of such balance sheet, as determined in good faith by the Company) of the Company or any Restricted Subsidiary (other than contingent liabilities and liabilities that are by their terms subordinated to the Notes or any Subsidiary Guarantee) that are assumed by the transferee of any such assets and (b) any Indebtedness of any Restricted Subsidiary that is no longer a Restricted Subsidiary as a result of such Asset Sale, to the extent that the Company and each other Restricted Subsidiary are released from any guarantee of payment of such Indebtedness in connection with such Asset Sale;

(B) any securities, notes or other obligations received by the Company or any such Restricted Subsidiary from such transferee that within 180 days are converted by the Company or such Restricted Subsidiary into cash (to the extent of the cash received in that conversion);

(C) any Designated Noncash Consideration received by the Company or any Restricted Subsidiary in such Asset Sale having an aggregate fair market value, taken together with all other Designated Noncash Consideration received pursuant to this clause (C) since the Issue Date that is at the time outstanding, not to exceed the greater of (a) $50.0 million and (b) 20.0% of Consolidated Cash Flow at the time of receipt of such Designated Noncash Consideration, with the fair market value of each item of Designated Noncash Consideration being measured at the time received and without giving effect to subsequent changes in value;

(D) the fair market value (measured as of the date such Equity Interests or assets are received) of any Equity Interests or assets of the kind referred to in clauses (2) or (4) of Section 4.10(b); and

(E) consideration consisting of Indebtedness (other than Subordinated Indebtedness) of the Company or any Restricted Subsidiary received after the Issue Date from Persons who are not the Company or any Restricted Subsidiary.

(b) Within 365 days after the receipt of any Net Proceeds of any Asset Sale, the Company or such Restricted Subsidiary, at its option, may apply an amount equal to the Net Proceeds from such Asset Sale:

(1) (i) to repay, prepay, redeem or repurchase Indebtedness (other than Subordinated Indebtedness) and other Obligations (other than Subordinated Indebtedness), or (ii) to offer to repay the Notes at par, plus accrued and unpaid interest, pursuant to the Net Proceeds Offer provisions of Section 4.10(c) (and upon completion of such offer, the amount of Net Proceeds offered to be applied to repurchase the Notes shall be deemed to have been applied in accordance with this Section 4.10(b)(1);

(2) to acquire all or substantially all of the assets of another Related Business, or to acquire any Equity Interests of another Related Business, if, after giving effect to any such acquisition of Equity Interests, the Related Business is or becomes a Restricted Subsidiary of the Company;

(3) to make a capital expenditure;

(4) to acquire other assets (other than securities or current assets) that will be used or useful in a Related Business, including that replace the businesses, properties or assets that are the subject of such Asset Sale; or

(5) a combination of prepayments and investments permitted by the foregoing clauses (1), (2), (3) and (4);

provided that the Company and its Restricted Subsidiaries will be deemed to have applied such Net Proceeds pursuant to clause (2), (3) or (4) of this Section 4.10(b), as applicable, if and to the extent that, within 365 days after the Asset Sale that generated the Net Proceeds, the Company has entered into and not abandoned or rejected a binding agreement to consummate any reinvestment described in clause (2), (3) or (4) of this paragraph, and such reinvestment is thereafter completed within 180 days after the end of such 365-day period.

(c) Pending the final application of such Net Proceeds, the Company or any Restricted Subsidiary may temporarily reduce borrowings under the Credit Facilities or any other revolving credit facility, if any, or otherwise invest such Net Proceeds in any manner not prohibited by this Indenture. Subject to Section 4.10(e), on the 366th day (as extended pursuant to the provisions in the preceding paragraph) after an Asset Sale or such earlier date, if any, as the Company or of such Restricted Subsidiary determines not to apply the Net Proceeds relating to such Asset Sale as set forth in clause (1), (2), (3), (4) or (5) of Section 4.10(b) (each, a "*Net Proceeds Offer Trigger Date*"), such aggregate amount of Net Proceeds which have not been applied on or before such Net Proceeds Offer Trigger Date as permitted in clauses (1), (2), (3), (4) or (5) of Section 4.10(b) (each a "*Net Proceeds Offer Amount*") shall be applied by the Company or such Restricted Subsidiary to make an offer to purchase (the "*Net Proceeds Offer*") on a date (the "*Net Proceeds Offer Payment Date*") not less than 10 days nor more than 60 days following the applicable Net Proceeds Offer Trigger Date (for avoidance of doubt, subject to Section 4.10(g)), from all Holders (and, if required by the terms of any other Indebtedness of the Company ranking pari passu with the Notes in right of payment and which has similar provisions requiring the Company either to make an offer to repurchase or to otherwise repurchase, redeem or repay such Indebtedness with the proceeds from Asset Sales (the "*Pari Passu Indebtedness*"), from the holders of such Pari Passu Indebtedness) on a *pro rata* basis (in proportion to the respective principal amounts or accreted value, as the case may be, of the Notes and any such Pari Passu Indebtedness) an aggregate principal amount of Notes (plus, if applicable, an aggregate principal amount or accreted value, as the case may be, of Pari Passu Indebtedness) equal to the Net Proceeds Offer Amount. The offer price in any Net Proceeds Offer shall be equal to 100% of the principal amount of the Notes (or 100% of the principal amount or accreted value, as the case may be, of such Pari Passu Indebtedness), plus accrued and unpaid interest thereon, if any, to the Net Proceeds Offer Payment Date.

(d) [Reserved].

(e) The Company may defer the Net Proceeds Offer until there is an aggregate unutilized Net Proceeds Offer Amount equal to or in excess of $40.0 million resulting from one or more Asset Sales (at which time the entire unutilized Net Proceeds Offer Amount, and not just the amount in excess of $40.0 million, shall be applied as required pursuant to Section 4.10, and in which case the Net Proceeds Offer Trigger Date shall be deemed to be the earliest date that the Net Proceeds Offer Amount is equal to or in excess of $40.0 million).

(f) Each Net Proceeds Offer will be sent to the record Holders as shown on the register of Holders within 25 days following the Net Proceeds Offer Trigger Date, with a copy to the Trustee, and shall comply with the procedures set forth in Section 3.09. Upon receiving notice of the Net Proceeds Offer, Holders may elect to tender their Notes in whole or in part in minimum denominations of $2,000 or integral multiples of $1,000 in excess thereof in exchange for cash. To the extent that the aggregate principal amount of the Notes (plus, if applicable, the aggregate principal amount or accreted value, as the case may be, of Pari Passu Indebtedness) validly tendered by the Holders thereof and not withdrawn exceeds the Net Proceeds Offer Amount, Notes of tendering Holders (and, if applicable, Pari Passu Indebtedness tendered by the holders thereof) will be purchased on a pro rata basis (based on the principal amount of the Notes and, if applicable, the principal amount or accreted value, as the case may be, of any such Pari Passu Indebtedness tendered and not withdrawn). To the extent that the aggregate amount of the Notes (plus, if applicable, the aggregate principal amount or accreted value, as the case may be, of any Pari Passu Indebtedness) tendered pursuant to a Net Proceeds Offer is less than the Net Proceeds Offer Amount, the Company may use such excess Net Proceeds Offer Amount for general corporate purposes or for any other purpose not prohibited by this Indenture. Upon completion of any such Net Proceeds Offer, the Net Proceeds Offer Amount shall be reset at zero (regardless whether there is any excess Net Proceeds Offer Amount upon such completion). A Net Proceeds Offer shall remain open for a period of 20 Business Days or such longer period as may be required by applicable law.

(g) The Company or the applicable Restricted Subsidiary, as the case may be, will comply with the requirements of Rule 14e-1 under the Exchange Act and any other securities laws and regulations thereunder to the extent such laws and regulations are applicable in connection with the repurchase of Notes pursuant to a Net Proceeds Offer. To the extent that the provisions of any securities laws or regulations conflict with the provisions of Section 3.09 or this Section 4.10, the Company or such Restricted Subsidiary shall comply with the applicable securities laws and regulations and shall not be deemed to have breached its obligations under Section 3.09 or this Section 4.10 by virtue of such compliance.

(h) The provisions of this Indenture relating to the Company's obligations to make an offer to repurchase the Notes as a result of an Asset Sale may be waived or modified at any time with the written consent of the Holders of a majority in aggregate principal amount of the Notes then outstanding. An Asset Sale Offer may be made at the same time as consents are solicited with respect to an amendment, supplement or waiver of this Indenture, the Notes and/or the Subsidiary Guarantees.

Section 4.11 *Transactions with Affiliates.*

(a) The Company will not, and will not permit any of its Restricted Subsidiaries to, directly or indirectly, make any payment to, or sell, lease, transfer or otherwise dispose of any of its properties or assets to, or purchase any property or assets from, or enter into or make or amend any transaction, contract, agreement, loan, advance or guarantee with, or for the benefit of, any Affiliate of the Company or any of its Restricted Subsidiaries (each, an "*Affiliate Transaction*"), involving aggregate consideration in excess of the greater of (i) $15.0 million and (ii) 5.0% of Consolidated Cash Flow, unless:

(1) such Affiliate Transaction is on terms that are not materially less favorable to the Company or the relevant Restricted Subsidiary than those that would have been obtained in a comparable transaction at such time by the Company or such Restricted Subsidiary with a Person who is not an Affiliate of the Company or such Restricted Subsidiary or, if in the good faith judgment of the Company, no comparable transaction is available with which to compare such Affiliate Transaction, such Affiliate Transaction is otherwise fair to the Company or such Restricted Subsidiary from a financial point of view and when such transaction is taken in its entirety; and

(2) the Company delivers to the Trustee:

(A) with respect to any Affiliate Transaction or series of related Affiliate Transactions involving aggregate consideration in excess of $25.0 million, an Officer's Certificate certifying that such Affiliate Transaction complies with this Section 4.11; and

(B) with respect to any Affiliate Transaction or series of related Affiliate Transactions involving aggregate consideration in excess of $50.0 million, a resolution of the Board of Directors set forth in an Officer's Certificate certifying that such Affiliate Transaction complies with this Section 4.11 and that such Affiliate Transaction has been approved by a majority of the disinterested members of the Board of Directors.

(b) The following items shall not be deemed to be Affiliate Transactions and, therefore, shall not be subject to the provisions of Section 4.11(a):

(1) transactions between or among the Company and/or its Restricted Subsidiaries or exclusively between or among such Restricted Subsidiaries;

(2) Permitted Investments and Restricted Payments that are permitted by Section 4.07;

(3) reasonable fees and compensation paid to (including issuances and grants of Equity Interests of the Company, employment agreements and stock option and ownership plans for the benefit of), and indemnity and insurance provided on behalf of, current, former or future officers, managers, directors, employees or consultants of the Company or any Restricted Subsidiary in the ordinary course of business;

(4) transactions pursuant to any agreement in effect on the Issue Date, as in effect on the Issue Date or as thereafter amended or replaced in any manner, that, taken as a whole, is not more disadvantageous to the Holders in any material respect than such agreement as it was in effect on the Issue Date;

(5) loans or advances to employees, managers, and officers of the Company and its Restricted Subsidiaries permitted by clause (8) of the definition of "Permitted Investments";

(6) any transaction with a Person (other than an Unrestricted Subsidiary) which would constitute an Affiliate Transaction solely because the Company, directly or through any of its Restricted Subsidiaries, owns an equity interest in or otherwise controls such Person; *provided* that no Affiliate of the Company or its Restricted Subsidiaries other than the Company or a Restricted Subsidiary shall have a beneficial interest in such Person;

(7) any service, purchase, lease, supply or similar agreement entered into in the ordinary course of business (including, without limitation, pursuant to any joint venture agreement) between the Company or any Restricted Subsidiary and any Affiliate that is a customer, client, supplier, purchaser or seller of goods or services, so long as the Company determines in good faith that any such agreement is on terms not materially less favorable to the Company or such Restricted Subsidiary than those that could be obtained in a comparable arms'-length transaction with an entity that is not an Affiliate;

(8) the issuance and sale of Qualified Capital Stock;

(9) any transaction effected in connection with a Qualified Receivables Transaction;

(10) pledges of equity interests of, or Obligations owing from, Unrestricted Subsidiaries;

(11) the existence of, or the performance by the Company or any of its Restricted Subsidiaries of their obligations under the terms of, any customary registration rights agreement to which they are a party or become a party in the future;

(12) transactions in which the Company or any of its Restricted Subsidiaries, as the case may be, delivers to the Trustee a letter from an independent financial advisor stating that such transaction is fair to the Company or such Restricted Subsidiary from a financial point of view or meets the requirements of Section 4.11(a)(1);

(13) any contribution to the common equity capital of the Company;

(14) any transaction or series of transactions between the Company or any Restricted Subsidiary of the Company and any of their joint ventures; and

(15) any transaction or any agreement entered into pursuant to or in connection with the Transactions.

Section 4.12 *Liens.*

(a) The Company will not, and will not permit any of its Restricted Subsidiaries to, directly or indirectly, create, incur, assume or suffer to exist any Lien of any kind securing Indebtedness on any property or assets now owned or hereafter acquired, other than, in each case, Permitted Liens, unless:

(1) in the case of any Lien securing an Obligation that ranks pari passu with the Notes or a Subsidiary Guarantee, effective provision is made to secure the Notes or such Subsidiary Guarantee, as the case may be, at least equally and ratably with or prior to such Obligation with a Lien on the same properties or assets of the Company or such Restricted Subsidiary, as the case may be; and

(2) in the case of any Lien securing an Obligation that is subordinated in right of payment to the Notes or a Subsidiary Guarantee, effective provision is made to secure the Notes or such Subsidiary Guarantee, as the case may be, with a Lien on the same properties or assets of the Company or such Restricted Subsidiary, as the case may be, that is prior to the Lien securing such subordinated obligation.

Notwithstanding the foregoing, any Lien securing the Notes granted pursuant to this Section 4.12 shall be automatically and unconditionally released and discharged upon (a) the release by the holders of the Indebtedness described above of their Lien on the property or assets of the Company or any Restricted Subsidiary (including any deemed release upon payment in full of all obligations under such Indebtedness, except payment in full made with the proceeds from the foreclosure, sale or other realization from an enforcement on the collateral by the holders of the Indebtedness described above of their Lien), (b) any sale, exchange or transfer to any Person other than the Company or any Restricted Subsidiary of the property or assets secured by such Lien, or of all of the Capital Stock held by the Company or any Restricted Subsidiary in, or all or substantially all of the assets of, any Restricted Subsidiary creating such Lien in each case in accordance with the terms of this Indenture, (c) payment in full of the principal of, and accrued and unpaid interest, if any, on, the Notes, or (d) a defeasance or discharge of the Notes in accordance with Section 8 or Section 11.

Section 4.13 *Corporate Existence.*

The Company shall deliver to the Trustee an Officer's Certificate together with a certificate of the Delaware Secretary of State reflecting the corporate conversion and re-naming of the Company within 10 Business Days after such conversion and re-naming is effective. Subject to Article 5, the Company shall do or cause to be done all things necessary to preserve and keep in full force and effect:

(1) its corporate existence, and the corporate, partnership or other existence of each of its Subsidiaries, in accordance with the respective organizational documents (as the same may be amended from time to time) of the Company or any such Subsidiary; and

(2) the rights (charter and statutory), licenses and franchises of the Company and its Subsidiaries; *provided*, *however*, that the Company shall not be required to preserve any such right, license or franchise, or the corporate, partnership or other existence of any of its Subsidiaries, if the Board of Directors shall determine that the preservation thereof is no longer desirable in the conduct of the business of the Company and its Subsidiaries, taken as a whole, and that the loss thereof is not adverse in any material respect to the Holders of the Notes.

Section 4.14 *Offer to Repurchase Upon Change of Control.*

(a) If a Change of Control occurs, the Company will make an offer (a "Change of Control Offer") to each Holder of Notes, pursuant to which each such Holder will have the right to require the Company to repurchase all or any part (equal to $2,000 or integral multiples of $1,000 in excess thereof) of that Holder's Notes pursuant to a Change of Control Offer. In the Change of Control Offer, the Company will offer a payment in cash equal to 101% of the aggregate principal amount of the Notes repurchased plus accrued and unpaid interest, if any (the "Change of Control Payment"). Within 30 days following any Change of Control, the Company will send a notice to each Holder with a copy to the Trustee, to the address of such Holder appearing in the security register or otherwise in accordance with the procedures of DTC with the following information:

(1) that a Change of Control Offer is being made pursuant to this Section 4.14 and that all Notes properly tendered pursuant to such Change of Control Offer will be accepted for payment by the Company;

(2) the purchase price and the purchase date, which date will be no earlier than 10 days nor later than 60 days from the date such notice is delivered (the "Change of Control Payment Date");

(3) that any Note not properly tendered will remain outstanding and continue to accrue interest;

(4) that, unless the Company defaults in the payment of the Change of Control Payment, all Notes accepted for payment pursuant to the Change of Control Offer will cease to accrue interest on the Change of Control Payment Date;

(5) that Holders electing to have Notes purchased pursuant to any Net Proceeds Offer will be required to surrender the Note, with the form entitled "Option of Holder to Elect Purchase" attached to the Notes completed, or transfer by book-entry transfer, to the Company, a Depositary, if appointed by the Company, or a Paying Agent at the address specified in the notice at least three Business Days before the Change of Control Payment Date;

(6) that, until the withdrawal deadline (or such later time and date as the Company may decide in its sole discretion), Holders will be entitled to withdraw their election if the Company, the Depositary or the Paying Agent, as the case may be, receives, not later than the withdrawal deadline, a facsimile, email transmission or letter setting forth the name of the Holder, the principal amount of the Note the Holder delivered for purchase and a statement that such Holder is withdrawing his election to have such Note purchased;

(7) that if less than all of such Holder's Notes are tendered for purchase, such Holder will be issued new Notes (or, in the case of global notes, such Notes shall be reduced by such amount of Notes that the Holder has tendered) and such new Notes will be equal in principal amount to the unpurchased portion of the Notes surrendered; *provided* that the unpurchased portion of the Notes must be equal to at least $2,000 or integral multiples of $1,000 in excess thereof;

(8) if such notice is sent prior to the occurrence of a Change of Control in accordance with this Indenture, that the Change of Control Offer is conditional on the occurrence of such Change of Control, and that such purchase may not occur and such notice may be rescinded in the event that the Company shall determine that the occurrence of such Change of Control will not be satisfied or waived by the Change of Control Payment Date; and

(9) such other instructions, as determined by the Company, consistent with this Section 4.14, that a Holder must follow.

(b) The Company will comply with the requirements of Rule 14e-1 under the Exchange Act and any other securities laws and regulations thereunder to the extent such 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 provisions of Section 4.14, the Company or such Restricted Subsidiary shall comply with the applicable securities laws and regulations and shall not be deemed to have breached its obligations under this Section 4.14 by virtue of such compliance.

(c) On the Change of Control Payment Date, the Company will, to the extent lawful:

(1) accept for payment all Notes or portions thereof properly tendered pursuant to the Change of Control Offer;

(2) deposit with the Paying Agent an amount equal to the Change of Control Payment in respect of all Notes or portions thereof so tendered; and

(3) deliver or cause to be delivered to the Trustee the Notes so accepted together with an Officer's Certificate stating the aggregate principal amount of Notes or portions thereof being purchased by the Company.

The Paying Agent will promptly mail to each Holder of Notes so tendered the Change of Control Payment for such Notes, and the Trustee will promptly authenticate and mail (or cause to be transferred by book entry) to each Holder a new Note equal in principal amount to any unpurchased portion of the Notes surrendered, if any; *provided* that each such new Note will be in a minimum principal amount of $2,000 or integral multiples of $1,000 in excess thereof. The Company will publicly announce the results of the Change of Control Offer on or as soon as practicable after the Change of Control Payment Date.

(d) The provisions of Section 4.14(a) that require the Company to make a Change of Control Offer following a Change of Control will be applicable regardless of whether or not any other provisions of this Indenture are applicable.

(e) Notwithstanding anything to the contrary in this Section 4.14, the Company will not be required to make a Change of Control Offer upon a Change of Control if (1) 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 Section 4.14 and purchases all Notes properly tendered and not withdrawn under the Change of Control Offer or (2) a notice of redemption has been given prior to the Change of Control pursuant to Section 3.07 unless and until there is a default in payment of the applicable redemption price.

(f) Notwithstanding anything to the contrary contained herein, a Change of Control Offer may be made in advance of a Change of Control and conditioned upon the consummation of such Change of Control, if a definitive agreement with respect to the Change of Control is in place at the time the Change of Control Offer is made.

Section 4.15 [Reserved]

Section 4.16 *Subsidiary Guarantees.*

On March 24, 2022, the Company shall cause each Restricted Subsidiary that, as of the Issue Date, guarantees the Credit Agreement, to execute and deliver to the Trustee a supplemental indenture substantially in the form attached as Exhibit F hereto pursuant to which each such Restricted Subsidiary shall unconditionally Guarantee all of the Company's obligations under the Notes and this Indenture.

In addition, if the Company or any of its Wholly Owned Restricted Subsidiaries acquires or creates another Domestic Subsidiary that is a Wholly Owned Restricted Subsidiary (other than an Excluded Subsidiary) that Guarantees (a) the Credit Agreement (including, for avoidance of doubt, any refinancing or replacement thereof), (b) any Indebtedness of the Company or any Guarantor incurred and outstanding pursuant to clause (1) of the definition of Permitted Debt or (c) any series of capital markets debt securities of the Company or any Guarantor with an aggregate principal amount in excess of $50.0 million, then that newly acquired or created Domestic Subsidiary that is a Wholly Owned Restricted Subsidiary will become a Guarantor and, within twenty (20) Business Days of the date on which it provides a Guarantee described in the foregoing clauses (a), (b) and/or (c), as applicable, the Company shall cause such Domestic Subsidiary that is a Wholly Owned Restricted Subsidiary to execute and deliver to the Trustee a supplemental indenture substantially in the form attached as Exhibit F hereto pursuant to which such Domestic Subsidiary shall unconditionally Guarantee all of the Company's obligations under the Notes and this Indenture; *provided*, *however*, that in no event shall any such supplemental indenture be required to be executed prior to March 24, 2022.

Section 4.17 *Designation of Restricted and Unrestricted Subsidiaries.*

The Company may designate any Restricted Subsidiary to be an Unrestricted Subsidiary pursuant to an Officer's Certificate and in accordance with the definition of "Unrestricted Subsidiary" if the designation would not cause a Default. All outstanding Investments owned by the Company and its Restricted Subsidiaries in the designated Unrestricted Subsidiary will be treated as an Investment made at the time of the designation. The amount of all such outstanding Investments will be the aggregate fair market value of such Investments at the time of the designation. The designation will not be permitted if such Investment would not be permitted as a Restricted Payment or Permitted Investment at that time and if such Restricted Subsidiary does not otherwise meet the definition of an Unrestricted Subsidiary. Any designation of a Subsidiary of the Company as an Unrestricted Subsidiary shall be evidenced to the Trustee by delivering an Officer's Certificate certifying that such designation complied with the foregoing conditions and the conditions set forth in the definition of "Unrestricted Subsidiary" and was permitted by Section 4.07.

If, at any time, any Unrestricted Subsidiary would fail to meet any of the requirements as an Unrestricted Subsidiary, it shall thereafter cease to be an Unrestricted Subsidiary for purposes of this Indenture and any Indebtedness of such Subsidiary shall be deemed to be incurred by a Restricted Subsidiary of the Company as of such date and, if such Indebtedness is not permitted to be incurred as of such date under Section 4.09, the Company shall be in default of such Section 4.09.

The Company may at any time designate any Unrestricted Subsidiary to be a Restricted Subsidiary pursuant to an Officer's Certificate delivered to the Trustee certifying that such designation complied with the conditions of this paragraph; *provided* that such designation shall be deemed to be an incurrence of Indebtedness by a Restricted Subsidiary of the Company of any outstanding Indebtedness of such Unrestricted Subsidiary and such designation shall only be permitted if (1) either (a) such Indebtedness is permitted under Section 4.09, calculated on a pro forma basis as if such designation had occurred at the

beginning of the four-quarter reference period, or (b) within 20 Business Days of such designation, such Indebtedness is repaid, defeased, satisfied or discharged, or otherwise does not constitute Indebtedness of the Company and its Restricted Subsidiaries, and any Indebtedness of the Company or its Restricted Subsidiaries incurred to finance such repayment, defeasance, satisfaction or discharge would be permitted under such Section 4.09 as an original incurrence (and not a refinancing); and (2) no Default or Event of Default would be in existence following such designation.

Notwithstanding the foregoing, no Subsidiary of the Company shall be designated an Unrestricted Subsidiary during any Suspension Period.

Section 4.18 *Changes in Covenants when Notes are Rated Investment Grade.*

If on any date following the Issue Date:

(a) the Notes have an Investment Grade Rating from both Rating Agencies; and

(b) no Default or Event of Default has occurred and is continuing under this Indenture,

then beginning on that day and subject to the provisions of the following paragraph, the sections specifically listed below will be suspended with respect to the Notes:

(1) Section 4.10 (Asset Sales);

(2) Section 4.07 (Restricted Payments);

(3) Section 4.09 (Incurrence of Indebtedness and Issuance of Preferred Stock);

(4) Clause (a)(3) of Section 5.01 (Merger, Consolidation or Sale of Assets);

(5) Section 4.08 (Dividend and Other Payment Restrictions Affecting Subsidiaries); and

(6) Section 4.11 (Transactions with Affiliates)

(collectively, the "*Suspended Covenants*"). The period during which covenants are suspended pursuant to this Section 4.18 is called the "*Suspension Period*." The Company will notify the Trustee of the continuance and termination of any Suspension Period. The Trustee shall have no obligation to independently determine or verify if such events have occurred or notify the Holders of the continuance and termination of any Suspension Period. The Trustee may provide a copy of such notice to any Holder of Notes upon request.

In the event that the Company and the Restricted Subsidiaries are not subject to the Suspended Covenants for any period of time as a result of this Section 4.18 and, subsequently, one of the Rating Agencies withdraws its ratings or downgrades the rating assigned to the Notes so that the Notes no longer have Investment Grade Ratings from both Rating Agencies or a Default or Event of Default occurs and is continuing, then the Company and the Restricted Subsidiaries will, from and after such date (the "*Reinstatement Date*"), again be subject to the Suspended Covenants. Notwithstanding the foregoing and any other provision of this Indenture, the Notes or the Subsidiary Guarantees, no Default or Event of Default shall be deemed to exist under this Indenture, the Notes or any Subsidiary Guarantees with respect to the Suspended Covenants based on, and none of the Company or any of the Restricted Subsidiaries shall bear any liability with respect to the Suspended Covenants for, (a) any actions taken or

events occurring, or deemed to have been taken or to have occurred in connection with a Limited Condition Transaction, during a Suspension Period (including without limitation any agreements, Liens, preferred stock, obligations (including Indebtedness), or of any other facts or circumstances or obligations that were incurred or otherwise came into existence during a Suspension Period), or (b) any actions required to be taken at any time pursuant to any contractual obligation entered into during a Suspension Period, regardless of whether such actions or events would have been permitted if the applicable Suspended Covenants remained in effect during such period.

In the event of any reinstatement of the Suspended Covenants, all Indebtedness Incurred during the Suspension Period will be classified as having been Incurred pursuant to Section 4.09(b)(2) and all Restricted Payments made after such reinstatement will be calculated as though the limitations contained in Section 4.07 had been in effect prior to, but not during, the Suspension Period.

For purposes of Section 4.08, on the Reinstatement Date, any consensual encumbrances or restrictions of the type specified in Section 4.08(a) entered into during the Suspension Period will be deemed to have been in effect on the Issue Date, so that they are permitted under Section 4.08(b)(1).

For purposes of Section 4.11, any Affiliate Transaction entered into after the Reinstatement Date pursuant to a contract, agreement, loan, advance or guaranty with, or for the benefit of, any Affiliate of the Company entered into during the Suspension Period will be deemed to have been in effect as of the Issue Date for purposes of Section 4.11(b)(4).

During any period when the Suspended Covenants are suspended, the Company may not designate any of the Company's Subsidiaries as Unrestricted Subsidiaries pursuant to this Indenture.

Section 4.19 *The Transactions.*

For the purposes of any calculation of Consolidated Cash Flow, Consolidated Net Income, the Fixed Charge Coverage Ratio, the Consolidated Leverage Ratio, the Consolidated Senior Secured Leverage Ratio, or any other similar calculation or determination under this Indenture, for all periods prior to the consummation of the Separation and the Distribution, pro forma effect will be given to the Transactions being consummated on the Issue Date, and the Company's Subsidiaries and the other Subsidiaries of Post, if any, that will become Subsidiaries of the Company as part of the Transactions will be deemed to have been Restricted Subsidiaries of the Company. In addition, with respect to any historical financial statements, financial ratios, financial calculations and/or financial performance of the Company for any period or partial period prior to the Issue Date, such historical financial statements, financial ratios, financial calculations and/or financial performance shall be deemed to be references to historical financial statements, financial ratios, financial calculations and/or financial performance, as applicable, of Old BRBR.

Notwithstanding anything to the contrary set forth in this Indenture, no provision of this Indenture shall prevent the consummation of any of the Transactions, nor shall the Transactions give rise to any Default or Event of Default nor shall the consummation of any of the Transactions constitute the usage of any baskets hereunder.

Section 4.20 *Limited Condition Transactions.*

When calculating the availability under any basket or ratio under this Indenture or compliance with any provision of this Indenture in connection with any Limited Condition Transaction and any actions or transactions related thereto (including acquisitions, Investments, the incurrence or issuance of, or the prepayment, redemption, purchase, defeasance, or satisfaction of, Indebtedness, Disqualified Stock or

Designated Preferred Stock and the use of proceeds thereof, the incurrence or consummation, as applicable, of Liens, repayments, Restricted Payments and Asset Sales), in each case, at the option of the Company (the Company's election to exercise such option, an "*LCT Election*"), the date of determination for availability under any such basket or ratio and whether any such action or transaction is permitted (or any requirement or condition therefor is complied with or satisfied (including as to the absence of any continuing Default or Event of Default)) under this Indenture shall be deemed to be the date (the "*LCT Test Date*") either (a) the definitive agreements for such Limited Condition Transaction are entered into (or, if applicable, the date of delivery of an irrevocable notice, declaration of a Restricted Payment, entry into a binding agreement or similar event), or (b) solely in connection with an acquisition 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 (or equivalent announcement in another jurisdiction) in respect of a target of a Limited Condition Transaction and, in each case, if, after giving pro forma effect to the Limited Condition Transaction and any actions or transactions related thereto (including acquisitions, Investments, the incurrence or issuance of Indebtedness, Disqualified Stock or Designated Preferred Stock and the use of proceeds thereof, the incurrence or consummation, as applicable, of Liens, repayments, Restricted Payments and Asset Sales) and any related pro forma adjustments, the Company or any of its Restricted Subsidiaries would have been permitted to take such actions or consummate such transactions on the relevant LCT Test Date in compliance with such ratio, test or basket (and any related requirements and conditions), such ratio, test or basket (and any related requirements and conditions) shall be deemed to have been complied with (or satisfied) for all purposes (in the case of Indebtedness, for example, whether such Indebtedness is committed, issued or incurred at the LCT Test Date or at any time thereafter); *provided*, that (1) if financial statements for one or more subsequent fiscal quarters shall have become available, the Company may elect, in its sole discretion, to re-determine all such ratios, tests or baskets on the basis of such financial statements, in which case, such date of redetermination shall thereafter be deemed to be the applicable LCT Test Date for purposes of such ratios, tests or baskets, (2) except as contemplated in the foregoing clause (1), compliance with such ratios, tests or baskets (and any related requirements and conditions) shall not be determined or tested at any time after the applicable LCT Test Date for such Limited Condition Transaction and any actions or transactions related thereto (including acquisitions, Investments, the incurrence or issuance of Indebtedness, Disqualified Stock or Designated Preferred Stock and the use of proceeds thereof, the incurrence of Liens, repayments, Restricted Payments and Asset Sales) and (3) consolidated interest expense for purposes of Fixed Charge Coverage Ratio will be calculated using an assumed interest rate based on the indicative interest margin contained in any financing commitment documentation with respect to such Indebtedness or, if no such indicative interest margin exists, as reasonably determined by the Company in good faith.

For the avoidance of doubt, if the Company shall have made an LCT Election, (a) if any of the ratios, tests or baskets for which compliance was determined or tested as of the LCT Test Date would at any time after the LCT Test Date have been exceeded or otherwise failed to have been complied with as a result of fluctuations in any such ratio, test or basket, including due to fluctuations in Consolidated Cash Flow or Consolidated Total Assets of the Company or the Person subject to such Limited Condition Transaction, such baskets, tests or ratios will not be deemed to have been exceeded or failed to have been complied with as a result of such fluctuations; (b) if any related requirements and conditions (including as to the absence of any continuing Default or Event of Default) for which compliance or satisfaction was determined or tested as of the LCT Test Date would at any time after the LCT Test Date not have been complied with or satisfied (including due to the occurrence or continuation of a Default or Event of Default), such requirements and conditions will not be deemed to have been failed to be complied with or satisfied (and such Default or Event of Default shall be deemed not to have occurred or be continuing); and (c) in calculating the availability under any ratio, test or basket in connection with any action or transaction unrelated to such Limited Condition Transaction following the relevant LCT Test Date and prior to the

earlier of the date on which such Limited Condition Transaction is consummated or the date that the definitive agreement or date for redemption, purchase or repayment specified in an irrevocable notice for such Limited Condition Transaction is terminated, expires or passes, as applicable, without consummation of such Limited Condition Transaction, any such ratio, test or basket shall be determined or tested on a pro forma basis assuming such Limited Condition Transaction and other transactions in connection therewith (including any incurrence of debt and the use of proceeds thereof (but without netting the cash proceeds thereof)) had been consummated.

ARTICLE 5
SUCCESSORS

Section 5.01 *Merger, Consolidation or Sale of Assets.*

(a) The Company will not, directly or indirectly, in a single transaction or series of related transactions, consolidate or merge with or into any other Person or sell, assign, transfer, lease, convey or otherwise dispose of all or substantially all of its properties or assets (determined on a consolidated basis) to any Person or group of affiliated Persons, or permit any of its Restricted Subsidiaries to enter into any such transaction or transactions if such transaction or transactions, in the aggregate, would result in the sale, assignment transfer, lease, conveyance or other disposition of all or substantially all of the properties or assets of the Company and its Restricted Subsidiaries taken as a whole to any other Person or group of Persons unless:

(1) either:

(A) the Company shall be the surviving or continuing corporation or

(B) the Person formed by or surviving such consolidation or merger (if other than the Company) or the Person to which such sale, assignment, transfer, lease, conveyance or other disposition has been made (the "*Surviving Entity*") is a corporation, limited liability company, partnership (including a limited partnership) or trust organized or existing under the laws of the United States, any state or territory thereof or the District of Columbia (provided that if such Person is not a corporation, (i) a corporate Wholly Owned Restricted Subsidiary of such Person organized or existing under the laws of the United States, any state or territory thereof or the District of Columbia, or (ii) a corporation of which such Person is a Wholly Owned Restricted Subsidiary organized or existing under the laws of the United States, any state or territory thereof or the District of Columbia, is a co-issuer of the Notes or becomes a co-issuer of the Notes in connection therewith);

(2) the Surviving Entity, if applicable, expressly assumes, by supplemental indenture (in form and substance reasonably satisfactory to the Trustee), executed and delivered to the Trustee, the due and punctual payment of the principal of, and premium on (if any), and interest on, all of the Notes, and the performance of every covenant of the Notes and this Indenture on the part of the Company to be performed or observed;

(3) immediately after giving pro forma effect to such transaction or series of transactions and the assumption contemplated by clause (2) above (including giving effect to any Indebtedness and Acquired Debt, in each case, incurred or anticipated to be incurred in connection with or in respect of such transaction), the Company or the Surviving Entity, as the case may be, shall (a) be able to incur at least $1.00 of additional Indebtedness (other than Permitted Debt) pursuant to Section 4.09 or (b) have a Fixed Charge Coverage Ratio for the Company's most recently ended four full fiscal quarters for which internal financial statements are available that is

equal to or greater than the Fixed Charge Coverage Ratio of the Company for the Company's most recently ended four full fiscal quarters for which internal financial statements are available or a Consolidated Leverage Ratio that is equal to or less than the Consolidated Leverage Ratio of the Company, in each case immediately prior to such consolidation, merger, sale, assignment, transfer, conveyance or other disposition; *provided*, however, that this clause (3) shall not apply during any Suspension Period;

(4) immediately after giving effect to such transaction or series of transactions and the assumption contemplated by clause (2) above (including, without limitation, giving effect to any Indebtedness and Acquired Debt, in each case, incurred or anticipated to be incurred and any Lien granted in connection with or in respect of such transaction), no Default or Event of Default shall have occurred and be continuing; and

(5) the Company or the Surviving Entity, as the case may be, shall have delivered to the Trustee an Officer's Certificate and an Opinion of Counsel (subject to customary assumptions and exceptions), each stating that such consolidation, merger, sale, assignment, transfer, lease, conveyance or other disposition and, if a supplemental indenture is required in connection with such transaction, such supplemental indenture, complies with the applicable provisions of this Indenture and that all conditions precedent in this Indenture relating to such transaction have been satisfied.

Notwithstanding the foregoing, (i) any merger of the Company with an Affiliate incorporated solely for the purpose of reincorporating the Company in another jurisdiction shall be permitted without regard to clause (3) of Section 5.01(a), (ii) any consolidation or merger, or any sale, assignment, transfer, conveyance, lease or other disposition of assets between or among the Company and its Restricted Subsidiaries shall be permitted and (iii) any consolidation or merger, or any sale, assignment, transfer, conveyance, lease or other disposition of assets pursuant to or in connection with the Transactions shall be permitted.

For purposes of the foregoing, the transfer (by lease, assignment, sale or otherwise, in a single transaction or series of transactions) of all or substantially all of the properties or assets of one or more Restricted Subsidiaries of the Company the Capital Stock of which constitutes all or substantially all of the properties and assets of the Company, shall be deemed to be the transfer of all or substantially all of the properties and assets of the Company.

(b) Each Guarantor will not, and the Company will not cause or permit any Guarantor to, directly or indirectly, in a single transaction or series of related transactions, consolidate or merge with or into any Person other than the Company or any other Guarantor unless:

(1) if the Guarantor was a corporation or limited liability company under the laws of the United States, any State thereof or the District of Columbia, the entity formed by or surviving any such consolidation or merger (if other than the Guarantor) is a corporation or limited liability company organized and existing under the laws of the United States, any State thereof or the District of Columbia;

(2) such entity assumes by supplemental indenture all of the obligations of the Guarantor under its Subsidiary Guarantee;

(3) immediately after giving effect to such transaction, no Default or Event of Default shall have occurred and be continuing;

(4) immediately after giving effect to such transaction and the use of any net proceeds therefrom on a pro forma basis, the Company could satisfy the provisions of clause (a)(3) of this Section 5.01; *provided*, however, that this clause (4) shall not apply during any Suspension Period; and

(5) the Guarantor or the Surviving Entity, as the case may be, shall have delivered to the Trustee an Officer's Certificate and an Opinion of Counsel (subject to customary assumptions and exceptions), each stating that such consolidation, merger, sale, assignment, transfer, lease, conveyance or other disposition and, if a supplemental indenture is required in connection with such transaction, such supplemental indenture, complies with the applicable provisions of this Indenture and that all conditions precedent in this Indenture relating to such transaction have been satisfied**.**

Notwithstanding the foregoing, the requirements of Section 5.01(b) will not apply to any transaction pursuant to which such Guarantor is automatically released from its Subsidiary Guarantee in accordance with the provisions described under Section 10.04.

Section 5.02 *Successor Corporation Substituted*

(a) Upon any consolidation or merger of the Company or any sale, assignment, transfer, lease, conveyance or other disposition of all or substantially all of the assets of the Company in accordance with Section 5.01(a) in which the Company is not the continuing corporation, the Surviving Entity formed by such consolidation or into which the Company is merged or to which such sale, assignment, transfer, lease, conveyance or other disposition is made shall succeed to, and be substituted for, and may exercise every right and power of, the Company under this Indenture and the Notes with the same effect as if such Surviving Entity had been named as such and the Company shall be released from its obligations under this Indenture and the Notes; *provided*, *however*, that the Company shall not be released from its obligations under this Indenture or the Notes in the case of a lease.

(b) Upon any consolidation or merger of any Guarantor with or into any Person other than the Company or any other Guarantor in accordance with Section 5.01(b) and upon the assumption by the successor Person, by supplemental indenture, executed and delivered to the Trustee and satisfactory in form to the Trustee, of the Subsidiary Guarantee endorsed upon the Notes and the due and punctual performance of all of the covenants and conditions of this Indenture to be performed by the Guarantor, such successor Person will succeed to and be substituted for the Guarantor with the same effect as if it had been named herein as a Guarantor. All of the Subsidiary Guarantees so issued will in all respects have the same legal rank and benefit under this Indenture as the Subsidiary Guarantees theretofore and thereafter issued in accordance with the terms of this Indenture as though all of such Subsidiary Guarantees had been issued at the date of the execution hereof.

ARTICLE 6
DEFAULTS AND REMEDIES

Section 6.01 *Events of Default.*

Each of the following is an "*Event of Default*":

(1) default for 30 consecutive days in the payment when due of interest on the Notes;

(2) default in the payment when due (at maturity, upon redemption or otherwise) of the principal of, or premium, if any, on, the Notes (including default in payment when due in connection with the purchase of Notes tendered pursuant to a Change of Control Offer or Net Proceeds Offer on the date specified for such payment in the applicable offer to purchase);

(3) default in the observance or performance of any covenant or agreement contained in this Indenture or the Notes, which default continues for a period of 60 days after the Company receives written notice specifying the default (and demanding that such default be remedied) from the Trustee or the Holders (with a copy to the Trustee) of at least 25% of the outstanding principal amount of the Notes;

(4) default under any mortgage, indenture or instrument under which there may be issued or by which there may be secured or evidenced any Indebtedness for money borrowed by the Company or any of its Restricted Subsidiaries (or the payment of which is guaranteed by the Company or any of its Restricted Subsidiaries), whether such Indebtedness or Guarantee now exists, or is created after the Issue Date, if that default:

(A) is caused by a failure to pay principal of, premium on, if any, or interest on, if any, such Indebtedness prior to the expiration of the grace period provided in such Indebtedness on the date of such default (a "*Payment Default*"); or

(B) results in the acceleration of such Indebtedness prior to its express maturity,

and, in the case of each of clauses (A) and (B), the principal amount of any such Indebtedness, together with the principal amount of any other such Indebtedness under which there has been a Payment Default or the maturity of which has been so accelerated, aggregates $75.0 million (excluding amounts bonded or covered by insurance), or more;

(5) failure by the Company or any of its Restricted Subsidiaries to pay non-appealable final judgments entered by a court or courts of competent jurisdiction aggregating in excess of $75.0 million (excluding amounts covered by insurance or bonded), which judgments are not paid, discharged or stayed, for a period of more than 60 days after such judgments have become final and non-appealable and, in the event such judgment is covered by insurance, an enforcement proceeding has been commenced by any creditor upon such judgment or decree which is not promptly stayed;

(6) except as permitted by this Indenture, any Subsidiary Guarantee shall be held in any judicial proceeding to be unenforceable or invalid or shall cease for any reason to be in full force and effect or any Guarantor, or any Person acting on behalf of any Guarantor, shall deny or disaffirm its Obligations under its Subsidiary Guarantee if, and only if, in each such case, such default continues for 10 days;

(7) the Company or any of its Restricted Subsidiaries that is a Significant Subsidiary or any group of Restricted Subsidiaries of the Company that, taken together, would constitute a Significant Subsidiary pursuant to or within the meaning of Bankruptcy Law:

(A) commences a voluntary case,

(B) consents to the entry of an order for relief against it in an involuntary case,

(C) consents to the appointment of a custodian of it or for all or substantially all of its property,

(D) makes a general assignment for the benefit of its creditors, or

(E) generally is not paying its debts as they become due; or

(8) a court of competent jurisdiction enters an order or decree under any Bankruptcy Law that:

(A) is for relief against the Company or any of its Restricted Subsidiaries that is a Significant Subsidiary or any group of Restricted Subsidiaries of the Company that, taken together, would constitute a Significant Subsidiary in an involuntary case;

(B) appoints a custodian of the Company or any of its Restricted Subsidiaries that is a Significant Subsidiary or any group of Restricted Subsidiaries of the Company that, taken together, would constitute a Significant Subsidiary or for all or substantially all of the property of the Company or any of its Restricted Subsidiaries that is a Significant Subsidiary or any group of Restricted Subsidiaries of the Company that, taken together, would constitute a Significant Subsidiary; or

(C) orders the liquidation of the Company or any of its Restricted Subsidiaries that is a Significant Subsidiary or any group of Restricted Subsidiaries of the Company that, taken together, would constitute a Significant Subsidiary;

and the order or decree remains unstayed and in effect for 60 consecutive days.

Section 6.02 *Acceleration.*

If an Event of Default specified in clause (7) or (8) of Section 6.01 occurs and is continuing, then all unpaid principal of, premium, if any, and accrued and unpaid interest, if any, on all outstanding Notes will become due and payable immediately without further action or notice. If any other Event of Default occurs and is continuing, the Trustee or the Holders of at least 25% in aggregate principal amount of the then outstanding Notes may declare all amounts owing under the Notes to be due and payable immediately by a notice in writing to the Company (and to the Trustee, if given by Holders) specifying the Event of Default and that it is a "notice of acceleration."

Upon any such declaration, the aggregate principal of, premium, if any, and accrued and unpaid interest, if any, on the outstanding Notes shall become immediately due and payable.

Notwithstanding the foregoing, a notice of Default, notice of acceleration or instruction to the Trustee to provide a notice of Default or notice of acceleration may not be given by the Trustee or the Holders of the Notes (or any other action taken on the assertion of any Default) with respect to any action taken, and reported publicly or to Holders of the Notes, more than two years prior to such notice of Default, notice of acceleration or instruction to the Trustee to provide a notice of Default or notice of acceleration (or other action).

The Holders of a majority in aggregate principal amount of the then outstanding Notes by written notice to the Trustee may, on behalf of all of the Holders of all of the Notes, rescind an acceleration or waive any existing Default or Event of Default and its consequences hereunder except a continuing Default or Event of Default in the payment of interest or premium, if any, on, or the principal of, the Notes (except nonpayment of principal of, premium on, if any, or interest on the Notes that has become due solely because of the acceleration); *provided* the Company has paid the Trustee its reasonable compensation and reimbursed the Trustee for its expenses, disbursements and advances.

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 other than a Regulated Bank (each a "*Directing Holder*") must be accompanied by a written representation from each such holder of Notes delivered 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 the delivery of a notice of Default shall be deemed a continuing representation until the resulting Event of Default is cured or otherwise ceases to exist or the Notes are accelerated. If the holder of the Notes is a clearing system or a common safekeeper or its nominee, any Position Representation required hereunder shall be provided by the clearing system or the common safekeeper or its nominee or by the beneficial owner of an interest in such global Note after delivery to the Trustee of appropriate confirmation of beneficial ownership satisfactory to the Trustee. In addition, each Directing Holder is deemed, at the time of providing a Noteholder Direction, to 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*"). The Trustee shall have no duty whatsoever to provide this information to the Company or to obtain this information for the Company. 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, and DTC shall be entitled to conclusively rely on such Position Representation and Verification Covenant in delivering its direction to the Trustee.

If, following the delivery of a Noteholder Direction, but prior to acceleration of the Notes, the Company determines in good faith that there is a reasonable basis to believe a Directing Holder was, at any relevant time, in breach of its Position Representation and provides to the Trustee an Officer's Certificate stating that the Company has initiated litigation in 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 Default shall be automatically stayed and the cure period with respect to such Event of Default shall be automatically reinstituted and any remedy 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 such Default shall be automatically stayed and the cure period with respect to any Event of Default that resulted from the applicable Noteholder Direction shall be automatically reinstituted and any remedy 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, acceleration voided and the Trustee shall be deemed not to have received such Noteholder Direction or any notice of such Default or Event of Default; *provided*, *however*, this shall not invalidate any indemnity or security provided by the Directing Holders to the Trustee which obligations shall continue to survive. For the avoidance of doubt, the foregoing requirements applicable to Noteholder Directions as defined above do not apply to any other directions given by Holders to the Trustee under this Indenture.

With their acquisition of the Notes, each Holder and subsequent purchaser of the Notes consents to the delivery of its Position Representation by the Trustee to the Company in accordance with the terms of this Indenture. Each Holder and subsequent purchaser of the Notes waives any and all claims, in law and/or in equity, against the Trustee and agrees not to commence any legal proceeding against the Trustee in

respect of, and agrees that the Trustee will not be liable for any action that the Trustee takes in accordance with this Indenture, or arising out of or in connection with following instructions or taking actions in accordance with a Noteholder Direction. The Company waives any and all claims, in law and/or in equity, against the Trustee, and agrees not to commence any legal proceeding against the Trustee in respect of, and agrees that the Trustee will not be liable for any action that the trustee takes in accordance with this Indenture, or arising out of or in connection with following instructions or taking actions in accordance with a Noteholder Direction.

Notwithstanding anything in the preceding two paragraphs to the contrary, any Noteholder Direction delivered to the Trustee during the pendency of an Event of Default as the result of a bankruptcy or similar proceeding shall not require compliance with the preceding two paragraphs. In addition, for the avoidance of doubt, the preceding two paragraphs shall not apply to any holder that is a Regulated Bank. For the avoidance of doubt, the Trustee shall be entitled to conclusively rely 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. The Trustee shall have no liability to the Company, any Holder or any other Person in acting in good faith on a Noteholder Direction. For the avoidance of doubt, the Trustee will treat all holders equally with respect to their rights under this Indenture. In connection with the requisite percentages required under this Indenture, the Trustee shall also treat all outstanding Notes equally irrespective of any Position Representation in determining whether the requisite percentage has been obtained with respect to the initial delivery of the Noteholder Direction. Any and all other actions that the Trustee takes or omits to take with respect to a Noteholder Direction and all fees, costs expenses of the Trustee and its agents and counsel arising hereunder and in connection herewith shall be covered by the Company's indemnification obligations under the this Indenture.

Section 6.03 *Other Remedies.*

If an Event of Default occurs and is continuing, the Trustee may pursue any available remedy to collect the payment of principal of, premium on, if any, or interest on the Notes or to enforce the performance of any provision of the Notes or this Indenture.

The Trustee may maintain a proceeding even if it does not possess any of the Notes or does not produce any of them in the proceeding. A delay or omission by the Trustee or any Holder of a Note in exercising any right or remedy accruing upon an Event of Default shall not impair the right or remedy or constitute a waiver of or acquiescence in the Event of Default. All remedies are cumulative to the extent permitted by law.

Section 6.04 *Waiver of Past Defaults.*

The Holders of a majority in aggregate principal amount of the then outstanding Notes by written notice to the Trustee may, on behalf of the Holders of all of the Notes, waive any existing Default or Event of Default and its consequences hereunder, except a continuing Default or Event of Default in the payment of principal of, premium on, if any, or interest on the Notes (including in connection with an offer to purchase); *provided*, *however*, that the Holders of a majority in aggregate principal amount of the then outstanding Notes may rescind an acceleration and its consequences, including any related payment default that resulted from such acceleration pursuant to Section 6.02. 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 impair any right consequent thereon.

Section 6.05 *Control by Majority.*

Holders of a majority in aggregate principal amount of the then outstanding Notes may direct the time, method and place of conducting any proceeding for exercising any remedy available to the Trustee or exercising any trust or power conferred on it. However, the Trustee may refuse to follow any direction that conflicts with law or this Indenture that the Trustee determines may be unduly prejudicial to the rights of other Holders of Notes (it being understood that the Trustee does not have an affirmative duty to ascertain whether or not any such directions are unduly prejudicial to such Holders) or that may involve the Trustee in personal liability. The Trustee may take any other action deemed proper by the Trustee which is not inconsistent with such direction.

Section 6.06 *Limitation on Suits.*

No Holder of a Note may pursue any remedy with respect to this Indenture or the Notes unless:

(1) such Holder has previously given to the Trustee written notice that an Event of Default is continuing;

(2) Holders of at least 25% in aggregate principal amount of the then outstanding Notes make a written request to the Trustee to pursue the remedy;

(3) such Holder or Holders offer and, if requested, provide to the Trustee security or indemnity satisfactory to the Trustee against any loss, liability or expense;

(4) the Trustee does not comply with such request within 60 days after receipt of the request and the offer of security or indemnity; and

(5) during such 60-day period, Holders of a majority in aggregate principal amount of the then outstanding Notes do not give the Trustee a direction inconsistent with such request.

A Holder of a Note may not use this Indenture to prejudice the rights of another Holder of a Note or to obtain a preference or priority over another Holder of a Note.

Section 6.07 *Rights of Holders of Notes to Receive Payment.*

Notwithstanding any other provision of this Indenture, the right of any Holder of a Note to receive payment of principal of, premium on, if any, or interest on the Note, on or after the respective due dates expressed in the Note (including in connection with an offer to purchase), or to bring suit for the enforcement of any such payment on or after such respective dates, shall not be impaired or affected without the consent of such Holder.

Section 6.08 *Collection Suit by Trustee.*

If an Event of Default specified in Section 6.01(1) or (2) occurs and is continuing, the Trustee is authorized to recover judgment in its own name and as trustee of an express trust against the Company or the Guarantors for the whole amount of principal of, premium on, if any, and interest, if any, remaining unpaid on, the Notes and interest on overdue principal and, to the extent lawful, interest and such further amount as shall be sufficient to cover the costs and expenses of collection, including the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel.

Section 6.09 *Trustee May File Proofs of Claim.*

The Trustee is authorized to 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 (including any claim for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel) and the Holders of the Notes allowed in any judicial proceedings relative to the Company or the Guarantors (or any other obligor upon the Notes), its creditors or its property and shall be entitled and empowered to collect, receive and distribute any money or other property payable or deliverable on any such claims and any custodian in any such judicial proceeding is hereby authorized by each Holder to make such 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 counsel, and any other amounts due the Trustee under Section 7.06. To the extent that the payment of any such compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, and any other amounts due the Trustee under Section 7.06 out of the estate in any such proceeding, shall be denied for any reason, payment of the same shall be secured by a Lien on, and shall be paid out of, any and all distributions, dividends, money, securities and other properties that the Holders may be entitled to receive in such proceeding whether in liquidation or under any plan of reorganization or arrangement or otherwise. Nothing herein contained 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, or to authorize the Trustee to vote in respect of the claim of any Holder in any such proceeding.

Section 6.10 *Priorities.*

After an Event of Default, any moneys or properties distributable in respect of the Company's or any Guarantor's obligations under this Indenture, or any money or property collected by the Trustee pursuant to this Article 6, shall be paid out or distributed in the following order:

First: to the Trustee (including any predecessor Trustee), its agents and attorneys for amounts due under Section 7.06, including payment of all compensation, expenses and liabilities incurred, and all advances made, by the Trustee and the costs and expenses of collection;

Second: to Holders of Notes for amounts due and unpaid on the Notes for principal, premium, if any, and interest, if any, ratably, without preference or priority of any kind, according to the amounts due and payable on the Notes for principal, premium, if any, and interest, if any, respectively; and

Third: to the Company or to such party as a court of competent jurisdiction shall direct.

The Trustee may fix a record date and payment date for any payment to Holders of Notes pursuant to this Section 6.10.

Section 6.11 *Undertaking for Costs.*

In any suit for the enforcement of any right or remedy under this Indenture or in any suit against the Trustee for any action taken or omitted by it as a Trustee, a court in its discretion may require the filing by any party litigant in the suit of an undertaking to pay the costs of the suit, and the court in its discretion may assess reasonable costs, including reasonable attorneys' fees, against any party litigant in the suit, having due regard to the merits and good faith of the claims or defenses made by the party litigant. This Section 6.11 does not apply to a suit by the Trustee, a suit by a Holder of a Note pursuant to Section 6.07, or a suit by Holders of more than 10% in aggregate principal amount of the then outstanding Notes.

ARTICLE 7
TRUSTEE

Section 7.01 *Duties of Trustee.*

(a) If an Event of Default has occurred and is continuing of which a Responsible Officer of the Trustee has actual notice, the Trustee will 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.

(b) Except during the continuance of an Event of Default:

(1) the duties of the Trustee will be determined solely by the express provisions of this Indenture and the Trustee need perform only those duties that are specifically set forth in this Indenture and no others, and no implied covenants or obligations shall be read into this Indenture against the Trustee; and

(2) in the absence of bad faith 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. However, the Trustee will examine the certificates and opinions to determine whether or not they conform to the requirements of this Indenture, but need not confirm or investigate the accuracy of any mathematical calculations or other facts stated therein.

(c) The Trustee may not be relieved from liabilities for its own negligent action, its own negligent failure to act, or its own willful misconduct, except that:

(1) this paragraph does not limit the effect of paragraph (b) of this Section 7.01;

(2) the Trustee will not be liable for any error of judgment made in good faith by a Responsible Officer, unless it is proved that the Trustee was negligent in ascertaining the pertinent facts; and

(3) the Trustee will 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 6.05.

(d) Whether or not therein expressly so provided, every provision of this Indenture that in any way relates to the Trustee is subject to paragraphs (a), (b), and (c) of this Section 7.01.

(e) No provision of this Indenture will require the Trustee to expend or risk its own funds or incur any liability. The Trustee will be under no obligation to exercise any of its rights and powers under this Indenture at the request of any Holders, unless such Holder has offered to the Trustee security or indemnity satisfactory to it against any loss, liability or expense.

(f) The Trustee will not be liable for interest on any money received by it except as the Trustee may agree in writing with the Company. Money and other property held in trust by the Trustee need not be segregated from other funds except to the extent required by law. The Trustee shall not be required to give any bond or surety in respect of the performance of its powers or duties hereunder.

Section 7.02 *Rights of Trustee.*

(a) The Trustee may conclusively rely upon any document (whether in its original or facsimile form) believed by it to be genuine and to have been signed or presented by the proper Person. The Trustee need not investigate any fact or matter stated in the document.

(b) Before the Trustee acts or refrains from acting, it may require an Officer's Certificate or an Opinion of Counsel or both. The Trustee will not be liable for any action it takes or omits to take in good faith in reliance on such Officer's Certificate or Opinion of Counsel. The Trustee may consult with counsel and the written advice of such counsel or any Opinion of Counsel will be full and complete authorization and protection from liability in respect of any action taken, suffered or omitted by it hereunder in good faith and in reliance thereon.

(c) The Trustee may act through its attorneys and agents and will not be responsible for the misconduct or negligence of any agent appointed with due care.

(d) The Trustee will not be liable for any action it takes or omits to take in good faith that it believes to be authorized or within the rights or powers conferred upon it by this Indenture.

(e) Unless otherwise specifically provided in this Indenture, any demand, request, direction or notice from the Company will be sufficient if signed by an Officer of the Company and any resolution of the Board of Directors may be sufficiently evidenced by an Officer's Certificate or a certificate of the Secretary of the Company.

(f) The Trustee will 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 unless such Holders have offered to the Trustee indemnity or security satisfactory to it against the losses, liabilities and expenses that might be incurred by it in compliance with such request or direction.

(g) The permissive right of the Trustee to do things enumerated in this Indenture shall not be construed as a duty of the Trustee, and the Trustee shall not be liable for any action taken or omitted to be taken by it in good faith and reasonably believed by it to be within the discretion or power conferred upon it by this Indenture other than for its own negligence or willful misconduct.

(h) The Trustee shall not be required to take notice or be deemed to have notice of any Default or Event of Default hereunder unless a Responsible Officer has actual knowledge thereof, or the Trustee shall be specifically notified in writing of such Default or Event of Default by the Company or by the Holders of at least 25% of the aggregate principal amount of Notes then outstanding, at the Corporate Trust Office of the Trustee, and such notice references the Notes and this Indenture.

(i) The rights, privileges, protections, immunities and benefits given to the Trustee, including without limitation its right to be compensated, reimbursed, and indemnified, are extended to, and shall be enforceable by, the Trustee in each of its capacities hereunder, and to each Agent, custodian and other Person employed to act hereunder.

(j) 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 any act or provision of any present or future law or regulation or governmental authority, natural disaster, strikes, work stoppages, accidents, acts of war or terrorism, civil or military disturbances, nuclear or natural catastrophes or acts of God, labor dispute, disease, epidemic or pandemic, quarantine, national emergency and interruptions, loss or malfunctions of utilities,

communications or computer (software and hardware) services, communications system failure, malware or ransomware or other unavailability of the Federal Reserve Bank wire or facsimile or telex system or other funds transfer system or other wire or communication facility or unavailability of any securities clearing system; it being understood that the Trustee shall use reasonable efforts which are consistent with accepted practices in the banking industry to resume performance as soon as practicable under the circumstances.

(k) The Trustee may request that the Company and the Guarantors deliver an Officer's Certificate setting forth the names of individuals and/or titles of officers authorized at such time to take specified actions pursuant to this Indenture.

(l) In no event shall the Trustee be responsible or liable for any special, indirect, punitive or consequential loss or damage of any kind whatsoever (including, but not limited to, loss of profit), irrespective of whether the Trustee has been advised of the likelihood of such loss or damage and regardless of the form of action.

(m) The Trustee will 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, debenture, note, other evidence of indebtedness, or other paper or document, but the Trustee, in its discretion, may make such further inquiry or investigation into such facts or matters as it may see fit, and, if the Trustee shall determine to make such further inquiry or investigation, it will be entitled to examine the books, records, and premises of the Company, personally or by agent or attorney at the sole cost of the Company and shall incur no liability or additional liability of any kind by reason of such inquiry or investigation.

(n) The transferor of any Note shall provide or cause to be provided to the Trustee all information necessary to allow the Trustee to comply with any applicable tax reporting obligations, including without limitation any cost basis reporting obligations under Section 6045 of the Internal Revenue Code. The Trustee may rely on information provided to it and shall have no responsibility to verify or ensure the accuracy of such information. In connection with any proposed exchange of a certificated Note for a Global Note, the Company or DTC shall be required to provide or cause to be provided to the Trustee all information necessary to allow the Trustee to comply with any applicable tax reporting obligations, including without limitation any cost basis reporting obligations under Section 6045 of the Internal Revenue Code. The Trustee may rely on information provided to it and shall have no responsibility to verify or ensure the accuracy of such information.

Section 7.03 *Individual Rights of Trustee.*

The Trustee in its individual or any other capacity may become the owner or pledgee of Notes and may otherwise deal with the Company or any Affiliate of the Company with the same rights it would have if it were not Trustee. However, in the event that the Trustee acquires any conflicting interest within the meaning of Trust Indenture Act Section 310(b), it must eliminate such conflict within 90 days or resign. Any Agent may do the same with like rights and duties. The Trustee is also subject to Section 7.09.

Section 7.04 *Trustee's Disclaimer.*

The Trustee will not be responsible for and makes no representation as to the validity or adequacy of this Indenture or the Notes or Subsidiary Guarantees, it shall not be accountable for the Company's use of the proceeds from the Notes or any money paid to the Company or upon the Company's direction under any provision of this Indenture, it will not be responsible for the use or application of any money received by any Paying Agent other than the Trustee, and it will not be responsible for any statement or recital herein

or any statement in the Notes or Subsidiary Guarantees or in the Offering Memorandum, any Formation Document, the Exchange Agreement, or any other document in connection with the sale of the Notes or pursuant to this Indenture other than its certificate of authentication. Under no circumstances shall the Trustee be liable in its individual capacity for the obligations evidenced by the Notes or the Subsidiary Guarantees. The Trustee shall have no obligation to independently determine or verify if any event has occurred or notify the Holders of any event dependent upon the rating of the Notes, or if the rating on the Notes has been changed, suspended or withdrawn by any Rating Agency. The Trustee shall have no obligation to independently determine or verify if any Change of Control, Suspension Period or Reinstatement Date, or any other event, has occurred or notify the Holders of any such event.

Section 7.05 *Notice of Defaults.*

If a Default or Event of Default occurs and is continuing and if it is known to the Trustee, the Trustee will mail to Holders of Notes a notice of the Default or Event of Default within 90 days after it occurs. Except in the case of a Default or Event of Default in payment of principal of, premium on, if any, or interest on any Note, the Trustee may withhold the notice if and so long as a committee of its Responsible Officers in good faith determines that withholding the notice is in the interests of the Holders of the Notes.

Section 7.06 *Compensation and Indemnity.*

(a) The Company will pay to the Trustee from time to time reasonable compensation for its acceptance of this Indenture and services hereunder. The Trustee's compensation will not be limited by any law on compensation of a trustee of an express trust. The Company will reimburse the Trustee promptly upon request for all reasonable disbursements, advances and expenses incurred or made by it in addition to the compensation for its services. Such expenses will include the reasonable compensation, disbursements and expenses of the Trustee's agents and counsel.

(b) The Company and the Guarantors will jointly and severally indemnify the Trustee and its directors, officers, agents and employees against any and all losses, liabilities or expenses, including reasonable attorney's fees and expenses, incurred by it arising out of or in connection with the acceptance or administration of its duties under this Indenture, including the costs and expenses of enforcing this Indenture against the Company and the Guarantors (including this Section 7.06) and defending itself against any claim (whether asserted by the Company, the Guarantors, any Holder or any other Person) or liability in connection with the exercise or performance of any of its rights, powers or duties hereunder, and including reasonable attorneys' fees and expenses and court costs incurred in connection with any action, claim or suit brought to enforce the Trustee's right to compensation, reimbursement or indemnification, except to the extent any such loss, liability or expense may be attributable to its negligence or willful misconduct as finally adjudicated by a court of competent jurisdiction. The Trustee will notify the Company promptly of any claim for which it may seek indemnity. Failure by the Trustee to so notify the Company will not relieve the Company or any of the Guarantors of their obligations hereunder. The Company or such Guarantor will defend the claim and the Trustee will cooperate in the defense. The Trustee may have separate counsel and the Company will pay the reasonable fees and expenses of such counsel. Neither the Company nor any Guarantor need pay for any settlement made without its consent, which consent will not be unreasonably withheld.

(c) The obligations of the Company and the Guarantors under this Section 7.06 will survive the resignation or removal of the Trustee and the satisfaction and discharge of this Indenture.

(d) To secure the Company's and the Guarantors' payment obligations in this Section 7.06, the Trustee will have a Lien prior to the Notes on all money or property held or collected by the Trustee, except that held in trust to pay principal of, premium on, if any, or interest on particular Notes. Such Lien will survive the satisfaction and discharge of this Indenture.

(e) When the Trustee incurs expenses or renders services after an Event of Default specified in Section 6.01(8) or (9) occurs, the expenses and the compensation for the services (including the fees and expenses of its agents and counsel) are intended to constitute expenses of administration under any Bankruptcy Law.

(f) "Trustee" for the purposes of this Section 7.06 shall include any predecessor Trustee and the Trustee in each of its capacities hereunder and each agent, custodian and other person employed to act hereunder; *provided*, *however*, that the negligence or willful misconduct of any Trustee hereunder shall not affect the rights of any other Trustee hereunder.

Section 7.07 *Replacement of Trustee.*

(a) A resignation or removal of the Trustee and appointment of a successor Trustee will become effective only upon the successor Trustee's acceptance of appointment as provided in this Section 7.07.

(b) The Trustee may resign in writing at any time upon 30 days' notice and be discharged from the trust hereby created by so notifying the Company. The Holders of a majority in aggregate principal amount of the then outstanding Notes may remove the Trustee by so notifying the Trustee upon 30 days' notice and the Company in writing. The Company may remove the Trustee upon 30 days' notice if:

(1) the Trustee fails to comply with Section 7.09;

(2) the Trustee is adjudged a bankrupt or an insolvent or an order for relief is entered with respect to the Trustee under any Bankruptcy Law;

(3) a custodian or public officer takes charge of the Trustee or its property; or

(4) the Trustee becomes incapable of acting.

(c) If the Trustee resigns or is removed or if a vacancy exists in the office of Trustee for any reason, the Company will promptly appoint a successor Trustee. Within one year after the successor Trustee takes office, the Holders of a majority in aggregate principal amount of the then outstanding Notes may appoint a successor Trustee to replace the successor Trustee appointed by the Company.

(d) If a successor Trustee does not take office within 60 days after the retiring Trustee resigns or is removed, the retiring Trustee, the Company, or the Holders of at least 10% in aggregate principal amount of the then outstanding Notes may petition any court of competent jurisdiction for the appointment of a successor Trustee.

(e) If the Trustee, after written request by any Holder who has been a Holder for at least six months, fails to comply with Section 7.09, such Holder may petition any court of competent jurisdiction for the removal of the Trustee and the appointment of a successor Trustee.

(f) A successor Trustee will deliver a written acceptance of its appointment to the retiring Trustee and to the Company. Thereupon, the resignation or removal of the retiring Trustee will become effective, and the successor Trustee will have all of the rights, powers and duties of the Trustee under this Indenture. The successor Trustee will send a notice of its succession to Holders. The retiring Trustee will

promptly transfer all property held by it as Trustee to the successor Trustee; *provided* all sums owing to the Trustee hereunder have been paid and subject to the Lien provided for in Section 7.06. Notwithstanding replacement of the Trustee pursuant to this Section 7.07, the Company's obligations under Section 7.06 will continue for the benefit of the retiring Trustee.

Section 7.08 *Successor Trustee by Merger, etc.*

If the Trustee consolidates, merges or converts into, or transfers all or substantially all of its corporate trust business to, another corporation, the successor corporation without any further act will be the successor Trustee.

Section 7.09 *Eligibility; Disqualification.*

There will at all times be a Trustee hereunder that is a corporation organized and doing business under the laws of the United States of America or of any state thereof that is authorized under such laws to exercise corporate trustee power, that is subject to supervision or examination by federal or state authorities and that has a combined capital and surplus of at least $100.0 million as set forth in its most recent published annual report of condition.

ARTICLE 8
LEGAL DEFEASANCE AND COVENANT DEFEASANCE

Section 8.01 *Option to Effect Legal Defeasance or Covenant Defeasance.*

The Company may, at its option and at any time, elect to have either Section 8.02 or 8.03 be applied to all outstanding Notes upon compliance with the conditions set forth below in this Article 8.

Section 8.02 *Legal Defeasance and Discharge.*

Upon the Company's exercise under Section 8.01 of the option applicable to this Section 8.02, the Company and each of the Guarantors will, subject to the satisfaction of the conditions set forth in Section 8.04, be deemed to have been discharged from their obligations with respect to all outstanding Notes (including the Subsidiary Guarantees) on the date the conditions set forth below are satisfied (hereinafter, "*Legal Defeasance*"). For this purpose, Legal Defeasance means that the Company and the Guarantors will be deemed to have paid and discharged the entire Indebtedness represented by the outstanding Notes (including the Subsidiary Guarantees), which will thereafter be deemed to be "outstanding" only for the purposes of Section 8.05 and the other Sections of this Indenture referred to in clauses (1) and (2) below, and to have satisfied all of their other obligations under such Notes, the Subsidiary Guarantees and this Indenture (and the Trustee, on demand of and at the expense of the Company, shall execute proper instruments acknowledging the same), except for the following provisions which will survive until otherwise terminated or discharged hereunder:

(1) the rights of Holders of outstanding Notes to receive payments in respect of the principal of, premium on, if any, or interest on such Notes when such payments are due from the trust referred to in Section 8.04;

(2) the Company's obligations with respect to the Notes concerning issuing temporary Notes, registration of Notes, mutilated, destroyed, lost or stolen Notes and the maintenance of an office or agency for payment and money for security payments held in trust under Article 2 and Section 4.02;

(3) the rights, powers, trusts, duties and immunities of the Trustee hereunder and the Company's and the Guarantors' obligations in connection therewith; and

(4) this Article 8.

Subject to compliance with this Article 8, the Company may exercise its option under this Section 8.02 notwithstanding the prior exercise of its option under Section 8.03.

Section 8.03 *Covenant Defeasance.*

Upon the Company's exercise under Section 8.01 of the option applicable to this Section 8.03, the Company and each of the Guarantors will, subject to the satisfaction of the conditions set forth in Section 8.04, be released from each of their obligations under the covenants contained in Sections 4.07, 4.08, 4.09, 4.10, 4.11, 4.12, 4.13, 4.14, 4.16, 4.17 and 4.18 and clause (3) of Section 5.01(a) with respect to the outstanding Notes on and after the date the conditions set forth in Section 8.04 are satisfied (hereinafter, "*Covenant Defeasance*"), and the Notes will thereafter be deemed not "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, but will continue to be deemed "outstanding" for all other purposes hereunder (it being understood that such Notes will not be deemed outstanding for accounting purposes). For this purpose, Covenant Defeasance means that, with respect to the outstanding Notes and Subsidiary Guarantees, the Company and the Guarantors may omit to comply with and will have no liability in respect of any term, condition or limitation set forth in any such covenant, whether directly or indirectly, by reason of any reference elsewhere herein to any such covenant or by reason of any reference in any such covenant to any other provision herein or in any other document and such omission to comply will not constitute a Default or an Event of Default under Section 6.01, but, except as specified above, the remainder of this Indenture and such Notes and Subsidiary Guarantees will be unaffected thereby. In addition, upon the Company's exercise under Section 8.01 of the option applicable to this Section 8.03, subject to the satisfaction of the conditions set forth in Section 8.04, Sections 6.01(3), (4), (5), (6) and (7) will not constitute Events of Default.

Section 8.04 *Conditions to Legal or Covenant Defeasance.*

In order to exercise either Legal Defeasance or Covenant Defeasance under either Section 8.02 or 8.03:

(1) the Company must irrevocably deposit with the Trustee, in trust, for the benefit of the Holders of the Notes, cash in U.S. dollars, U.S. Government Obligations, or a combination thereof, in such amounts as will be sufficient (without consideration of any reinvestment of interest), in the opinion of a nationally recognized investment bank, appraisal firm or firm of independent public accountants delivered to the Trustee, to pay the principal of, premium, if any, and interest on the outstanding Notes on the Stated Maturity or on the applicable redemption date, as the case may be, and the Company must specify whether the Notes are being defeased to maturity or to a particular redemption date;

(2) in the case of an election under Section 8.02, the Company shall have delivered to the Trustee an Opinion of Counsel (subject to customary assumptions and exceptions) confirming that:

(A) the Company has received from, or there has been published by, the Internal Revenue Service a ruling; or

(B) 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 of Counsel shall confirm 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 Legal 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 Legal Defeasance had not occurred;

(3) in the case of an election under Section 8.03, the Company shall have delivered to the Trustee an Opinion of Counsel (subject to customary assumptions and exceptions) confirming 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;

(4) no Default or Event of Default shall have occurred and be continuing on the date of such deposit (other than a Default or Event of Default resulting from the borrowing of funds to be applied to such deposit and any similar and simultaneous deposit relating to other Indebtedness, and, in each case the granting of Liens in connection therewith);

(5) such Legal Defeasance or Covenant Defeasance will not result in a breach or violation of, or constitute a default under, this Indenture or any material agreement or instrument to which the Company or any of its Subsidiaries is a party or by which the Company or any of its Subsidiaries is bound (other than any such default under this Indenture resulting solely from the borrowing of funds to be applied to such deposit and any similar and simultaneous deposit relating to other Indebtedness, and, in each case the granting of Liens in connection therewith);

(6) the Company must deliver to the Trustee an Officer's Certificate stating that the deposit was not made by the Company with the intent of preferring the Holders of Notes over the other creditors of the Company with the intent of defeating, hindering, delaying or defrauding creditors of the Company or others; and

(7) the Company must deliver to the Trustee an Officer's Certificate and an Opinion of Counsel (subject to customary assumptions and exceptions), each stating that all conditions precedent relating to the Legal Defeasance or the Covenant Defeasance have been complied with.

Section 8.05 *Deposited Money and U.S. Government Obligations to be Held in Trust; Other Miscellaneous Provisions.*

Subject to Section 8.06, all money and non-callable U.S. Government Obligations (including the proceeds thereof) deposited with the Trustee (or other qualifying trustee, collectively for purposes of this Section 8.05, the "*Trustee*") pursuant to Section 8.04 in respect of the outstanding Notes will 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 (including the Company acting as 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 will pay and indemnify the Trustee against any tax, fee or other charge imposed on or assessed against the cash or non-callable U.S. Government Obligations deposited pursuant to Section 8.04 or the principal and interest received in respect thereof other than any such tax, fee or other charge which by law is for the account of the Holders of the outstanding Notes.

Notwithstanding anything in this Article 8 to the contrary, the Trustee will deliver or pay to the Company from time to time upon the request of the Company any money or non-callable U.S. Government Obligations held by it as provided in Section 8.04 which, in the opinion of a nationally recognized firm of independent public accountants expressed in a written certification thereof delivered to the Trustee (which may be the opinion delivered under Section 8.04(1)), are in excess of the amount thereof that would then be required to be deposited to effect an equivalent Legal Defeasance or Covenant Defeasance.

Section 8.06 *Repayment to Company.*

Any money deposited with the Trustee or any Paying Agent, or then held by the Company, in trust for the payment of the principal of, premium on, if any, or interest on any Note and remaining unclaimed for two years after such principal, premium, if any, or interest has become due and payable shall, subject to applicable abandoned property law, be paid to the Company on its request or (if then held by the Company) will be discharged from such trust; and the Holder of such Note will thereafter be permitted to look only to the Company for payment thereof, 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, will thereupon cease; *provided, however*, that the Trustee or such Paying Agent, before being required to make any such repayment, may at the expense of the Company cause to be published once, in the New York Times and The Wall Street Journal (national edition), notice that such money remains unclaimed and that, after a date specified therein, which will not be less than 30 days from the date of such notification or publication, any unclaimed balance of such money then remaining will be repaid to the Company.

Section 8.07 *Reinstatement.*

If the Trustee or Paying Agent is unable to apply any U.S. dollars or non-callable U.S. Government Obligations in accordance with Section 8.02 or 8.03, 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 Company's and the Guarantors' obligations under this Indenture and the Notes and the Subsidiary Guarantees will be revived and reinstated as though no deposit had occurred pursuant to Section 8.02 or 8.03 until such time as the Trustee or Paying Agent is permitted to apply all such money in accordance with Section 8.02 or 8.03, as the case may be; *provided, however*, that, if the Company makes any payment of principal of, premium on, if any, or interest on, any Note following the reinstatement of its obligations, the Company will be subrogated to the rights of the Holders of such Notes to receive such payment from the money held by the Trustee or Paying Agent.

ARTICLE 9
AMENDMENT, SUPPLEMENT AND WAIVER

Section 9.01 *Without Consent of Holders of Notes.*

Notwithstanding Section 9.02, without the consent of any Holder of Notes, the Company, the Guarantors and the Trustee may amend or supplement this Indenture, the Notes or the Subsidiary Guarantees:

(1) to cure any ambiguity, omission, defect or inconsistency;

(2) to provide for uncertificated Notes in addition to or in place of certificated Notes (provided that the uncertificated Notes are issued in registered form for purposes of Section 163(f) of the Internal Revenue Code);

(3) to provide for the assumption of the Company's or a Guarantor's obligations to the Holders of the Notes in the case of a merger or consolidation or sale of all or substantially all of the Company's or a Guarantor's assets;

(4) to make any change that would provide any additional rights or benefits to the Holders of the Notes or that does not adversely affect the legal rights hereunder of any Holder in any material respect;

(5) to add any Person as a Guarantor; *provided* any such supplemental indenture may be signed by the Company, the Guarantor providing the Subsidiary Guarantee and the Trustee;

(6) to comply with requirements of the SEC in order to effect or maintain the qualification of this Indenture under the Trust Indenture Act;

(7) to remove a Guarantor which, in accordance with the terms of this Indenture, ceases to be liable in respect of its Subsidiary Guarantee or to evidence the release of any Guarantor permitted to be released under the terms of this Indenture or to allow any Guarantor to execute a supplemental Indenture and/or a Note Guarantee with respect to the Notes;

(8) to evidence and provide for the acceptance of appointment under this Indenture by a successor Trustee;

(9) to secure all of the Notes;

(10) to add to the covenants of the Company or any Guarantor for the benefit of the Holders or to surrender any right or power conferred upon the Company or any Guarantor;

(11) to conform the text of this Indenture, the Notes, or the Subsidiary Guarantees to any provision of the "Description of Notes" section of the Offering Memorandum, to the extent that such provision in that "Description of Notes" was intended to be a verbatim recitation of a provision of this Indenture, the Notes, or the Subsidiary Guarantees;

(12) to provide for the issuance of Additional Notes in accordance with the limitations set forth in this Indenture; or

(13) to comply with the provisions of the Depositary or the Trustee with respect to Article II of this Indenture.

Upon the request of the Company accompanied by a resolution of its Board of Directors authorizing the execution of any such amended or supplemental indenture, and upon receipt by the Trustee of the documents described in Sections 7.02 and 9.05, the Trustee will join with the Company and the Guarantors in the execution of any amended or supplemental indenture authorized or permitted by the terms of this Indenture and to make any further appropriate agreements and stipulations that may be therein contained, but the Trustee will not be obligated to enter into such amended or supplemental indenture that affects its own rights, duties or immunities under this Indenture or otherwise.

Section 9.02 *With Consent of Holders of Notes.*

Except as provided below in this Section 9.02, the Company, the Guarantors and the Trustee may amend or supplement this Indenture (including, without limitation, Sections 3.09, 4.10 and 4.14) and the Notes and the Subsidiary Guarantees with the consent of the Holders of at least a majority in aggregate principal amount of the then outstanding Notes (including, without limitation, Additional Notes, if any) voting as a single class (including, without limitation, consents obtained in connection with a tender offer or exchange offer for, or purchase of, the Notes), and, subject to Sections 6.04 and 6.07, any existing Default or Event of Default (other than a Default or Event of Default in the payment of the principal of, premium on, if any, or interest on the Notes, except a payment default resulting from an acceleration that has been rescinded) or compliance with any provision of this Indenture or the Notes or the Subsidiary Guarantees may be waived with the consent of the Holders of a majority in aggregate principal amount of the then outstanding Notes (including, without limitation, Additional Notes, if any) voting as a single class (including, without limitation, consents obtained in connection with a tender offer or exchange offer for, or purchase of, the Notes). Section 2.08 shall determine which Notes are considered to be "outstanding" for purposes of this Section 9.02.

Upon the request of the Company accompanied by a resolution of its Board of Directors authorizing the execution of any such amended or supplemental indenture, and upon the filing with the Trustee of evidence satisfactory to the Trustee of the consent of the Holders of Notes as aforesaid, and upon receipt by the Trustee of the documents described in Sections 7.02 and 9.05, the Trustee will join with the Company and the Guarantors in the execution of such amended or supplemental indenture unless such amended or supplemental indenture directly affects the Trustee's own rights, duties or immunities under this Indenture or otherwise, in which case the Trustee may in its discretion, but will not be obligated to, enter into such amended or supplemental Indenture.

It is not necessary for the consent of the Holders of Notes under this Section 9.02 to approve the particular form of any proposed amendment, supplement or waiver, but it is sufficient if such consent approves the substance thereof. The Company may, but shall not be obligated to, fix a record date for the purpose of determining the Persons entitled to consent to any supplemental indenture hereto. If a record date is fixed, the Holders on such record date, or their duly designated proxies, and only such Persons, shall be entitled to consent to such supplemental indenture, whether or not such Holders remain Holders after such record date; *provided* that unless such consent shall have become effective by virtue of the requisite percentage having been obtained prior to the date which is 90 days after such record date, any such consent previously given shall automatically and without further action by any Holder be cancelled and of no further effect.

After an amendment, supplement or waiver under this Section 9.02 becomes effective, the Company will mail to the Holders of Notes affected thereby a notice briefly describing the amendment, supplement or waiver. Any failure of the Company to mail such notice, or any defect therein, will not, however, in any way impair or affect the validity of any such amended or supplemental indenture or waiver. Subject to Sections 6.04 and 6.07, the Holders of a majority in aggregate principal amount of the Notes then outstanding voting as a single class may waive compliance in a particular instance by the Company with any provision of this Indenture, the Notes or the Subsidiary Guarantees. However, without the consent of each Holder affected, an amendment, supplement or waiver under this Section 9.02 may not (with respect to any Notes held by a non-consenting Holder):

(1) reduce the principal amount of Notes whose Holders must consent to an amendment, supplement or waiver; including the waiver of Defaults or Events of Default, or to a rescission and cancellation of a declaration of acceleration of the Notes;

(2) reduce the rate of or change or have the effect of changing the time for payment of interest, including default interest, on any Note;

(3) reduce the principal of or change or have the effect of changing the fixed maturity of any Note or alter or waive any of the provisions with respect to the redemption of the Notes (except as provided above with respect to Sections 3.09, 4.10 and 4.14);

(4) make any Notes payable in money other than that stated in the Notes;

(5) make any change in the provisions of this Indenture relating to waivers of past Defaults or the rights of Holders of Notes to receive payments of principal of, premium on, if any, or interest on the Notes on or after the due date thereof or to bring suit to enforce such payment;

(6) waive a Default or Event of Default in the payment of principal of, or interest or premium, if any, on, the Notes; *provided* that this clause (6) shall not limit the right of the Holders of at least a majority in aggregate principal amount of the outstanding Notes to rescind and cancel a declaration of acceleration of the Notes following delivery of an acceleration notice as described in Section 6.02;

(7) contractually subordinate the Notes or the Subsidiary Guarantees to any other Indebtedness; or

(8) make any change in the preceding amendment and waiver provisions.

Section 9.03 *Revocation and Effect of Consents.*

Until an amendment, supplement or waiver becomes effective, a consent to it by a Holder of a Note is a continuing consent by the Holder of a Note and every subsequent Holder of a Note or portion of a Note that evidences the same debt as the consenting Holder's Note, even if notation of the consent is not made on any Note. However, any such Holder of a Note or subsequent Holder of a Note may revoke the consent as to its Note if the Trustee receives written notice of revocation before the date the amendment, supplement or waiver becomes effective. An amendment, supplement or waiver becomes effective in accordance with its terms and thereafter binds every Holder.

Section 9.04 *Notation on or Exchange of Notes.*

The Trustee may place an appropriate notation about an amendment, supplement or waiver on any Note thereafter authenticated. The Company in exchange for all Notes may issue and the Trustee shall, upon receipt of an Authentication Order, authenticate new Notes that reflect the amendment, supplement or waiver.

Failure to make the appropriate notation or issue a new Note will not affect the validity and effect of such amendment, supplement or waiver.

Section 9.05 *Trustee to Sign Amendments, etc.*

The Trustee will sign any amended or supplemental indenture authorized pursuant to this Article 9 if the amendment or supplement does not adversely affect the rights, duties, liabilities or immunities of the Trustee. The Company may not sign an amended or supplemental indenture until the Board of Directors of the Company has authorized or approved it, or delegated authority to authorize or approve it. In executing any amended or supplemental indenture, the Trustee will be entitled to receive and (subject to

Section 7.01) will be fully protected in relying upon, in addition to the documents required by Section 12.04, an Officer's Certificate and an Opinion of Counsel stating that the execution of such amended or supplemental indenture is authorized or permitted by this Indenture, and that it will be valid and binding upon the Company and the Guarantors in accordance with its terms.

ARTICLE 10
SUBSIDIARY GUARANTEES

Section 10.01 *Guarantee.*

(a) Subject to this Article 10, each of the Guarantors hereby, jointly and severally, unconditionally guarantees to each Holder of a Note authenticated and delivered by the Trustee and to the Trustee and its successors and assigns, irrespective of the validity and enforceability of this Indenture, the Notes or the obligations of the Company hereunder or thereunder, that:

(1) the principal of, premium on, if any, and interest on the Notes will be promptly paid in full when due, whether at maturity, by acceleration, redemption or otherwise, and interest on the overdue principal of, premium on, if any, and interest on the Notes, if lawful, and all other obligations of the Company to the Holders or the Trustee hereunder or thereunder will be promptly paid in full or performed, all in accordance with the terms hereof and thereof; and

(2) in case of any extension of time of payment or renewal of any Notes or any of such other obligations, that same will be promptly paid in full when due or performed in accordance with the terms of the extension or renewal, whether at stated maturity, by acceleration or otherwise.

Failing payment when due of any amount so guaranteed or any performance so guaranteed for whatever reason, the Guarantors will be jointly and severally obligated to pay the same immediately. Each Guarantor agrees that this is a guarantee of payment and not a guarantee of collection.

(b) The Guarantors hereby agree that their obligations hereunder are unconditional, irrespective of the validity, regularity or enforceability of the Notes or this Indenture, the absence of any action to enforce the same, any waiver or consent by any Holder of the Notes with respect to any provisions hereof or thereof, the recovery of any judgment against the Company, any action to enforce the same or any other circumstance which might otherwise constitute a legal or equitable discharge or defense of a guarantor. Each Guarantor hereby waives 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 this Subsidiary Guarantee will not be discharged except by complete performance of the obligations contained in the Notes and this Indenture.

(c) If any Holder or the Trustee is required by any court or otherwise to return to the Company, the Guarantors or any custodian, trustee, liquidator or other similar official acting in relation to either the Company or the Guarantors, any amount paid by either to the Trustee or such Holder, this Subsidiary Guarantee, to the extent theretofore discharged, will be reinstated in full force and effect.

(d) Each Guarantor agrees that it will not be entitled to any right of subrogation in relation to the Holders in respect of any obligations guaranteed hereby until payment in full of all obligations guaranteed hereby. Each Guarantor further agrees that, as between the Guarantors, on the one hand, and the Holders and the Trustee, on the other hand, (1) the maturity of the obligations guaranteed hereby may be accelerated as provided in Article 6 for the purposes of this Subsidiary Guarantee, notwithstanding any stay, injunction or other prohibition preventing such acceleration in respect of the obligations guaranteed

hereby, and (2) in the event of any declaration of acceleration of such obligations as provided in Article 6, such obligations (whether or not due and payable) will forthwith become due and payable by the Guarantors for the purpose of this Subsidiary Guarantee. The Guarantors will have the right to seek contribution from any non-paying Guarantor so long as the exercise of such right does not impair the rights of the Holders under the Subsidiary Guarantee.

Section 10.02 *Limitation on Guarantor Liability.*

Each Guarantor, and by its acceptance of Notes, each Holder, hereby confirms that it is the intention of all such parties that the Subsidiary Guarantee of such Guarantor not constitute a fraudulent transfer or conveyance for purposes of Bankruptcy Law, the Uniform Fraudulent Conveyance Act, the Uniform Fraudulent Transfer Act or any similar federal or state law to the extent applicable to any Subsidiary Guarantee. To effectuate the foregoing intention, the Trustee, the Holders and the Guarantors hereby irrevocably agree that the obligations of such Guarantor will be limited to the maximum amount that will, after giving effect to such maximum amount and all other contingent and fixed liabilities of such Guarantor that are relevant under such laws, and after giving effect to any collections from, rights to receive contribution from or payments made by or on behalf of any other Guarantor in respect of the obligations of such other Guarantor under this Article 10, result in the obligations of such Guarantor under its Subsidiary Guarantee not constituting a fraudulent transfer or conveyance.

Section 10.03 *Execution and Delivery of Supplemental Indenture for Subsidiary Guarantee.*

To evidence its Subsidiary Guarantee set forth in Section 10.01, each Guarantor shall execute and deliver a supplemental indenture to this Indenture substantially in the form attached hereto as Exhibit F, executed on behalf of such Guarantor by one of its Officers. No endorsement or notation of any such Subsidiary Guarantee on any Note certificate shall be required in order for such Subsidiary Guarantee to become or remain in full force and effect.

If an Officer whose signature is on such supplemental indenture no longer holds that office, the Subsidiary Guarantee will be valid nevertheless.

The delivery of any Note by the Trustee, after the authentication thereof hereunder, will constitute due delivery of the Subsidiary Guarantee set forth in this Indenture on behalf of the Guarantors.

In the event that the Company or any of its Restricted Subsidiaries creates or acquires any Domestic Subsidiary after the Issue Date, if required by Section 4.16, the Company will cause such Domestic Subsidiary to comply with the provisions of Section 4.16 and this Article 10, to the extent applicable.

Section 10.04 *Releases.*

(a) Upon any sale or other disposition of all or substantially all of the assets of any Guarantor (including by way of merger or consolidation), in a transaction not prohibited by Section 3.09, to any Person who is not (either before or after giving effect to the transaction) the Company or a Restricted Subsidiary of the Company, such Guarantor will be automatically released and relieved of any obligations under its Subsidiary Guarantee.

(b) In connection with any sale or other disposition of all of the Capital Stock of that Guarantor, in a transaction not prohibited by Section 3.09 to any Person who is not (either before or after giving effect to the transaction) the Company or a Restricted Subsidiary, such Guarantor will be automatically released and relieved of any obligations under its Subsidiary Guarantee.

(c) If any Guarantor merges with and into the Company, with the Company surviving such merger, such Guarantor will be automatically released and relieved of any obligations under its Subsidiary Guarantee.

(d) If any Guarantor is designated as an Unrestricted Subsidiary in accordance with this Indenture or otherwise ceases to be a Restricted Subsidiary (including by way of liquidation or dissolution) in a transaction permitted by this Indenture, such Guarantor will be automatically released and relieved of any obligations under its Subsidiary Guarantee.

(e) Upon Legal Defeasance or Covenant Defeasance in accordance with Article 8 or satisfaction and discharge of this Indenture in accordance with Article 11, each Guarantor will be automatically released and relieved of any obligations under its Subsidiary Guarantee.

(f) (i) If such Guarantor no longer guarantees the Credit Agreement or any other Indebtedness described in clauses (a), (b) or (c) of the second paragraph of Section 4.16 (other than as a result of the repayment in full of the Credit Agreement or such other Indebtedness or payment in respect of such guarantee of the Credit Agreement or such other Indebtedness in connection with any enforcement thereof) or (ii) if any Guarantor (A) no longer constitutes a Domestic Subsidiary or (B) is designated as an Excluded Subsidiary in accordance with this Indenture, then in the case of each of the foregoing clauses (i) and (ii), such Guarantor will be automatically released and relieved of any obligations under its Subsidiary Guarantee.

(g) If it is determined in good faith by the Company that a liquidation, dissolution or merger out of existence of any Guarantor is in the best interests of the Company and is not materially disadvantageous to the holders, such Guarantor will be automatically released and relieved of any obligations under its Subsidiary Guarantee.

The Company will notify the Trustee if any Guarantor is released from its Subsidiary Guarantee. Any Guarantor not released from its obligations under its Subsidiary Guarantee as provided in this Section 10.04 will remain liable for the full amount of principal of, premium on, if any, and interest on the Notes and for the other obligations of any Guarantor under this Indenture as provided in this Article 10. Upon delivery by the Company to the Trustee of an Officer's Certificate and an Opinion of Counsel to the effect that such sale or other disposition was made by the Company in accordance with the provisions of this Indenture, including without limitation Section 4.10, the Trustee will execute any documents reasonably required in order to evidence the release of any Guarantor from its obligations under its Subsidiary Guarantee.

ARTICLE 11
SATISFACTION AND DISCHARGE

Section 11.01 *Satisfaction and Discharge.*

This Indenture will be discharged and will cease to be of further effect (except as to surviving rights of registration of transfer or exchange of the Notes, as expressly provided for in this Indenture) as to all outstanding Notes issued hereunder, when:

(1) either:

(a) all Notes that have been authenticated and delivered (except lost, stolen or destroyed Notes that have been replaced or paid and Notes for whose payment money has been deposited in trust or segregated and held in trust by the Company and thereafter repaid to the Company or discharged from their trust as provided in this Indenture) have been delivered to the Trustee for cancellation; or

(b) all Notes that have not been delivered to the Trustee for cancellation have become due and payable by reason of the sending of a notice of redemption or otherwise or will become due and payable within one year or are to be called for redemption within one year; and the Company or any Guarantor has irrevocably deposited or caused to be deposited with the Trustee as trust funds in trust solely for the benefit of the Holders, cash in U.S. dollars, non-callable U.S. Government Obligations, or a combination thereof (in such amounts as will be sufficient, in the opinion of a nationally recognized investment bank, appraisal firm or firm of independent public accountants delivered to the Trustee if U.S. Government Obligations are delivered), without consideration of any reinvestment of interest, to pay and discharge the entire Indebtedness (including all principal, accrued and unpaid interest, if any) on the Notes not theretofore delivered to the Trustee for cancellation for principal, premium, if any, and accrued and unpaid interest, if any, to the date of maturity or redemption, as the case may be;

(2) in respect of subclause (b) of clause (1) of this Section 11.01, no Default or Event of Default has occurred and is continuing on the date of the deposit (other than a Default or Event of Default resulting from the borrowing of funds to be applied to such deposit and any similar deposit relating to other Indebtedness and, in each case, the granting of Liens to secure such borrowings) and the deposit will not result in a breach or violation of, or constitute a default under, any other instrument to which the Company or any Guarantor is a party or by which the Company or any Guarantor is bound (other than a Default or Event of Default resulting from the borrowing of funds to be applied to such deposit and any similar and simultaneous deposit relating to other Indebtedness, and, in each case the granting of Liens in connection therewith);

(3) the Company or any Guarantor has paid or caused to be paid all sums payable by it under this Indenture; and

(4) the Company has delivered irrevocable instructions to the Trustee under this Indenture to apply the deposited money toward the payment of the Notes at maturity or on the redemption date, as the case may be.

In addition, the Company must deliver an Officer's Certificate and an Opinion of Counsel (subject to customary assumptions and exceptions) to the Trustee stating that all conditions precedent to satisfaction and discharge have been satisfied. After the conditions to discharge contained in this Article Eleven have been satisfied, and the Company has paid or caused to be paid all other sums payable hereunder by the Company, and delivered to the Trustee an Officer's Certificate and Opinion of Counsel, each stating that all conditions precedent to satisfaction and discharge have been satisfied, the Trustee upon the Company's request shall acknowledge in writing the discharge of the obligations of the Company and the Guarantors under this Indenture, subject to those obligations that survive.

Notwithstanding the satisfaction and discharge of this Indenture, if money has been deposited with the Trustee pursuant to subclause (b) of clause (1) of this Section 11.01, the provisions of Sections 11.02 and 8.06 will survive. In addition, nothing in this Section 11.01 will be deemed to discharge those provisions of Section 7.06, that, by their terms, survive the satisfaction and discharge of this Indenture.

Section 11.02 *Application of Trust Money.*

Subject to the provisions of Section 8.06, all money deposited with the Trustee pursuant to Section 11.01 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 (including the Company acting as its own Paying Agent) as the Trustee may determine, to the Persons entitled thereto, of the principal, premium, if any, and interest for whose payment such money has been deposited with the Trustee; but such money need not be segregated from other funds except to the extent required by law.

If the Trustee or Paying Agent is unable to apply any money or U.S. Government Obligations in accordance with Section 11.01 by reason of any legal proceeding or by reason of any order or judgment of any court or governmental authority enjoining, restraining or otherwise prohibiting such application, the Company's and any Guarantor's obligations under this Indenture and the Notes shall be revived and reinstated as though no deposit had occurred pursuant to Section 11.01; *provided* that if the Company has made any payment of principal of, premium on, if any, or interest on any Notes because of the reinstatement of its obligations, the Company shall be subrogated to the rights of the Holders of such Notes to receive such payment from the money or U.S. Government Obligations held by the Trustee or Paying Agent.

ARTICLE 12
MISCELLANEOUS

Section 12.01 [Reserved]

Section 12.02 *Notices.*

Any notice or communication by the Company, any Guarantor or the Trustee to the others is duly given if in writing and delivered in Person or by first class mail (registered or certified, return receipt requested), facsimile or email transmission or overnight air courier guaranteeing next day delivery, to the others' address:

If to the Company and/or any Guarantor:

BellRing Distribution, LLC
2503 S. Hanley Road
St. Louis, MO 63144
Facsimile No.: (314) 925-1444
Attention: Craig Rosenthal and Paul Rode
E-mail: craig.rosenthal@bellringbrands.com and paul.rode@bellringbrands.com

With a copy to:
Lewis Rice LLC
600 Washington Ave., Suite 2500
St. Louis, MO 63101
Facsimile No.: (314) 612-7671
Attention: Tom W. Zook

If to the Trustee:
Computershare Trust Company, N.A.
c/o Wells Fargo Bank, National Association
CTSO Mail Operations
600 South Fourth Street, 7th Floor
MAC N9300-070
Minneapolis, MN 55415
Attention: Corporate Trust Services – BellRing Administrator

The Company, any Guarantor or the Trustee, by notice to the others, may designate additional or different addresses for subsequent notices or communications.

All notices and communications (other than those sent to Holders) will be deemed to have been duly given: at the time delivered by hand, if personally delivered; five Business Days after being deposited in the mail, postage prepaid, if mailed; when receipt acknowledged, if transmitted by facsimile; and the next Business Day after timely delivery to the courier, if sent by overnight air courier guaranteeing next day delivery.

Any notice or communication to a Holder will be mailed by first class mail, certified or registered, return receipt requested, or by overnight air courier guaranteeing next day delivery to its address shown on the register kept by the Registrar. Failure to mail a notice or communication to a Holder or any defect in it will not affect its sufficiency with respect to other Holders.

Where this Indenture provides for notice of any event to a Holder of a Global Note, such notice shall be sufficiently given if given to the Depositary for such Note (or its designee), pursuant to the applicable procedures of such Depositary, if any, prescribed for the giving of such notice.

If a notice or communication is mailed in the manner provided above within the time prescribed, it is duly given, whether or not the addressee receives it.

If the Company mails a notice or communication to Holders, it will mail a copy to the Trustee and each Agent at the same time.

The Trustee shall have the right, but shall not be required, to rely upon and comply with instructions and directions sent by e-mail, facsimile and other similar unsecured electronic methods by persons believed by the Trustee to be authorized to give instructions and directions on behalf of the Company, the Guarantors or any Person. The Trustee shall have no duty or obligation to verify or confirm that the Person who sent such instructions or directions is, in fact, a Person authorized to give instructions or directions on behalf of the Company or the Guarantors; and the Trustee shall have no liability for any losses, liabilities, costs or expenses incurred or sustained by the Company or the Guarantors as a result of such reliance upon or compliance with such instructions or directions. The Company or the Guarantors agree to assume all risks arising out of the use of such electronic methods to submit instructions and directions to the Trustee, including, without limitation, the risk of the Trustee acting on unauthorized instructions, and the risk of interception and misuse by third parties.

Section 12.03 *Communication by Holders of Notes with Other Holders of Notes.*

Holders may communicate with other Holders with respect to their rights under this Indenture or the Notes.

Section 12.04 *Certificate and Opinion as to Conditions Precedent.*

Upon any request or application by the Company to the Trustee to take any action under this Indenture, the Company shall furnish to the Trustee:

(1) an Officer’s Certificate (which must include the statements set forth in Section 12.05) stating that, in the opinion of the signers, all conditions precedent and covenants, if any, provided for in this Indenture relating to the proposed action have been complied with; and

(2) an Opinion of Counsel (which must include the statements set forth in Section 12.05) stating that, in the opinion of such counsel, all such conditions precedent and covenants have been complied with; *provided, however*, that no such Opinion of Counsel shall be required to be delivered in connection with the authentication of Initial Notes that are originally issued on the Issue Date. Such counsel may rely on representations, warranties and certificates of other Persons as to matters of fact, and may qualify the Opinion of Counsel with customary assumptions and exceptions.

Section 12.05 *Statements Required in Certificate or Opinion.*

Each certificate or opinion with respect to compliance with a condition or covenant provided for in this Indenture (other than a certificate pursuant to Section 4.04) must include:

(1) a statement that the Person making such certificate or opinion has read such covenant or condition;

(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 Person, such Person has 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 has been satisfied; and

(4) a statement as to whether or not, in the opinion of such Person, such condition or covenant has been satisfied.

Section 12.06 *Rules by Trustee and Agents.*

The Trustee may make reasonable rules for action by or at a meeting of Holders. The Registrar or Paying Agent may make reasonable rules and set reasonable requirements for its functions.

Section 12.07 *No Personal Liability of Directors, Officers, Employees and Shareholders.*

No past, present or future director, officer, manager, member, employee, agent, partner, incorporator shareholder or unitholder of the Company or any Guarantor, as such, will have any liability for any obligations of the Company or the Guarantors under the Notes, this Indenture, the Subsidiary Guarantees or for any claim based on, in respect of, or by reason of, such obligations or their creation. Each Holder of Notes by accepting a Note waives and releases all such liability. The waiver and release are part of the consideration for issuance of the Notes.

Section 12.08 *Governing Law; Waiver of Jury Trial.*

THE INTERNAL LAW OF THE STATE OF NEW YORK WILL GOVERN AND BE USED TO CONSTRUE THIS INDENTURE, THE NOTES AND THE SUBSIDIARY GUARANTEES WITHOUT GIVING EFFECT TO APPLICABLE PRINCIPLES OF CONFLICTS OF LAW TO THE EXTENT THAT THE APPLICATION OF THE LAWS OF ANOTHER JURISDICTION WOULD BE REQUIRED THEREBY.

EACH OF THE COMPANY, THE GUARANTORS AND THE TRUSTEE, AND EACH HOLDER OF A NOTE BY ITS ACCEPTANCE THEREOF, HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHT IT MAY HAVE TO TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS INDENTURE, THE NOTES, THE SUBSIDIARY GUARANTEES OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY.

Section 12.09 *No Adverse Interpretation of Other Agreements.*

This Indenture may not be used to interpret any other indenture, loan or debt agreement of the Company or its Subsidiaries or of any other Person. Any such indenture, loan or debt agreement may not be used to interpret this Indenture.

Section 12.10 *Successors.*

All agreements of the Company in this Indenture and the Notes will bind its successors. All agreements of the Trustee in this Indenture will bind its successors. All agreements of each Guarantor in this Indenture will bind its successors, except as otherwise provided in Section 10.04.

Section 12.11 *Severability.*

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

Section 12.12 *Counterpart Originals, Electronic Signatures.*

The parties may sign any number of copies of this Indenture. Each signed copy will be an original, but all of them together represent the same agreement. The exchange of copies of this Indenture and of signature pages by facsimile or PDF transmission shall constitute effective execution and delivery of this Indenture as to the parties hereto and may be used in lieu of the original Indenture for all purposes. Signatures of the parties hereto transmitted by facsimile or PDF shall be deemed to be their original signatures for all purposes. This Indenture shall be valid, binding, and enforceable against a party when executed and delivered by an authorized individual on behalf of the party by means of (i) an original manual signature; (ii) a faxed, scanned, or photocopied manual signature; or (iii) any other electronic signature permitted by the federal Electronic Signatures in Global and National Commerce Act, state enactments of the Uniform Electronic Transactions Act, and/or any other relevant electronic signatures law, including any relevant provisions of the Uniform Commercial Code (collectively, "*Signature Law*"), in each case to the extent applicable. Each faxed, scanned, or photocopied manual signature, or other electronic signature, shall for all purposes have the same validity, legal effect, and admissibility in evidence as an original manual signature. Each party hereto shall be entitled to conclusively rely upon, and shall have no liability with respect to, any faxed, scanned, or photocopied manual signature, or other electronic signature, of any other party and shall have no duty to investigate, confirm or otherwise verify the validity or authenticity thereof. This Indenture may be executed in any number of counterparts, each of which shall be deemed to be an original, but such counterparts shall, together, constitute one and the same instrument. For the avoidance of doubt, original manual signatures shall be used for execution or indorsement of writings when required under the Uniform Commercial Code or other Signature Law due to the character or intended character of the writings.

Section 12.13 *Table of Contents, Headings, etc.*

The table of contents and headings of the Articles and Sections of this Indenture have been inserted for convenience of reference only, are not to be considered a part of this Indenture and will in no way modify or restrict any of the terms or provisions hereof.

Section 12.14 *U.S.A Patriot Act.*

The Company acknowledges that in accordance with Section 326 of the U.S.A. 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 with such information as it may request in order for the Trustee to satisfy the requirements of the U.S.A. PATRIOT Act.

[Signatures on following page]

SIGNATURES

Dated as of March 10, 2022

BELLRING DISTRIBUTION, LLC

By /s/ Matthew J. Mainer
Name: Matthew J. Mainer
Title: Treasurer

Computershare Trust Company, N.A., as Trustee

By: /s/ Susan B. Wright
Name: Susan B. Wright
Title: Assistant Vice President

EXHIBIT A

[Face of Note]

CUSIP _____
ISIN _____

7.00% Senior Notes due 2030

No. ___ $_____

BELLRING DISTRIBUTION, LLC

promises to pay _____ to or registered assigns,

the principal sum of _____ DOLLARS[*] on March 15, 2030.

Interest Payment Dates: March 15 and September 15

Record Dates: March 1 and September 1

Dated: _____

[**As such amount may be increased or decreased by the Schedule of Exchanges of Interests in the Global Note attached hereto*]

BELLRING DISTRIBUTION, LLC

By: _____
Name:
Title:

This is one of the Notes referred to
in the within-mentioned Indenture:

Dated: _____

COMPUTERSHARE TRUST COMPANY, N.A.
as Trustee

By: _____
Authorized Signatory

[Insert the Global Note Legend, if applicable pursuant to the provisions of the Indenture]

[Insert the Private Placement Legend, if applicable pursuant to the provisions of the Indenture]

Capitalized terms used herein have the meanings assigned to them in the Indenture referred to below unless otherwise indicated.

(1) *INTEREST*. BellRing Distribution, LLC, a Delaware limited liability company (the "*Company*"), promises to pay or cause to be paid interest on the principal amount of this Note at 7.00% per annum from _____ until maturity. The Company will pay interest semi-annually in arrears on March 15 and September 15 of each year, commencing September 15, 2022 (each, an "*Interest Payment Date*"). Interest on the Notes will accrue from the most recent date to which interest has been paid or, if no interest has been paid, from the date of issuance; *provided* that, if this Note is authenticated between a record date referred to on the face hereof and the next succeeding Interest Payment Date, interest shall accrue from such next succeeding Interest Payment Date; *provided further* that the first Interest Payment Date shall be _____. The Company will pay interest (including post-petition interest in any proceeding under any Bankruptcy Law) on overdue principal at the then applicable interest rate on the Notes to the extent lawful; it will pay interest (including post-petition interest in any proceeding under any Bankruptcy Law) on overdue installments of interest, if any (without regard to any applicable grace period), at the same rate to the extent lawful.

Interest will be computed on the basis of a 360-day year comprised of twelve 30-day months. If any Interest Payment Date, the maturity date, any redemption date, or any earlier required repurchase date of a Note falls on a day that is not a Business Day, the required payment will be made on the next succeeding Business Day and no interest on such payment will accrue in respect of the delay.

(2) *METHOD OF PAYMENT*. The Company will pay interest on the Notes (except defaulted interest) to the Persons who are registered Holders of Notes at the close of business on the March 1 and September 1 next preceding the Interest Payment Date, even if such Notes are canceled after such record date and on or before such Interest Payment Date, except as provided in Section 2.12 of the Indenture with respect to defaulted interest. The Notes will be payable as to principal, premium, if any, and interest at the office or agency of the Paying Agent and Registrar or, at the option of the Company, payment of interest may be made by check mailed to the Holders at their addresses set forth in the register of Holders; *provided* that payment by wire transfer of immediately available funds will be required with respect to principal of, premium on, if any, and interest on all Global Notes and all other Notes the Holders of which will have provided wire transfer instructions to the Company or the Paying Agent. Such payment will be in such coin or currency of the United States of America as at the time of payment is legal tender for payment of public and private debts.

(3) *PAYING AGENT AND REGISTRAR*. Initially, Computershare Trust Company, N.A., the Trustee under the Indenture, will act as Paying Agent and Registrar. The Company may change the Paying Agent or Registrar without prior notice to the Holders of the Notes. The Company or any of its Subsidiaries may act as Paying Agent or Registrar.

(4) *INDENTURE*. The Company issued the Notes under an Indenture dated as of March 10, 2022 (the "*Indenture*") between the Company and the Trustee. The terms of the Notes include those stated in the Indenture. The Notes are subject to all such terms, and by acceptance hereof, in accordance with the Indenture, Holders agree to be bound by all of such terms as they may be amended from time to time. Holders are referred to the Indenture and such Act for a statement of such terms. To the extent any provision of this Note conflicts with the express provisions of the Indenture, the provisions of the Indenture shall govern and be controlling. The Notes are unsecured obligations of the Company. The Indenture does not limit the aggregate principal amount of Notes that may be issued thereunder.

(5) *OPTIONAL REDEMPTION.*

(a) Except as provided in this paragraph (5), the Notes will not be redeemable at the Company's option prior to March 15, 2027.

(b) At any time prior to March 15, 2027, the Company may on any one or more occasions redeem all or a part of the Notes upon not less than 10 days' nor more than 60 days' notice, at a redemption price equal to 100% of the principal amount of the Notes redeemed, plus the Applicable Premium as of, and accrued and unpaid interest, if any, to the date of redemption, subject to the rights of holders of Notes on the relevant record date to receive interest due on the relevant interest payment date. The Company shall notify the Trustee of the Applicable Premium promptly after the calculation, and the Trustee shall not be responsible for such calculation.

(c) On or after March 15, 2027, the Company may on any one or more occasions redeem all or a part of the Notes, upon not less than 10 days' nor more than 60 days' notice, at the redemption prices (expressed as a percentage of principal amount of the Notes) set forth below, plus accrued and unpaid interest, if any, to the applicable redemption date, if redeemed during the twelve-month period beginning on March 15 of the years indicated below:

Year	Percentage
2027	101.750%
2028	101.750%
2029 and thereafter	100.000%

If an optional redemption date is on or after an interest record date and on or before the related interest payment date, the accrued and unpaid interest, if any, will be paid to the Persons in whose name the Notes are registered at the close of business on such record date, and no additional interest will be payable to Holders whose Notes will be subject to redemption by the Company.

Notwithstanding the foregoing, in connection with a Change of Control Offer or Net Proceeds Offer, if not less than 90% in aggregate principal amount of the outstanding Notes are validly tendered and not withdrawn in such offer and the Company, or any third party making such offer in lieu of the Company, purchases all of the Notes validly tendered and not withdrawn, the Company or such third party will have the right upon not less than 10 days' nor more than 60 days' prior notice, given not more than 10 days following such purchase date, to redeem (and the Holders of the remaining Notes shall be deemed to have agreed to surrender) all Notes that remain outstanding following such purchase at a redemption price equal to 101% (in the case of a Change of Control Offer) or 100% (in the case of a Net Proceeds Offer) of the principal amount thereof in such offer, plus accrued and unpaid interest, if any, thereon, to, but excluding, the date of such redemption.

The Company or any of its Restricted Subsidiaries may at any time and from time to time purchase Notes in the open market or otherwise.

Unless the Company defaults in the payment of the redemption price, interest will cease to accrue on the Notes or portions thereof called for redemption on the applicable redemption date.

(6) *MANDATORY REDEMPTION.* The Company is not required to make mandatory redemption or sinking fund payments with respect to the Notes.

(7) *REPURCHASE AT THE OPTION OF THE HOLDER.*

(a) If there is a Change of Control, the Company will be required to make an offer (a "*Change of Control Offer*") to each Holder to repurchase all or any part (equal to $2,000 or an integral multiple of $1,000 in excess thereof) of each Holder's Notes at a purchase price in cash equal to 101% of the aggregate principal amount thereof plus accrued and unpaid interest, if any, thereon to the date of purchase, subject to the rights of Holders on the relevant record date to receive interest due on the relevant interest payment date (the "*Change of Control Payment*"). Within ten days following any Change of Control, the Company will mail a notice to each Holder setting forth the procedures governing the Change of Control Offer as required by the Indenture.

(b) If the Company or a Restricted Subsidiary of the Company consummates any Asset Sales, within 25 days following any Net Proceeds Offer Trigger Date (subject to Section 4.10(e) of the Indenture), a Net Proceeds Offer shall be sent to the record Holder as shown on the register of Holders, with a copy to the Trustee. Any Net Proceeds Offer shall comply with the procedures set forth in Sections 3.09 and 4.10 of the Indenture. Upon completion of any such Net Proceeds Offer, the Net Proceeds Offer Amount shall be reset at zero. Holders of Notes that are the subject of a Net Proceeds Offer may, prior to any related Purchase Date, elect to have such Notes purchased by completing the form entitled "*Option of Holder to Elect Purchase*" attached to the Notes.

(8) *NOTICE OF REDEMPTION.* At least 10 days but not more than 60 days before a redemption date, the Company will mail or cause to be mailed, by first class mail, a notice of redemption to each Holder whose Notes are to be redeemed at its registered address, except that redemption notices may be mailed more than 60 days prior to a redemption date if the notice is issued in connection with a defeasance of the Notes or a satisfaction and discharge of the Indenture pursuant to Articles 8 or 11 thereof. Notes and portions of Notes selected will be in minimum amounts of $2,000 or whole multiples of $1,000 in excess thereof; except that if all of the Notes of a Holder are to be redeemed or purchased, the entire outstanding amount of Notes held by such Holder shall be redeemed or purchased

(9) *DENOMINATIONS, TRANSFER, EXCHANGE*. The Notes are in registered form in minimum denominations of $2,000 and integral multiples of $1,000 in excess thereof. The transfer of Notes may be registered and Notes may be exchanged as provided in the Indenture. The Registrar and the Trustee may require a Holder, among other things, to furnish appropriate endorsements and transfer documents and the Company may require a Holder to pay any taxes and fees required by law or permitted by the Indenture. The Company need not exchange or register the transfer of any Note or portion of a Note selected for redemption, except for the unredeemed portion of any Note being redeemed in part. Also, the Company need not exchange or register the transfer of any Notes for a period of 15 days before a selection of Notes to be redeemed or during the period between a record date and the next succeeding Interest Payment Date.

(10) *PERSONS DEEMED OWNERS*. The registered Holder of a Note may be treated as the owner of it for all purposes. Only registered Holders have rights under the Indenture.

(11) *AMENDMENT, SUPPLEMENT AND WAIVER*. The Indenture, the Notes or the Subsidiary Guarantees may be amended or supplemented in accordance with Article 9 of the Indenture.

(12) *DEFAULTS AND REMEDIES*. The Notes are subject to the Events of Default and remedies set forth in Article 6 of the Indenture. The Company is required to deliver to the Trustee annually a statement regarding compliance with the Indenture, and the Company is required, upon becoming aware of any Default or Event of Default, to deliver to the Trustee a statement specifying such Default or Event of Default.

(13) *TRUSTEE DEALINGS WITH COMPANY*. The Trustee, in its individual or any other capacity, may make loans to, accept deposits from, and perform services for the Company or its Affiliates, and may otherwise deal with the Company or its Affiliates, as if it were not the Trustee.

(14) *NO RECOURSE AGAINST OTHERS*. No past, present or future director, officer, employee, agent, manager, partner, member, incorporator, shareholder or unitholder of the Company or any Guarantor, as such, will have any liability for any obligations of the Company or the Guarantors under the Notes, the Indenture, the Subsidiary Guarantees or for any claim based on, in respect of, or by reason of, such obligations or their creation. Each Holder of Notes by accepting a Note waives and releases all such liability. The waiver and release are part of the consideration for issuance of the Notes.

(15) *AUTHENTICATION*. This Note will not be valid until authenticated by the manual signature of the Trustee or an authenticating agent.

(16) *ABBREVIATIONS*. Customary abbreviations may be used in the name of a Holder or an assignee, such as: TEN COM (= tenants in common), TEN ENT (= tenants by the entireties), JT TEN (= joint tenants with right of survivorship and not as tenants in common), CUST (= Custodian), and U/G/M/A (= Uniform Gifts to Minors Act).

(17) *CUSIP NUMBERS*. Pursuant to a recommendation promulgated by the Committee on Uniform Security Identification Procedures, the Company has caused CUSIP numbers to be printed on the Notes, and the Trustee may use CUSIP numbers in notices as a convenience to Holders. No representation is made as to the accuracy of such numbers either as printed on the Notes or as contained in any notice of redemption, and reliance may be placed only on the other identification numbers placed thereon.

(18) *GOVERNING LAW.* THE INTERNAL LAW OF THE STATE OF NEW YORK WILL GOVERN AND BE USED TO CONSTRUE THE INDENTURE, THIS NOTE AND THE SUBSIDIARY GUARANTEES WITHOUT GIVING EFFECT TO APPLICABLE PRINCIPLES OF CONFLICTS OF LAW TO THE EXTENT THAT THE APPLICATION OF THE LAWS OF ANOTHER JURISDICTION WOULD BE REQUIRED THEREBY.

The Company will furnish to any Holder upon written request and without charge a copy of the Indenture. Requests may be made to:

BellRing Distribution, LLC
2503 S. Hanley Road
St. Louis, MO 63144
Attention: Corporate Secretary

ASSIGNMENT FORM

To assign this Note No. [__], fill in the form below:

(I) or (we) assign and transfer this Note No. [__] to: _____

(Insert assignee's legal name)

_____

_____

_____

_____

(Print or type assignee's name, address and zip code)

and irrevocably appoint _____ to transfer this Note No. [__] on the books of the Company. The agent may substitute another to act for him.

Date: _____

[Assignor]

By: _____

Name:
Title:

Signature Guarantee*: _____

* Participant in a recognized Signature Guarantee Medallion Program (or other signature guarantor acceptable to the Trustee).

Option of Holder to Elect Purchase

If you want to elect to have this Note purchased by the Company pursuant to Section 4.10 or 4.14 of the Indenture, check the appropriate box below:

¬Section 4.10 ¬Section 4.14

If you want to elect to have only part of the Note purchased by the Company pursuant to Section 4.10 or Section 4.14 of the Indenture, state the amount you elect to have purchased:

$_____

Date: _____

Your Signature:_____
(Sign exactly as your name appears on the face of this Note)

Tax Identification No.: _____

Signature Guarantee*: _____

* Participant in a recognized Signature Guarantee Medallion Program (or other signature guarantor acceptable to the Trustee).

SCHEDULE OF EXCHANGES OF INTERESTS IN THE GLOBAL NOTE *

The following exchanges of a part of this Global Note for an interest in another Global Note or for a Definitive Note, or exchanges of a part of another Global Note or Definitive Note for an interest in this Global Note, have been made:

Date of Exchange	Amount of decrease in Principal Amount of this Global Note	Amount of increase in Principal Amount of this Global Note	Principal Amount of this Global Note following such decrease (or increase)	Signature of authorized signatory of Trustee or Custodian

* *This schedule should be included only if the Note is issued in global form.*

FORM OF CERTIFICATE OF TRANSFER

BellRing Distribution, LLC
2503 S. Hanley Road
St. Louis, MO 63144
Attention: Corporate Secretary

Computershare Trust Company, N.A.
c/o Wells Fargo Bank, National Association
Corporate Trust Operations
600 Fourth Street South
MAC N9300-070, 7th Floor
Minneapolis, MN 55415
Phone: 1-800-344-5128
Fax: 1-866-969-1290
Email: dapsreorg@wellsfargo.com

Re: [*fill in full title of securities*]

Reference is hereby made to the Indenture, dated as of March 10, 2022 (the "*Indenture*"), between BellRing Distribution, LLC, as issuer (the "*Company*"), and Computershare Trust Company, N.A., as trustee. Capitalized terms used but not defined herein shall have the meanings given to them in the Indenture.

_____, (the "*Transferor*") owns and proposes to transfer the Note[s] or interest in such Note[s] specified in Annex A hereto, in the principal amount of $_____ in such Note[s] or interests (the "*Transfer*"), to _____ (the "*Transferee*"), as further specified in Annex A hereto. In connection with the Transfer, the Transferor hereby certifies that:

[CHECK ALL THAT APPLY]

1. ☐ **Check if Transferee will take delivery of a beneficial interest in the 144A Global Note or a Restricted Definitive Note pursuant to Rule 144A**. The Transfer is being effected pursuant to and in accordance with Rule 144A under the Securities Act of 1933, as amended (the "*Securities Act*"), and, accordingly, the Transferor hereby further certifies that the beneficial interest or Definitive Note is being transferred to a Person that the Transferor reasonably believes is purchasing the beneficial interest or Definitive Note for its own account, or for one or more accounts with respect to which such Person exercises sole investment discretion, and such Person and each such account is a "qualified institutional buyer" within the meaning of Rule 144A in a transaction meeting the requirements of Rule 144A, and such Transfer is in compliance with any applicable blue sky securities laws of any state of the United States. Upon consummation of the proposed Transfer in accordance with the terms of the Indenture, the transferred beneficial interest or Definitive Note will be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the 144A Global Note and/or the Restricted Definitive Note and in the Indenture and the Securities Act.

2. ☐ **Check if Transferee will take delivery of a beneficial interest in the Regulation S Global Note or a Restricted Definitive Note pursuant to Regulation S**. The Transfer is being effected pursuant to and in accordance with Rule 903 or Rule 904 under the Securities Act and, accordingly, the Transferor hereby further certifies that (i) the Transfer is not being made to a Person in the United States and (x) at the time the buy order was originated, the Transferee was outside of the United States or such Transferor and

any Person acting on its behalf reasonably believed and believes that the Transferee was outside of the United States or (y) the transaction was executed in, on or through the facilities of a designated offshore securities market and neither such Transferor nor any Person acting on its behalf knows that the transaction was prearranged with a buyer in the United States, (ii) no directed selling efforts have been made in contravention of the requirements of Rule 903(b) or Rule 904(b) of Regulation S under the Securities Act, (iii) the transaction is not part of a plan or scheme to evade the registration requirements of the Securities Act and (iv) if the proposed transfer is being made prior to the expiration of the Restricted Period, the transfer is not being made to a U.S. Person or for the account or benefit of a U.S. Person (other than an Initial Purchaser). Upon consummation of the proposed transfer in accordance with the terms of the Indenture, the transferred beneficial interest or Definitive Note will be subject to the restrictions on Transfer enumerated in the Private Placement Legend printed on the Regulation S Global Note and/or the Restricted Definitive Note and in the Indenture and the Securities Act.

3. ☐ **Check and complete if Transferee will take delivery of a beneficial interest in the IAI Global Note or a Restricted Definitive Note pursuant to any provision of the Securities Act other than Rule 144A or Regulation S**. The Transfer is being effected in compliance with the transfer restrictions applicable to beneficial interests in Restricted Global Notes and Restricted Definitive Notes and pursuant to and in accordance with the Securities Act and any applicable blue sky securities laws of any state of the United States, and accordingly the Transferor hereby further certifies that (check one):

(a) ☐ such Transfer is being effected pursuant to and in accordance with Rule 144 under the Securities Act;

or

(b) ☐ such Transfer is being effected to the Company or a subsidiary thereof;

or

(c) ☐ such Transfer is being effected pursuant to an effective registration statement under the Securities Act and in compliance with the prospectus delivery requirements of the Securities Act;

or

(d) ☐ such Transfer is being effected to an Institutional Accredited Investor, an Initial Purchaser or any corporate parent of the Company, and pursuant to an exemption from the registration requirements of the Securities Act other than Rule 144A, Rule 144, Rule 903 or Rule 904, and the Transferor hereby further certifies that it has not engaged in any general solicitation within the meaning of Regulation D under the Securities Act and the Transfer complies with the transfer restrictions applicable to beneficial interests in a Restricted Global Note or Restricted Definitive Notes and the requirements of the exemption claimed, which certification is supported by (1) if such Transfer is being effected to an Institutional Accredited Investor, a certificate executed by the Transferee in the form of Exhibit D to the Indenture and (2) if such Transfer is in respect of a principal amount of Notes at the time of transfer of less than $250,000, an Opinion of Counsel provided by the Transferor or the Transferee (a copy of which the Transferor has attached to this certification), to the effect that such Transfer is in compliance with the Securities Act. Upon consummation of the proposed transfer in accordance with the terms of the Indenture, the transferred beneficial interest or Definitive Note will be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the IAI Global Note and/or the Restricted Definitive Notes and in the Indenture and the Securities Act.

4. ☐ **Check if Transferee will take delivery of a beneficial interest in an Unrestricted Global Note or of an Unrestricted Definitive Note**.

(a) ☐ **Check if Transfer is pursuant to Rule 144**. (i) The Transfer is being effected pursuant to and in accordance with Rule 144 under the Securities Act and in compliance with the transfer restrictions contained in the Indenture and any applicable blue sky securities laws of any state of the United States and (ii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act. Upon consummation of the proposed Transfer in accordance with the terms of the Indenture, the transferred beneficial interest or Definitive Note will no longer be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the Restricted Global Notes, on Restricted Definitive Notes and in the Indenture.

(b) ☐ **Check if Transfer is Pursuant to Regulation S**. (i) The Transfer is being effected pursuant to and in accordance with Rule 903 or Rule 904 under the Securities Act and in compliance with the transfer restrictions contained in the Indenture and any applicable blue sky securities laws of any state of the United States and (ii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act. Upon consummation of the proposed Transfer in accordance with the terms of the Indenture, the transferred beneficial interest or Definitive Note will no longer be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the Restricted Global Notes, on Restricted Definitive Notes and in the Indenture.

(c) ☐ **Check if Transfer is Pursuant to Other Exemption**. (i) The Transfer is being effected pursuant to and in compliance with an exemption from the registration requirements of the Securities Act other than Rule 144, Rule 903 or Rule 904 and in compliance with the transfer restrictions contained in the Indenture and any applicable blue sky securities laws of any State of the United States and (ii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act. Upon consummation of the proposed Transfer in accordance with the terms of the Indenture, the transferred beneficial interest or Definitive Note will not be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the Restricted Global Notes or Restricted Definitive Notes and in the Indenture.

5. ☐ **Check if Transferee will take delivery of a Restricted Global Note as registered Holder thereof**. Such Transfer is being effected pursuant to an exemption from the registration requirements of the Securities Act other than Rule 144A, Rule 144, Rule 903 or Rule 904, and the Transferor hereby further certifies that it has not engaged in any general solicitation within the meaning of Regulation D under the Securities Act and the Transfer complies with the transfer restrictions applicable to Restricted Definitive Notes and the requirements of the exemption claimed. Upon consummation of the proposed transfer in accordance with the terms of the Indenture, the transferred Restricted Global Note will be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the Restricted Global Note and in the Indenture and the Securities Act.

This certificate and the statements contained herein are made for your benefit and the benefit of the Company.

_____
[Insert Name of Transferor]

By: _____
Name:
Title:

Dated: _____

ANNEX A TO CERTIFICATE OF TRANSFER

1. The Transferor owns and proposes to transfer the following:

[CHECK ONE OF (a) OR (b)]

(a) ☐ a beneficial interest in the:

(i) ☐ 144A Global Note (CUSIP _____), or

(ii) ☐ Regulation S Global Note (CUSIP _____), or

(iii) ☐ IAI Global Note (CUSIP _____); or

(b) ☐ a Restricted Definitive Note.

2. After the Transfer the Transferee will hold:

[CHECK ONE]

(a) ☐ a beneficial interest in the:

(i) ☐ 144A Global Note (CUSIP _____), or

(ii) ☐ Regulation S Global Note (CUSIP _____), or

(iii) ☐ IAI Global Note (CUSIP _____), or

(iv) ☐ Unrestricted Global Note (CUSIP _____); or

(b) ☐ a Restricted Definitive Note; or

(c) ☐ an Unrestricted Definitive Note; or

(c) ☐ a Restricted Global Note as registered Holder thereof;

in accordance with the terms of the Indenture.

FORM OF CERTIFICATE OF EXCHANGE

BellRing Distribution, LLC
2503 S. Hanley Road
St. Louis, MO 63144
Attention: Corporate Secretary

Computershare Trust Company, N.A.
c/o Wells Fargo Bank, National Association
Corporate Trust Operations
600 Fourth Street South
MAC N9300-070, 7th Floor
Minneapolis, MN 55415
Phone: 1-800-344-5128
Fax: 1-866-969-1290
Email: dapsreorg@wellsfargo.com

Re: [*fill in full title of securities*]

(CUSIP [ ])

Reference is hereby made to the Indenture, dated as of March 10, 2022 (the "*Indenture*"), between BellRing Distribution, LLC, as issuer (the "*Company*"), and Computershare Trust Company, N.A., as trustee. Capitalized terms used but not defined herein shall have the meanings given to them in the Indenture.

_____, (the "*Owner*") owns and proposes to exchange the Note[s] or interest in such Note[s] specified herein, in the principal amount of $_____ in such Note[s] or interests (the "*Exchange*"). In connection with the Exchange, the Owner hereby certifies that:

1. **Exchange of Restricted Definitive Notes or Beneficial Interests in a Restricted Global Note for Unrestricted Definitive Notes or Beneficial Interests in an Unrestricted Global Note**

(a) ☐ **Check if Exchange is from beneficial interest in a Restricted Global Note to beneficial interest in an Unrestricted Global Note**. In connection with the Exchange of the Owner's beneficial interest in a Restricted Global Note for a beneficial interest in an Unrestricted Global Note in an equal principal amount, the Owner hereby certifies (i) the beneficial interest is being acquired for the Owner's own account without transfer, (ii) such Exchange has been effected in compliance with the transfer restrictions applicable to the Global Notes and pursuant to and in accordance with the Securities Act of 1933, as amended (the "*Securities Act*"), (iii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act and (iv) the beneficial interest in an Unrestricted Global Note is being acquired in compliance with any applicable blue sky securities laws of any state of the United States.

(b) ☐ **Check if Exchange is from beneficial interest in a Restricted Global Note to Unrestricted Definitive Note**. In connection with the Exchange of the Owner's beneficial interest in a Restricted Global Note for an Unrestricted Definitive Note, the Owner hereby certifies (i) the Definitive Note is being acquired for the Owner's own account without transfer, (ii) such Exchange has been effected in compliance with the transfer restrictions applicable to the Restricted Global Notes and pursuant to and in accordance with the Securities Act, (iii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act and (iv) the Definitive Note is being acquired in compliance with any applicable blue sky securities laws of any state of the United States.

(c) ☐ **Check if Exchange is from Restricted Definitive Note to beneficial interest in an Unrestricted Global Note**. In connection with the Owner's Exchange of a Restricted Definitive Note for a beneficial interest in an Unrestricted Global Note, the Owner hereby certifies (i) the beneficial interest is being acquired for the Owner's own account without transfer, (ii) such Exchange has been effected in compliance with the transfer restrictions applicable to Restricted Definitive Notes and pursuant to and in accordance with the Securities Act, (iii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act and (iv) the beneficial interest is being acquired in compliance with any applicable blue sky securities laws of any state of the United States.

(d) ☐ **Check if Exchange is from Restricted Definitive Note to Unrestricted Definitive Note**. In connection with the Owner's Exchange of a Restricted Definitive Note for an Unrestricted Definitive Note, the Owner hereby certifies (i) the Unrestricted Definitive Note is being acquired for the Owner's own account without transfer, (ii) such Exchange has been effected in compliance with the transfer restrictions applicable to Restricted Definitive Notes and pursuant to and in accordance with the Securities Act, (iii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act and (iv) the Unrestricted Definitive Note is being acquired in compliance with any applicable blue sky securities laws of any state of the United States.

2. **Exchange of Restricted Definitive Notes or Beneficial Interests in Restricted Global Notes for Restricted Definitive Notes or Beneficial Interests in Restricted Global Notes**

(a) ☐ **Check if Exchange is from beneficial interest in a Restricted Global Note to Restricted Definitive Note.** In connection with the Exchange of the Owner's beneficial interest in a Restricted Global Note for a Restricted Definitive Note with an equal principal amount, the Owner hereby certifies that the Restricted Definitive Note is being acquired for the Owner's own account without transfer. Upon consummation of the proposed Exchange in accordance with the terms of the Indenture, the Restricted Definitive Note issued will continue to be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the Restricted Definitive Note and in the Indenture and the Securities Act.

(b) ☐ **Check if Exchange is from Restricted Definitive Note to beneficial interest in a Restricted Global Note**. In connection with the Exchange of the Owner's Restricted Definitive Note for a beneficial interest in the [CHECK ONE] ☐ 144A Global Note, ☐ Regulation S Global Note, ☐ IAI Global Note with an equal principal amount, the Owner hereby certifies (i) the beneficial interest is being acquired for the Owner's own account without transfer and (ii) such Exchange has been effected in compliance with the transfer restrictions applicable to the Restricted Global Notes and pursuant to and in accordance with the Securities Act, and in compliance with any applicable blue sky securities laws of any state of the United States. Upon consummation of the proposed Exchange in accordance with the terms of the Indenture, the beneficial interest issued will be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the relevant Restricted Global Note and in the Indenture and the Securities Act.

This certificate and the statements contained herein are made for your benefit and the benefit of the Company.

[Insert Name of Transferor]

By: _____
Name:
Title:

Dated: _____

EXHIBIT D

FORM OF CERTIFICATE FROM
ACQUIRING INSTITUTIONAL ACCREDITED INVESTOR

BellRing Distribution, LLC
2503 S. Hanley Road
St. Louis, MO 63144
Attention: Corporate Secretary

Computershare Trust Company, N.A.
c/o Wells Fargo Bank, National Association
Corporate Trust Operations
600 Fourth Street South
MAC N9300-070, 7th Floor
Minneapolis, MN 55415
Phone: 1-800-344-5128
Fax: 1-866-969-1290
Email: dapsreorg@wellsfargo.com

Re: [*fill in full title of securities*]

Reference is hereby made to the Indenture, dated as of March 10, 2022 (the "*Indenture*"), between BellRing Distribution, LLC, as issuer (the "*Company*"), and Computershare Trust Company, N.A., as trustee. Capitalized terms used but not defined herein shall have the meanings given to them in the Indenture.

In connection with our proposed purchase of $_____ aggregate principal amount of:

(a) ☐ a beneficial interest in a Global Note, or

(b) ☐ a Definitive Note,

we confirm that:

1. We understand that any subsequent transfer of the Notes or any interest therein is subject to certain restrictions and conditions set forth in the Indenture and the undersigned agrees to be bound by, and not to resell, pledge or otherwise transfer the Notes or any interest therein except in compliance with, such restrictions and conditions and the Securities Act of 1933, as amended (the "*Securities Act*").

2. We understand that the offer and sale of the Notes have not been registered under the Securities Act, and that the Notes and any interest therein may not be offered or sold 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 sell the Notes or any interest therein, we will do so only (A) to the Company or any subsidiary thereof, (B) in accordance with Rule 144A under the Securities Act to a "qualified institutional buyer" (as defined therein), (C) to an institutional "accredited investor" (as defined below) that, prior to such transfer, furnishes (or has furnished on its behalf by a U.S. broker-dealer) to you and to the Company a signed letter substantially in the form of this letter and, if such transfer is in respect of a principal amount of Notes, at the time of transfer of less than $250,000, an Opinion of Counsel in form reasonably acceptable to the Company to the effect that such transfer is in compliance with the Securities Act, (D) outside of the United States in accordance with Rule 904 of Regulation S under the Securities Act, (E) pursuant to the provisions of Rule 144 under the Securities Act or (F) pursuant to an effective registration statement under the Securities Act, and we further agree to provide to any Person purchasing the Definitive Note or beneficial interest in a Global Note from us in a transaction meeting the requirements of clauses (A) through (E) of this paragraph a notice advising such purchaser that resales thereof are restricted as stated herein.

3. We understand that, on any proposed resale of the Notes or beneficial interest therein, 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 sale 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) of Regulation D 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 each able to bear the economic risk of our or its investment.

5. We are acquiring the Notes or beneficial interest therein 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 and 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.

_____

[Insert Name of Accredited Investor]

By: _____

Name:
Title:

Dated: _____

[RESERVED]

EXHIBIT F

FORM OF SUPPLEMENTAL INDENTURE

TO BE DELIVERED BY SUBSEQUENT GUARANTORS

SUPPLEMENTAL INDENTURE (this "*Supplemental Indenture*"), dated as of _____, among _____ (the "*Guaranteeing Subsidiary*"), a subsidiary of BellRing Brands, Inc. (formerly BellRing Distribution, LLC) (or its permitted successor), a Delaware corporation (the "*Company*"), the Company, and Computershare Trust Company, N.A., as trustee under the Indenture referred to below (the "*Trustee*").

W I T N E S S E T H

WHEREAS, the Company has heretofore executed and delivered to the Trustee an indenture (the "*Indenture*"), dated as of March 10, 2022 providing for the issuance of 7.00% Senior Notes due 2030 (the "*Notes*");

WHEREAS, the Indenture provides that under certain circumstances the Guaranteeing Subsidiary shall execute and deliver to the Trustee a supplemental indenture pursuant to which the Guaranteeing Subsidiary shall unconditionally guarantee all of the Company's Obligations under the Notes and the Indenture on the terms and conditions set forth herein (the "*Subsidiary Guarantee*");

WHEREAS, the Guaranteeing Subsidiary has duly authorized the execution and delivery of this Supplemental Indenture to provide its Subsidiary Guarantee in accordance with Article 10 of the Indenture and all things necessary to make this Supplemental Indenture and the Indenture a valid agreement of the Guaranteeing Subsidiary, in accordance with the terms thereof, have been done; and

WHEREAS, pursuant to Section 9.01 of the Indenture, the Trustee is authorized to execute and deliver this Supplemental Indenture.

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt of which is hereby acknowledged, the Company, the Guaranteeing Subsidiary and the Trustee mutually covenant and agree for the benefit of each other and the equal and ratable benefit of the Holders of the Notes as follows:

1. CAPITALIZED TERMS. Capitalized terms used herein without definition shall have the meanings assigned to them in the Indenture.

2. AGREEMENT TO GUARANTEE. The Guaranteeing Subsidiary hereby agrees to provide an unconditional Guarantee on the terms and subject to the conditions set forth in the Subsidiary Guarantee and in the Indenture including but not limited to Article 10 thereof.

4. NO RECOURSE AGAINST OTHERS. No past, present or future director, officer, employee, agent, manager, partner, member, incorporator, shareholder or unitholder of the Company or any Guarantor, as such, will have any liability for any obligations of the Company or the Guarantors under the Notes, this Indenture, the Subsidiary Guarantees or for any claim based on, in respect of, or by reason of, such obligations or their creation. Each Holder of Notes by accepting a Note waives and releases all such liability. The waiver and release are part of the consideration for issuance of the Notes.

5. NEW YORK LAW TO GOVERN. THE INTERNAL LAW OF THE STATE OF NEW YORK SHALL GOVERN AND BE USED TO CONSTRUE THIS SUPPLEMENTAL INDENTURE WITHOUT GIVING EFFECT TO APPLICABLE PRINCIPLES OF CONFLICTS OF LAW TO THE EXTENT THAT THE APPLICATION OF THE LAWS OF ANOTHER JURISDICTION WOULD BE REQUIRED THEREBY.

6. COUNTERPARTS, ELECTRONIC SIGNATURES. The parties may sign any number of copies of this Supplemental Indenture. Each signed copy shall be an original, but all of them together represent the same agreement. The exchange of copies of this Supplemental Indenture and of signature pages by facsimile or PDF transmission shall constitute effective execution and delivery of this Supplemental Indenture as to the parties hereto and may be used in lieu of the original Supplemental Indenture for all purposes. Signatures of the parties hereto transmitted by facsimile or PDF shall be deemed to be their original signatures for all purposes. This Supplemental Indenture shall be valid, binding, and enforceable against a party when executed and delivered by an authorized individual on behalf of the party by means of (i) an original manual signature; (ii) a faxed, scanned, or photocopied manual signature; or (iii) any other electronic signature permitted by the federal Electronic Signatures in Global and National Commerce Act, state enactments of the Uniform Electronic Transactions Act, and/or any other relevant electronic signatures law, including any relevant provisions of the Uniform Commercial Code (collectively, "Signature Law"), in each case to the extent applicable. Each faxed, scanned, or photocopied manual signature, or other electronic signature, shall for all purposes have the same validity, legal effect, and admissibility in evidence as an original manual signature. Each party hereto shall be entitled to conclusively rely upon, and shall have no liability with respect to, any faxed, scanned, or photocopied manual signature, or other electronic signature, of any other party and shall have no duty to investigate, confirm or otherwise verify the validity or authenticity thereof. This Supplemental Indenture may be executed in any number of counterparts, each of which shall be deemed to be an original, but such counterparts shall, together, constitute one and the same instrument. For the avoidance of doubt, original manual signatures shall be used for execution or indorsement of writings when required under the Uniform Commercial Code or other Signature Law due to the character or intended character of the writings.

7. EFFECT OF HEADINGS. The Section headings herein are for convenience only and shall not affect the construction hereof.

8. THE TRUSTEE. The Trustee shall not be responsible in any manner whatsoever for or in respect of the validity or sufficiency of this Supplemental Indenture or the Subsidiary Guarantee or for or in respect of the recitals contained herein, all of which recitals are made solely by the Guaranteeing Subsidiary and the Compan**y.** All of the provisions contained in the Indenture in respect of the rights, privileges, immunities, powers, and duties of the Trustee shall be applicable in respect of this Supplemental Indenture as fully and with like force and effect as though fully set forth in full herein.

IN WITNESS WHEREOF, the parties hereto have caused this Supplemental Indenture to be duly executed and attested, all as of the date first above written.

Dated: _____,

[GUARANTEEING SUBSIDIARY]

By: _____
Name:
Title:

BELLRING BRANDS, INC.

By: _____
Name:
Title:

COMPUTERSHARE TRUST COMPANY, N.A.,
as Trustee

By: _____
Authorized Signatory

AMENDED AND RESTATED MASTER SERVICES AGREEMENT

This AMENDED AND RESTATED MASTER SERVICES AGREEMENT (this "Agreement"), dated as of March 10, 2022 (the "Effective Date"), is made by and among Post Holdings, Inc., a Missouri corporation ("Post"), BellRing Intermediate Holdings, Inc., a Delaware corporation ("Old BellRing"), BellRing Brands, Inc., a Delaware corporation ("New BellRing"), and BellRing Brands, LLC, a Delaware limited liability company ("BellRing, LLC").

RECITALS

A. Old BellRing, Post, New BellRing (as successor to BellRing Distribution LLC) and BellRing Merger Sub Corporation are parties to that certain Transaction Agreement and Plan of Merger, dated as of October 26, 2021, as amended by that certain Amendment No. 1 to the Transaction Agreement and Plan of Merger, dated as of February 28, 2022 (as it may be further amended from time to time, the "Transaction Agreement").

B. As part of the transactions described in the Transaction Agreement, the parties have agreed to amend and restate that certain Master Services Agreement dated as of October 21, 2019 (the "Original Agreement") and for Post to continue to provide, or cause to be provided, certain services to New BellRing and its Subsidiaries from and after the Effective Date for set periods of time not to exceed three (3) years upon the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby approve and adopt this Agreement and mutually covenant and agree with each other as follows:

ARTICLE I
DEFINITIONS; INTERPRETATION; CONSTRUCTION

Section 1.1 Certain Defined Terms. For the purposes of this Agreement, the following terms shall have the meaning set forth below:

"Action" shall mean any demand, action, claim, dispute, suit, countersuit, arbitration, inquiry, subpoena, proceeding or investigation of any nature (whether criminal, civil, legislative, administrative, regulatory, prosecutorial or otherwise) by or before any federal, state, local, foreign or international Governmental Authority or any arbitration or mediation tribunal.

"Affiliate" shall mean, when used with respect to a specified Person, a Person that, directly or indirectly, through one or more intermediaries, controls, is controlled by or is under common control with such specified Person. For the purpose of this definition, "control" (including, with correlative meanings, "controlled by" and "under common control with"), when used with respect to any specified Person, shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities or other interests, by contract, agreement, obligation, indenture, instrument, lease, promise, arrangement, release, warranty, commitment, undertaking or otherwise.

"Applicable Law" shall mean any Law(s) in any jurisdiction applicable to a given activity, service, situation, circumstance, Service Provider, Recipient, other Person or provider, this Agreement or the rights, obligations and benefits of the parties hereunder, including the performance or receipt of any Service hereunder.

"Business Day" means any day except any Saturday, any Sunday, any day which is a federal legal holiday in the United States or any day on which banking institutions in St. Louis, Missouri are authorized or required by Applicable Law or other governmental action to close.

"Data Protection Laws" mean collectively any applicable data protection, privacy or similar laws applicable to the processing of Personal Data in the jurisdiction where Services are performed and/or applicable to the Personal Data processed as part of the Services as the same may change from time to time, including, as applicable, the Health Insurance Portability and Accountability Act ("HIPAA"), the Gramm-Leach-Bliley Act of 1999 ("GLBA"), the California Consumer Privacy Act of 2018, ("CCPA"), the Virginia Consumer Data Protection Act (from and after January 1, 2023) (the "VCDPA"), the Colorado Privacy Act (from and after July 1, 2023) (the "CoPA"), the European Union General Data Protection Regulation, (EU) 2016/679 ("GDPR"), the UK General Data Protection Regulation ("UK GDPR"), Canada's Personal Information Protection and Electronic Documents Act ("PIPEDA"), all state and local laws requiring notice of breaches involving Personal Data and any and all orders, rules and regulations promulgated under any of the foregoing, all as the same have been amended and may be amended in the future.

"Governmental Authority" shall mean any nation or government, any state, municipality or other political subdivision thereof and any entity, body, agency, commission, department, board, bureau, court, tribunal or other instrumentality, whether federal, state, local, domestic, foreign or multinational, exercising executive, legislative, judicial, regulatory, administrative or other similar functions of, or pertaining to, a government and any executive official thereof.

"Intellectual Property Rights" shall mean all common law and statutory rights anywhere in the world arising under or associated with: (i) patents and similar or equivalent rights in inventions and applications and rights or claims of priority therefor, including international applications under the Patent Cooperation Treaty; (ii) all trademarks, service marks, trade names, service names, trade dress, logos and other identifiers of the source or origin of goods and services and all statutory, common law and rights provided by international treaties or conventions in any of the foregoing; (iii) trade secret and industrial secret rights and rights in confidential information; (iv) copyrights and any other equivalent rights in works of authorship (including Software); (v) rights in domain names, uniform resource locators and other names and locators associated with Internet addresses and sites; (vi) applications for, registrations of and divisions, continuations, continuations-in-part, reissuances, renewals, extensions, restorations and reversions of the foregoing (as applicable); and (vii) all other similar or equivalent intellectual property or proprietary rights anywhere in the world .

"Law" shall mean any national, supranational, federal, state, provincial, local or similar law (including common law), statute, code, order, ordinance, rule, regulation, treaty (including any tax treaty), license, permit, authorization, approval, consent, decree, injunction, binding judicial or administrative interpretation or other requirement, in each case, enacted, promulgated, issued or entered by a Governmental Authority.

"Liabilities" shall mean any and all debts, guarantees, assurances, commitments, liabilities, responsibilities, Losses, remediation, deficiencies, damages, fines, penalties, settlements, sanctions, costs, expenses, interest and obligations of any nature or kind, whether accrued or fixed, absolute or contingent, matured or unmatured, accrued or not accrued, asserted or unasserted, liquidated or unliquidated, foreseen or unforeseen, known or unknown, reserved or unreserved or determined or determinable, including those arising under any Law, claim (including any third party claim), demand, Action or order, writ, judgment, injunction, decree, stipulation, determination or award entered by or with any Governmental Authority or arbitration tribunal, or those arising under any contract, agreement, obligation, indenture, instrument, lease, promise, arrangement, release, warranty, commitment or undertaking, or any fines, damages or equitable relief that is imposed, in each case, including all costs and expenses relating thereto.

"Losses" shall mean actual losses, costs, damages, penalties and expenses (including reasonable and documented outside legal and accounting fees and expenses and costs of investigation and litigation, including all court costs, expert witness fees and other litigation expenses).

"Person" shall mean an individual, a general or limited partnership, a corporation, a trust, a joint venture, an unincorporated organization, a limited liability entity, any other entity and any Governmental Authority.

"Personal Data" shall mean any data or information processed pursuant to this Agreement which may be used, alone or in conjunction with any other data or information, to identify a specific person or household or to make a specific person or household identifiable, including, without limitation, any (1) name, social security number, date of birth, official state or government issued driver's license or identification number, alien registration number, government passport number, employer or taxpayer identification number; (2) unique biometric data, such as fingerprint, voice print, retina, iris image, or other unique physical representation; (3) unique electronic identification number, address, or routing code; or (4) telecommunication identifying information or access device. "Personal Data" includes, without limitation, any and all data or information that constitutes "personal data", "personal information", "personally identifiable information" or similar term under any applicable Data Protection Law.

"Post Change of Control" shall mean, with regard to Post, a "Change in Control" as defined in the Post Holdings, Inc. 2019 Long-Term Incentive Plan except that the requirement in such definition that an event described therein must also constitute a "change in control event" under Section 409A of the Code shall not apply to, or be required to be considered, a "Post Change of Control" for the purposes of this Agreement.

"Processing" shall mean any operation or set of operations which is performed on personal data or on sets of Personal Data, whether or not by automated means, such as collection, recording, organization, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction.

"Recipient" shall mean, as applicable, New BellRing or one of its Subsidiaries to the extent any such entity is receiving Services pursuant to this Agreement.

"Recipient Change of Control" of New BellRing and the other Recipients shall have occurred in the event any transaction or series of transactions (however structured or evidenced) is/are consummated:

(a) involve(s) the sale, assignment, conveyance, transfer, lease or other disposition of all or substantially all of the assets of New BellRing and its Subsidiaries taken as a whole, or

(b) which (i) result(s) in a Recipient no longer being a direct or indirect Subsidiary of New BellRing or (ii) involve(s) the sale, assignment, conveyance, transfer, lease or other disposition of all or substantially all of the assets of a Recipient.

"Recipient Data" means any data or information of Recipient whether used, utilized or disclosed to Service Provider in connection with the Services or not.

"Representatives" shall mean, with respect to any Person, any of such Person's directors, officers, members, managers, employees, agents, consultants, advisors, accountants, attorneys, financing sources or other representatives.

"Service Provider" shall mean Post or one of its Affiliates to the extent such entity is providing Services pursuant to this Agreement.

"Service Provider Data" means any data or information of Service Provider whether used, utilized or disclosed to Recipient in connection with the Services or not.

"Services" shall mean the services described on the schedules forming Exhibit A, attached hereto and incorporated herein by this reference (collectively, the "Services Schedules" and each a "Services Schedule").

"Software" shall mean any and all (a) computer programs, including any and all software implementation of algorithms, models and methodologies, whether in source code, object code, human readable form or other form, (b) databases and compilations, including any and all data and collections of data, whether machine readable or otherwise, (c) descriptions, flow charts and other work products used to design, plan, organize and develop any of the foregoing, (d) screens, user interfaces, report formats, firmware, development tools, templates, menus, buttons and icons and (e) documentation, including user manuals and other training documentation, relating to any of the foregoing.

"Subsidiary" shall mean, with respect to any Person, any corporation, limited liability company, joint venture, partnership or other entity of which such Person (a) beneficially owns, either directly or indirectly, more than fifty percent (50%) of (i) the total combined voting power of all classes of voting securities, (ii) the total combined equity interests or (iii) the capital or profit interests, in the case of a partnership, or (b) otherwise has the power to vote, either directly or indirectly, sufficient securities to elect a majority of the board of directors or similar governing body.

Section 1.2 Interpretive Matters.

(a) Except as otherwise provided or unless the context otherwise requires, whenever used in this Agreement, (i) any noun or pronoun shall be deemed to include the plural and the singular, (ii) the use of masculine pronouns shall include the feminine and neuter, (iii) the terms "include" and "including" shall be deemed to be followed by the phrase "without limitation," (iv) the word "or" shall be inclusive and not exclusive, (v) all references to Sections refer to the Sections of this Agreement, and all references to Exhibits refer to the Exhibits attached to this Agreement, (vi) each reference to "herein" means a reference to "in this Agreement," (vii) each reference to "$" or "dollars" shall be to United States dollars, (viii) each reference to "days" shall be to calendar days, (ix) the word "extent" in the phrase "to the extent" shall mean the degree to which a subject or other thing extends, and such phrase shall not mean simply "if", (x) each reference to any contract or agreement shall be to such contract or agreement as amended, supplemented, waived or otherwise modified from time to time, (xi) unless expressly provided otherwise, the measure of a period of one month or year for purposes of this Agreement shall be that date of the following month or year corresponding to the starting date; provided that if no corresponding date exists, the measure shall be that date of the following month or year corresponding to the next day following the starting date (for example, one month following February 18 is March 18, and one month following March 31 is May 1), (xii) a reference to an entity includes any successor entity, whether by way of merger, amalgamation, consolidation or other business combination and (xiii) if any payment required to be made hereunder is required to be made on a day that is not a Business Day, then, instead of such day, such payment shall be made on the immediately succeeding Business Day.

(b) The headings contained in this Agreement and in any Exhibit hereto are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement. The provisions of this Agreement shall be construed according to their fair meaning and neither for nor against any party hereto irrespective of which party caused such provisions to be drafted. Each of the parties hereto acknowledges that it has been represented by an attorney in connection with the preparation and execution of this Agreement.

ARTICLE II
SERVICES

Section 2.1 Services and Contracts.

(a) Services. Service Provider shall provide, or cause to be provided, to Recipient(s), the Services described in Exhibit A, all at the direction of Recipient(s). For each Service, Exhibit A sets forth, among other things, a description of the Service to be provided, the fees to be paid in respect thereof, and, if applicable, any other terms or standards applicable thereto. Unless otherwise provided in a Services Schedule, each Service shall be provided for the Term (as such term is defined below).

(b) Contracts. Post and its Subsidiaries have certain contracts or agreements under which it and its Affiliates (including, prior to the Merger Effective Time, Old BellRing and BellRing LLC and its Subsidiaries) may purchase, procure, use or utilize goods and/or services (collectively the "Shared Contracts" and each individually a "Shared Contract"). Shared Contracts will change from time to time in the ordinary course of Post's and the applicable Affiliate's business, and none of Post or any of its Affiliates are obligated to have or maintain any, or any certain, Shared Contract(s) during the Term. Subject to the receipt of the applicable Required Consent as described in Section 2.6, the parties may agree that certain of these Shared Contracts may continue to be utilized for the benefit of Recipient after the Effective Date for a transition period not to exceed the Term until (1) Recipient obtains contracts in its own name with third party vendors or (2) Service Provider is no longer able to utilize such Shared Contracts for the benefit of Recipient. All fees, costs and expenses associated with Recipient's receipt of any goods and/or services under the Shared Contracts that are incurred by Service Provider shall be reimbursable out-of-pocket expenses passed-through to and payable by Recipient pursuant to Section 4.1.

Section 2.2 Modification of Existing Services.

(a) From time to time, Recipient or Service Provider may desire to implement changes to the Services if not otherwise specifically precluded in the Services Schedules. In such case, the requesting party will notify the other party through its Service Manager (as defined below) of the desired change. The parties will discuss in good faith the nature of the modification to the Services and any resulting changes in fees, costs, specifications and scheduling. In no event shall Service Provider be obligated to support or implement changes to the Services (including, without limitation, as it relates to changes in employee benefit plan/program design). Changes to Services will only be effective upon the mutual written agreement of the parties.

(b) The Services provided hereunder and Service Provider's ability to perform such Services are based and contingent upon Recipient (i) not owning or operating any manufacturing facilities other than those owned by Active Nutrition International GmbH ("ANI") as of the Effective Date; (ii) not owning or directly operating any information technology servers other than those owned by ANI as of the Effective Date (the "IT Servers Assumption") and (iii) not having its own data center other than those owned by ANI as of the Effective Date (collectively, the "Assumptions"). Recipient shall provide Service Provider with written notice of any contemplated change to any of the Assumptions during the Term no less than ninety (90) days prior to (or, if providing such ninety (90) day notice is not practicable, reasonably in advance of) such change taking effect. Upon receipt of such notice, Service Provider will in good faith determine whether or not it can continue to perform some or all of the Services as then currently performed and, if not, Service Provider has the right, which may be exercised through delivery of written notice to New BellRing, to either (1) modify the affected Services, the security obligations in Exhibit B and/or the Security Standards in Exhibit C or the fees for the affected Services as a result of such change in the Assumptions or (2) terminate all of the Services or the affected Services as a result of such change in the Assumptions; provided that, notwithstanding the foregoing, with respect to any change in the IT Servers Assumption, Service Provider's right to modify Services, modify fees for Services and terminate Services pursuant to this sentence shall only apply in respect of the Services described in the IT portion of the Services Schedule and any other Services that Service Provider reasonably believes, in good faith, are impossible, impracticable or pose too great of security risk to continue to perform as a result of the change. If Recipient is unwilling to agree to the modification of affected Services or fees described in subclause (1) in the preceding sentence, Recipient may terminate such modified Service pursuant to Section 11.1 below.

Section 2.3 Subcontractors; Service Providers. The Services may, at Service Provider's sole discretion, be provided in whole or in part by Affiliates of Service Provider or by third party subcontractors or service providers selected by Service Provider, provided that, Service Provider shall (a) use commercially reasonable efforts to provide written notice to Recipient of the use of any new third party subcontractor or service provider at least five (5) Business Days prior to the commencement of the provision of Services by such subcontractor or service provider; provided, however, that Service Provider shall have no liability for failure to timely provide such written notice unless Recipient is actually harmed by such failure to timely provide such notice, and

(b) retain responsibility for the provision to Recipient of the Services regardless of whether a Service is performed by Service Provider's Affiliate, third party subcontractor or third party service provider.

Section 2.4 Personnel. All Service Provider's (or its Affiliates', third party contractors' or service providers') personnel ("Service Provider Personnel") providing Services under this Agreement will be under the direction, control, and supervision of Service Provider, and Service Provider will have the sole right to exercise all authority with respect to the employment, termination, assignment and compensation of Service Provider Personnel. Service Provider is not obligated to hire any additional employees or maintain the employment of any specific employee, and to the extent a Services Schedule is priced to include additional employees assigned to support various Services, to the extent Service Provider determines to staff Services with different or existing employees rather than assign new employees to perform Services, it shall be permitted to do so; provided, however, that, in no such instances shall such determination by the Service Provider result in any non-*de minimis* increase, whether individually or in the aggregate, in the pricing set forth in the applicable Services Schedule(s). All Service Provider Personnel providing Services under this Agreement will be deemed to be representatives solely of Service Provider (or such Affiliates, third party contractors or service providers) for purposes of all compensation and (as applicable) employee benefits and not to be employees or representatives of Recipient.

Section 2.5 Compliance with Policies; Safety of Personnel. Recipient acknowledges that Service Provider has instituted and may continue to institute and revise a variety of policies and procedures related to its operations and the provision of the Services. Service Provider shall perform all Services in a manner that is consistent with such policies and procedures of Service Provider and any reasonable policies and procedures of Recipient to the extent that (i) such policies and procedures of Recipient have been provided to Service Provider, (ii) such policies and procedures of Recipient do not conflict with, and are generally consistent with, Service Provider's own policies and procedures and (iii) the subject Services are not also being jointly performed for Post or one or more of Post's Affiliates. To the extent Services are performed onsite at Recipient's place(s) of business, (i) Service Provider will comply with any health, safety and/or security policies and procedures applicable to such place of business so long as Recipient has provided such policies and procedures for Service Provider's review prior to the same being enforced against Service Provider or any Service Provider Personnel and (ii) Service Provider may withdraw any Service Provider Personnel providing Services at any Recipient place of business if Service Provider has a reasonable opinion that such Service Provider Personnel face any risk to their personal safety, security or health.

Section 2.6 Third Party Costs and Consents. The parties will work together to obtain any consents required for the provision of the Services for Recipient by the applicable Service Provider hereunder (the "Required Consents"). Recipient shall directly pay, or shall reimburse Service Provider for, any amounts that are required to be paid to any licensors or third party providers in order to obtain the Required Consents that are necessary for the provision of the Services to Recipient, including without limitation, any consent or documentation fees. The parties further agree that the costs associated with the purchase or maintenance of additional licenses or use rights required for Recipient to use or utilize a given product or service that is being provided as a Service hereunder will be reimbursable out-of-pocket expenses paid by Recipient pursuant to Section 4.1(a). Notwithstanding anything contained in this Agreement or the Transaction Agreement, (a) Service Provider shall not be required to provide any Services to the extent that a Required Consent is needed for such Services and such Required Consent has not been, or cannot be, obtained despite Service Provider's commercially reasonable attempts to do so, or if providing such Services would otherwise violate the terms of any of Service Provider's agreements with its third party providers and (b) prior to the payment for, or incurrence of, any expense, fee or other amount required to be borne by Recipient for a Required Consent pursuant to this Section 2.6 (which, if not then known, may be based off of the Service Provider's reasonable good faith estimated as to the expense, fee or other amount), Service Provider shall notify Recipient of such expense, fee or other amount in writing and Recipient may, at Recipient's sole discretion, elect not to receive the Service for which the applicable Required Consent is required and, in such case, shall not be responsible for any such expense, fee or other amount. Notwithstanding the foregoing, if (x) Service Provider is not able to obtain any such Required Consent, despite Service Provider's commercially reasonable attempts to do so or (y) Recipient elects not to receive a Service

pursuant to clause (b) of the immediately preceding sentence, Service Provider shall promptly notify Recipient thereof (in the case of clause (a)) and the parties will work together to arrange an alternative means of providing such Service or for Recipient to receive the Service, which may include Recipient obtaining replacement services directly from a third party provider, all at Recipient's expense.

Section 2.7 Underlying Contract and Shared Contract Compliance.

(a) The parties acknowledge and agree that Service Provider will be utilizing certain assets, Intellectual Property Rights and technologies, including, without limitation, Software, owned or licensed by Service Provider in the performance of the Services and that, in the receipt and utilization of such Services, Recipient may utilize, access or use such assets, Intellectual Property Rights and technologies, including, without limitation, Software (collectively, "Service Provider Assets"). Except as necessary for the receipt and utilization of the Services hereunder and as may be granted with regard to Shared Contracts, nothing herein shall grant Recipient or any of its Subsidiaries any ownership interest or license in or to such Service Provider Assets. Recipient and each of its Subsidiaries shall comply with each agreement, license or other contract between Service Provider and the applicable vendor or third party service provider related to the Service Provider Assets (collectively the "Underlying Contracts") utilized, accessed or used by Recipient and the given Subsidiary in its receipt and utilization of the Services hereunder to the extent that the terms of any such Underlying Contract would be applicable to Recipient in its capacity as a recipient of Services pursuant to this Agreement. Recipient and each of its Subsidiaries shall comply with each Shared Contract to the extent that such Shared Contract is utilized by Recipient or such Subsidiary. Service Provider and each of its Affiliates shall comply with each Underlying Contract and each Shared Contract to the extent such Underlying Contract or Shared Contract is applicable to Service Provider or such Affiliate.

(b) Upon Recipient's request, at Service Provider's option, either a copy of each Underlying Contract and each Shared Contract shall be made available to Recipient (with any information reasonably considered by Service Provider to be proprietary or confidential redacted) or a summary of the substantive purchase, license or use terms of the applicable Underlying Contract or Shared Contract that are utilized by Recipient or its Subsidiary shall be made available to Recipient; provided, however, that in no event shall Service Provider be required to disclose an Underlying Contract or Shared Contract or provide a summary thereof, as applicable, to the extent that Service Provider is, in its reasonable, good faith judgment, prohibited by the applicable contract or vendor arrangement from disclosing such Underlying Contact or Shared Contract or providing a summary thereof, as applicable; provided, further, that should Recipient breach any Underlying Contract or Shared Contract that could not be provided to Recipient in accordance with the immediately preceding proviso of this sentence, Service Provider shall provide Recipient written notice of such breach and a reasonable period (based upon the facts and circumstances of the particular breach) to cure such breach prior to seeking any rights or remedies, including, but not limited to, indemnification under Section 8.1, available to Service Provider as a result of such breach.

Section 2.8 Services Managers. Service Provider and Recipient shall select one or more service managers (each a "Service Manager") to act as its primary contact person(s) for the provision or receipt, as applicable, of the Services. Communications relating to the provision of the particular Services shall be directed to the applicable Service Manager of the other party. A party may change a Service Manager upon prior written notice to the other party, provided, however, that, before assigning a new Service Manager, such party will notify the other of the proposed assignment, introduce the individual to the appropriate representatives of the other party and provide such party with any information regarding the individual that may be reasonably requested by the other party. Service Provider's Service Manager shall initially be Bryan Schack. Recipient's Service Manager shall initially be Paul Rode.

ARTICLE III
PROVISION OF SERVICES

Section 3.1 No Secondment. For the avoidance of doubt, Service Provider is not under any obligation to second or procure the secondment to Recipient of any employee or other personnel in connection with the provision of the Services.

Section 3.2 Access to and Use of Facilities. To the extent reasonably required to perform the Services hereunder, Recipient will provide (or as necessary will cause its Affiliates to provide) Service Provider with access to and use of such Recipient's applicable facilities. Recipient shall provide all information reasonably required or requested by Service Provider to perform its obligations under this Agreement. Any visit to any of Recipient's facilities required in connection with the Services will be provided at Recipient's sole risk except with respect to any violation of Applicable Law, negligence or willful misconduct by Service Provider, its Affiliates or its or their respective Representatives. Recipient shall be liable for, and shall fully defend, indemnify and hold Service Provider and its Affiliates harmless from, any and all injuries or death suffered by any Service Provider Personnel arising in connection with any visit by such personnel to Recipient's facilities to the extent such injury or death is caused by Recipient's violation of Applicable Law, negligence or willful misconduct.

Section 3.3 Dispute Resolution. In the event that the parties are unable to agree upon any matters related to the performance of Services under this Agreement, the disputed matter will be first referred to the Service Managers for resolution. If a mutually acceptable agreement is not reached within a reasonable time, the matter will then be referred to the applicable senior management at each party hereto for resolution. Thereafter, the parties may seek the other rights and remedies available to such party. This Section 3.3 in no way limits, delays or restricts a party's ability to seek specific performance, injunctive relief or other equitable relief as provided under Section 12.12.

Section 3.4 Nature of Services. Service Provider will not exercise control over Recipient's employees and will not be a joint employer of Recipient's employees. Service Provider is not providing Services as a professional employer organization or similar organization. If a Governmental Authority of competent authority determines that Service Provider is or may be a joint employer of Recipient's employees or is a professional employment organization or similar organization, Service Provider may, in its sole discretion, terminate this Agreement as to the affected Services, which affected Services will include, but may not be limited to, all of the Services that were the subject of the Governmental Authority's determination that Service Provider is a joint employer or a professional employment organization or similar organization, including the Services as a whole if such were the subject of such determination, without penalty or liability (and will be further entitled to indemnification, defense and hold harmless relief as set forth in Article VIII); provided, however, that in the event of such termination pursuant to this Section 3.4, Service Provider shall make commercially reasonable efforts, for a period of no more than six (6) months or the until the end of the Term, whichever is shorter, to assist Recipient in transitioning Services to Recipient or Recipient's service provider of choice, with such transition services to be provided at a cost to be negotiated by the Parties working in good faith.

ARTICLE IV
PAYMENT FOR SERVICES

Section 4.1 Payment Obligation.

(a) Recipient shall pay Service Provider or, to the extent specified on an invoice delivered to Recipient pursuant to Section 4.3, an applicable Affiliate thereof, the undisputed fees described on the applicable Services Schedule for the Services provided to Recipient by Service Provider *plus* Recipient shall reimburse Service Provider for all reasonable, documented, undisputed out-of-pocket expenses incurred by Service Provider while obtaining any Required Consent or in the rendering of the applicable Services for Recipient (including third party

contractors or professional fees and any license, service or access fees, including any third party vendor fees and other third party supply costs). For the avoidance of doubt, the monthly costs/fees set forth on Exhibit A do not include any third party costs or pass through expenses (whether separately billed to Recipient or amounts allocated to Recipient out of the overall bill to Service Provider) paid by Service Provider for goods and services used by Recipient, but, to the extent practicable, Service Provider has provided in the footnotes to the Services Schedules estimates of what Service Provider believes, as of the Effective Date, the reimbursable expenses for certain given Services may be. All such third party costs and pass through expenses will be reimbursed by Recipient as provided above regardless of whether consistent with such estimates or not. For example, the monthly costs/fees on Exhibit A do not include any Shared Contract costs or any license fees paid for any Software licenses or services purchased by Service Provider and used by Recipient.

(b) Monthly Cost/Fee Adjustments. Beginning on the anniversary of the Effective Date (starting the next Term Year (as such term is defined below)), the monthly costs/fees for the given Services, for which there has not been a monthly costs/fees adjustment made, shall automatically increase by two and ½ percent (2.5%) over the monthly costs/fees charged for such Services during the just completed term year. Such monthly costs shall continue in effect until the monthly costs/fees are again adjusted (whether automatically as provided above or upon mutual agreement of the parties).

Section 4.2 Certain Third Party Costs. Recipient acknowledges and agrees that the prices charged by third party suppliers for any goods (e.g., Software, raw materials and packaging) and services (e.g., promotions) procured from third party service providers which Service Provider is procuring on Recipient's behalf as part of the Services provided hereunder may be subject to fluctuation and, as such, Service Provider cannot guarantee that it will be able to maintain certain pricing levels for any such goods or services. Recipient shall reimburse Service Provider for the applicable amounts charged by such third parties to Service Provider to purchase such goods and services, regardless of any such fluctuation in price.

Section 4.3 Invoices; Payment Due Date. Unless otherwise agreed to by Service Provider and Recipient in accordance with past practice, Service Provider or an applicable Affiliate thereof shall provide Recipient with a monthly invoice reflecting in reasonable detail (a) the Services provided during the preceding month, (b) monthly costs/fees owed for such Services and (c) all reasonable out-of-pocket expenses incurred by Service Provider or its Affiliates and reimbursable by Recipient as provided above. All amounts shall be due and payable within thirty (30) days of the date the invoice is received. In the event Recipient disputes the amounts reflected on an invoice, Recipient shall deliver a written statement to Service Provider or such Affiliate within ten (10) days following receipt of Service Provider's or such Affiliate's invoice listing all disputed items and providing a reasonably detailed description of each disputed item. Amounts not so disputed shall be deemed accepted and shall be paid, notwithstanding disputes on other items.

Section 4.4 Interest on Late Payment. Any amounts owed by Recipient under this Agreement that are not paid when due shall bear interest, from the time the payment was due until the time paid, at a rate per annum compounded annually, equal to the lesser of one and a half percent (1.5%) per month or the highest rate allowed by Applicable Law.

Section 4.5 Taxes.

(a) The fees under this Agreement exclude all applicable excise, sales, use, value added, goods and services or similar tax imposed by any federal, state, provincial, local or foreign taxing authority ("Sales Tax" or "Sales Taxes"), and Recipient will be responsible for payment of all such Sales Taxes for which Recipient bears primary liability under Applicable Law and any related penalties and interest arising from the payment of fees and expenses to Service Provider or its Affiliates. Recipient shall be entitled to withhold from any payment hereunder all taxes as are required to be withheld under Applicable Law. Service Provider and Recipient shall reasonably cooperate to minimize any applicable withholding taxes. For the avoidance of doubt, all taxes levied on Service Provider's income or gross receipts or any franchise taxes of Service Provider shall be Service Provider's responsibility.

(b) Service Provider Personnel who provide, or are expected to provide, Services from a location that is outside of their normal tax jurisdiction may be subject to increased taxes, including U.S. federal, state, social and local taxes. Service Provider will work to mitigate such additional tax and tax-related charges, which may include removal of such Service Provider Personnel from performing the applicable Services. Service Provider will use commercially reasonable efforts to inform Recipient in advance if such a situation is arising and if Service Provider Personnel will be removed as the result of such taxes being increased. Service Provider will not remove such Service Provider Personnel from the performance of Services hereunder if, within thirty (30) days of Recipient being so informed, Recipient agrees in writing to reimburse Service Provider (and the particular Service Provider Personnel) for the amounts payable to cover such increased tax liabilities. For the avoidance of doubt, if Recipient so agrees, Recipient will be responsible for, and will pay, the increased federal, state, social and local taxes and any compliance costs incurred by such Service Provider Personnel or by Service Provider with regard thereto. Application of tax law affecting Service Provider Personnel will be determined by Service Provider in its reasonable discretion.

Section 4.6 Expenses. Except as otherwise specified in this Agreement (including Section 4.1 and Section 4.5), each party hereto shall pay its own legal, accounting, out-of-pocket and other expenses incident to this Agreement and to any action taken by such party in carrying this Agreement into effect.

ARTICLE V
SERVICE STANDARDS

Section 5.1 Standard of Service. Service Provider warrants that the Services will be provided in a workmanlike and professional manner by Service Provider Personnel having a level of skill in the area commensurate with the requirements of the scope of Services to be performed as described in the Service Schedules and this Agreement. Service Provider further warrants that the Services will be performed in a commercially reasonable manner and in accordance with any specific terms and/or performance standards set forth in the relevant Services Schedule. In providing the Services, Service Provider shall (a) perform, or cause to be performed, the Services (i) in a commercially reasonable manner with a degree of care, and at a level of quality, timeliness, efficacy, priority and service, consistent with that provided by Service Provider and its Affiliates to Affiliates of Post that rely on Service Provider or its Affiliates for such or similar services and (ii) in accordance with applicable industry standards and any other specific terms and/or performance standards set forth in this Agreement and the relevant Services Schedule and (b) comply in all material respects with all Applicable Laws.

Section 5.2 Remediation. Recipient agrees that the remedies available to it in the event of a failure of Service Provider to provide the Services in accordance with the applicable Services Schedule in breach of the warranty set forth in Section 5.1 should be limited to Service Provider using commercially reasonable efforts to correct the problems that resulted in such failure, and therefore no service credits, rebates or refunds will be awarded for a failure to provide the Services. In recognition of this, except with respect to Service Provider's indemnification obligations in Section 8.2, Recipient's sole and exclusive remedy, and Service Provider's sole and exclusive obligation, for any breach of the warranty set forth in Section 5.1 or any claim regarding Service Provider's failure to provide any Services in accordance with this Agreement shall be the remediation activities set forth in this Section 5.2. In the event Service Provider does not provide a Service as specified in the applicable Services Schedule, then Service Provider agrees that it will use its commercially reasonable efforts to re-perform the applicable Service as soon as reasonably practicable thereafter.

ARTICLE VI
CONFIDENTIALITY

Section 6.1 Definition. "Confidential Information" means, with regard to any party hereto disclosing such information (the "Disclosing Party"), the terms of this Agreement and any technical or non-technical confidential

or proprietary information disclosed or otherwise made available in any manner by the Disclosing Party to the other party to this Agreement (the "Receiving Party"), or to which the Receiving Party may gain access because of this Agreement, whether disclosed orally, electronically, visually or in writing. "Confidential Information" shall not include information (a) which is or becomes generally known or available by publication without violation of this Agreement; (b) which was known by the Receiving Party before receipt from the Disclosing Party as shown by the Receiving Party's written records; (c) which is independently developed by the Receiving Party without use of or access to the Disclosing Party's Confidential Information as shown by the Receiving Party's written records; or (d) which is lawfully obtained from a third party that has the right to make such disclosure as shown by the Receiving Party's written records.

Section 6.2 Obligations. The Receiving Party agrees that, except as otherwise required by Applicable Law or order, it will (a) not use, reproduce, or exploit the Confidential Information of the Disclosing Party for any purpose other than performing or receiving Services as specified in this Agreement; and (b) hold all Confidential Information of the Disclosing Party in strict confidence and will not disclose or otherwise make available such Confidential Information to any third party other than its Representatives, third party contractors, advisors, Affiliates, actual or potential investors or financing sources and their advisors and Representatives, and the employees of the Receiving Party or its Representatives, third party contractors, advisors and Affiliates (i) who have a need to know such information for purposes of fulfilling the Receiving Party's obligations, utilizing or enforcing the Receiving Party's rights, or utilizing the Services provided, under this Agreement and (ii) who are bound by confidentiality obligations at least as stringent as those contained in this Agreement.

Section 6.3 Compelled Disclosure. In the event that the Receiving Party is required by Applicable Law or court decision, order or judgment to disclose any Confidential Information, the Receiving Party shall (a) to the extent permitted, notify the Disclosing Party in writing as soon as reasonably practicable; (b) reasonably cooperate with the Disclosing Party to preserve the confidentiality of such Confidential Information consistent with Applicable Law and (c) use its reasonable efforts to limit any such disclosure to the minimum disclosure necessary to comply with such Applicable Law or court decision, order, or judgment.

Section 6.4 Termination. Upon termination of this Agreement in accordance with Article XI, the Receiving Party shall destroy all documents and materials in tangible form, and delete all data in electronic form, containing any Confidential Information of the Disclosing Party. Notwithstanding the foregoing, the parties hereto acknowledge that certain systems that may be utilized by a Receiving Party do not easily permit the true purging or deletion of data (e.g., email backup systems). In such cases, the Receiving Party shall be permitted to retain such data so long as such data is not readily available to end users and otherwise remains subject to the confidentiality provisions of Section 6.1 and Section 6.2. In addition, the Receiving Party shall be permitted to retain such copies of Confidential Information as required by Applicable Law or legitimate record retention policies, so long as such Confidential Information is not readily accessible and otherwise remains subject to the confidentiality provisions of Section 6.1 and Section 6.2.

Section 6.5 Data Protection.

(a) The parties are currently parties to a HIPAA Business Associate Agreement and will contemporaneously with the execution of this Agreement execute a Data Processing Addendum pursuant to the GDPR and the UK GDPR (the HIPAA Business Associate Agreement and the Data Processing Addendum will be collectively referred to herein as the "Data Protection Agreements" and each as a "Data Protection Agreement"). After the execution thereof and throughout the period during which a Service Provider Processes any Personal Data protected under the applicable Data Protection Agreement, the parties will keep each such Data Protection Agreement or a mutually agreed upon replacement thereof in force. Each party hereby agrees to comply with the terms of each such Data Protection Agreement with regard to any and all Processing of any Personal Data, as applicable, and if there is any conflict between any provision of any Data Protection Agreement and the terms of this Agreement, the terms of the applicable Data Protection Agreement shall prevail.

(b) Each party shall make, obtain and/or maintain throughout the Term all necessary registration or filings and notifications or consents which such party is obliged to make, obtain and/or maintain pursuant to all applicable Data Protection Laws. Each party shall in its performance under this Agreement abide by all applicable Data Protection Laws.

(c) In furtherance of the foregoing, Service Provider hereby acknowledges and agrees that, in connection with this Agreement, (i) it is a service provider under the terms of the CCPA, (ii) it will only access and process Recipient Personal Data for the business purposes of performing the Services for Recipient and (iii) it is expressly prohibited from retaining, using, or disclosing the Recipient Personal Data for any purpose other than its performance under this Agreement. Each party agrees to provide the other party with all information and cooperation reasonably necessary to allow the other party to abide by all applicable Data Protection Laws.

(d) Recipient warrants to Service Provider that, prior to disclosing any Personal Data to Service Provider hereunder, it has all necessary rights to provide such Personal Data to such party under all applicable Data Protection Laws for any Processing to be performed in relation to the Services, and, without limiting the generality of the foregoing, as applicable, that one or more lawful bases set forth in GDPR or UK GDPR support the lawfulness of the Processing. To the extent required by GDPR or UK GDPR, Recipient shall be responsible for ensuring that all necessary privacy notices are provided to data subjects, and unless another legal basis set forth in GDPR or UK GDPR supports the lawfulness of the Processing, that any necessary data subject consents to the Processing are obtained, and for ensuring that a record of such consents is maintained. Should such a consent be revoked by a data subject, Recipient is responsible for communicating the fact of such revocation to Service Provider, and Service Provider remains responsible for implementing Recipient's instruction with respect to the processing of such Personal Data. Service Provider represents and warrants to Recipient that, in connection with this Agreement, Service Provider shall not disclose to Recipient any Personal Data (i) protected under the GDPR or the UK GDPR that was collected by Service Provider outside its performance of Services under this Agreement or (ii) in violation of any applicable Data Protection Law.

Section 6.6 Data Security.

(a) The systems and technologies utilized in, or covered by, the parties' performance under this Agreement fit within one of the following categories: (i) systems and technologies owned, licensed, contracted for or used by Service Provider that may be utilized in the performance of Services but that Recipient(s) does(do) not directly access or use ("Post Only Systems"), (ii) systems and technologies used exclusively by Recipient or its Subsidiaries and for which Service Provider is providing some form of security Services ("Supported Systems") or (iii) systems and technologies accessed and used by both Recipient and Service Provider and/or one or more of its Affiliates in some manner ("Joint Systems"). The parties acknowledge that there may be systems and technologies for which Service Provider is not providing any security Services and that Recipient is fully responsible for all such systems, tools and processes that are used by Recipient and are not Supported Systems or Joint Systems, if any, (such being "Recipient Only Systems"). Post Only Systems, Supported Systems, Joint Systems and Recipient Only Systems may be collectively referred to herein as the "Systems" or each a "System". The cyber security duties with regard to the Systems shall be divided as follows: (i) the party that either is (1) exclusively using or (2) if no one party is exclusively using, the party that owned, licensed, or contracted for the underlying technology of the System shall be responsible for securing the System environment and the data and applications held/used therein (e.g., Service Provider is responsible for Post Only Systems and Recipient is responsible for Recipient Only Systems) and (ii) each party accessing or using such System shall be responsible for (x) all access and use by it and its "Users," which are defined as the employees of, or contractors of a given Party who are accessing and using the System on behalf of, such party, (y) ensuring all such access and use occurs in an appropriately secure manner and through appropriately secure mechanisms and technologies and (z) securing all of the technologies, hardware and equipment used by such party and its Users in the access and use of such Systems as well as any third party service providers or vendors used by such parties (e.g., any co-manufacturing providers, any data center providers, or any SaaS based providers that may be utilized by a party). Furthermore, the parties agree to adhere to those security obligations set forth in Exhibit B.

(b) In addition and supplement to the obligations in Section 2.5 above, as a requirement and condition precedent to Service Provider performing any Services under this Agreement, Recipient must comply with, and maintain throughout the Term, the security and other data protection standards, controls, policies and procedures established and amended by Service Provider from time to time, as the same have been provided to Recipient (the "Security Standards"). Service Provider shall provide to Recipient a commercially reasonable standard of security and data protection as part of the provision of the Services, and, without limiting the generality of the foregoing, comply with, and maintain throughout the Term, the Security Standards. The Security Standards are hereby incorporated herein by reference. An overview of the current Security Standards is provided in Exhibit C.

(c) Promptly upon discovery of (i) an actual or suspected breach of the privacy or security of any Supported Systems, Joint Systems, Recipient Data or Service Provider Data or (ii) any violation of any Data Protection Law with respect to any Supported Systems, Joint Systems, Recipient Data or Service Provider Data (each such incident being a "Security Incident"), the discovering party shall provide written notice without undue delay to the other parties explaining the nature and scope of the Security Incident and shall reasonably cooperate with the other parties in any investigation and remediation that the parties mutually agree are reasonably necessary (including any forensic investigation). The parties hereby acknowledge and agree that if the root cause of a Security Incident (i) developed from any System, technology, equipment, access, use or User for which a party or its Affiliate is responsible hereunder for securing or for ensuring the security of (including a party's vendor's or service provider's systems, technologies or software) (as described in Section 6.6(a), Section 6.6(b), Exhibit B or Exhibit C) or (ii) resulted from any negligent or more culpable act or omission by a party's or its Affiliate's or Subsidiary's employee, contractor, vendor, or other Representative, such party shall be responsible and liable for the costs associated with any investigation and remediation of such Security Incident and any Claims arising therefrom, including, without limitation, (1) costs of any required forensic investigation to determine the cause of the Security Incident, (2) providing notification of the Security Incident to applicable government and relevant industry self-regulatory agencies, to the media (if required by applicable Law) and to individuals whose Personal Data have been disclosed and/or accessed ("Affected Individuals"), (3) providing any other remedies required under applicable Law or otherwise mutually determined appropriate by the parties, including, but not limited to, credit monitoring services to Affected Individuals and operating a call center to respond to questions from Affected Individuals, and (4) any fines or other Liabilities arising therefrom. For the avoidance of doubt, (1) the Liabilities arising from a Joint System, where the root cause did not arise, or cannot be reasonably determined to have arisen, from (i) any System, technology, equipment, access, use or User for which a party or its Affiliate is responsible hereunder for securing or for ensuring the security of or (ii) any negligent or more culpable act or omission of any Person described above, shall be jointly shared by the parties and (2) Service Provider has no obligations under this Section 6.6(c) to Recipient for any Security Incident involving only a Post Only System unless Recipient Data is affected by such Security Incident and Recipient has no obligations under this Section 6.6(c) to Service Provider for any Security Incident involving only a Recipient Only System unless any Service Provider Data is affected by such Security Incident. Notwithstanding the foregoing, or anything in this Agreement to the contrary, a party will have no responsibility for any costs of investigation or remediation or for any other Liabilities arising from a Security Incident to the extent they are due to, or the root cause of the Security Incident arose from, any gross negligence, willful misconduct or fraud of the other party, its Affiliates or their respective employees, contractors, vendors, or other Representatives.

(d) The parties acknowledge that security requirements are constantly changing and that effective security requires frequent evaluation and regular improvements of outdated security measures. The parties will therefore evaluate the measures as implemented in accordance with this Section 6.6 on an on-going basis in order to maintain compliance with the requirements set out herein. The parties will negotiate in good faith the cost, if any, to implement material changes required by specific updated security requirements set forth in applicable Data Protection Laws.

ARTICLE VII
REPRESENTATIONS AND WARRANTIES

Section 7.1 Mutual Representations. Each party represents and warrants to the other parties that it has the requisite corporate or other organizational power and authority to enter into and perform its obligations under this Agreement and has taken all corporate or other organizational action necessary to execute and deliver this Agreement, to consummate the transactions contemplated hereby and to perform its obligations hereunder.

Section 7.2 Disclaimer. Except as expressly set forth in this Agreement, no party makes any representation or warranty to the other parties, express or implied, with respect to the provision or receipt of the Services and all information or other deliverables provided by any party pursuant to this Agreement, including any representation or warranty as to merchantability, fitness for a particular purpose or future results. Each party hereby acknowledges that, other than as expressly provided in this Agreement, the Services and all information or deliverables provided hereunder are being provided "AS IS WHERE IS," and each party has relied on its own examination and investigation in electing to enter into, and consummate the transactions under, this Agreement.

ARTICLE VIII
INDEMNIFICATION

Section 8.1 Recipient Indemnity. Recipient shall indemnify, defend and hold Service Provider, Service Provider's Affiliates, Service Provider Personnel and their respective Representatives harmless from and against any and all Losses resulting from any third party claims, Actions, suits or proceedings or from any action, decision, order or judgment by any Governmental Authority ("Claims") to the extent such Losses are (A) related to failure to support or implement any requested changes to the benefits and payroll administration Services, (B) are related to the Service Provider's performance of the Services, except in the case of application of Section 8.2(i) – (iv), or (C) caused by Recipient's (i) violation of any material Applicable Law, (ii) fraud, (iii) willful misconduct or (iv) gross negligence in connection with performing its duties, responsibilities and obligations under this Agreement or breach of Article VI, provided that (a) Service Provider notifies Recipient promptly in writing of the Claim once Service Provider becomes aware of such Claim; (b) Recipient has sole control of the defense and all related settlement negotiations, except that Service Provider must provide prior written consent to any settlement that does not expressly and unconditionally release Service Provider from all Liabilities with respect to such Claim without prejudice or that would be adverse to Service Provider, which consent will not be unreasonably withheld; and (c) Service Provider provides Recipient with all reasonably necessary assistance, information and authority, at Recipient's reasonable expense, to perform these duties.

Section 8.2 Service Provider Indemnity. Service Provider shall indemnify, defend and hold Recipient, Recipient's Affiliates and their respective Representatives harmless from and against any and all Losses resulting from any Claims to the extent such Losses are caused by Service Provider's (i) violation of any material Applicable Law, (ii) fraud, (iii) willful misconduct or (iv) gross negligence in connection with performing its duties, responsibilities and obligations under this Agreement or breach of Article VI, provided that (a) Recipient notifies Service Provider promptly in writing of the Claim; (b) Service Provider has sole control of the defense and all related settlement negotiations, except that Recipient must provide prior written consent to any settlement that does not expressly and unconditionally release Recipient from all Liabilities with respect to such Claim without prejudice or that would be adverse to Recipient, which consent will not be unreasonably withheld; and (c) Recipient provides Service Provider with all reasonably necessary assistance, information and authority, at Service Provider's reasonable expense, to perform these duties.

ARTICLE IX
LIMITATION OF LIABILITY

Section 9.1 Limitations on Claims. No party shall have any liability to another party under this Agreement unless a Claim is made in writing by the first party within sixty (60) days after the circumstances giving rise to the claim first become known to the first party, or could, with reasonable diligence, have become known to the first party.

Section 9.2 Limitation of Liability. Except as set forth in Section 9.3, (i) in no event shall a party have any liability to another party for any punitive damages, lost profits, diminution of value, consequential damages, special damages, incidental damages, indirect damages, exemplary damages or other similar unforeseen damages, (ii) in no event shall any multiples or similar valuation methodology (whether based on "multiple of profits," "multiple of earnings," "multiple of cash flows" or similar terms) be used in calculating the amount of any Liability and (iii) to the maximum extent permitted by Applicable Law, each party's (which, for the purposes of this Section 9.2, a "party" includes the party, all of the Affiliates of such party and all of its respective Representatives) aggregate liability to another party in connection with this Agreement or any Service under this Agreement shall not exceed the greater of (A) the amounts expected to be paid by Recipient to Service Provider for the Service giving rise to the Liability in the twelve (12) month period following the Effective Date; and (B) amounts paid to such Service Provider under this Agreement for such Service in the twelve (12) month period immediately preceding the event giving rise to the given Claim.

Section 9.3 Exceptions. Notwithstanding anything herein to the contrary, the parties hereby acknowledge and agree that none of the limitations, waivers or restrictions on Losses, Liabilities, damages or Claims set forth in Section 9.1 or Section 9.2 shall apply to or any way affect a party's Liability for, or a party's ability to recover for, (i) a material breach of this Agreement arising from any breach of any Underlying Contract or (ii) any breach of, or liabilities arising under, Article VI.

Section 9.4 Acknowledgement of Limitations. Each party agrees that in the absence of limitations of liability and claims and waivers of damages set forth in this Article IX, the economic and other terms of this Agreement would be substantially different.

ARTICLE X
INTELLECTUAL PROPERTY

Section 10.1 Service Provider Intellectual Property. To the extent Service Provider uses any know-how, processes, technology, trade secrets or other Intellectual Property Rights owned by or licensed to Service Provider or any of its Affiliates ("Service Provider IP") in providing the Services, Service Provider IP and any derivative works of, or modifications or improvements to, Service Provider IP conceived or created by Service Provider or its Affiliates ("Improvements") shall, as between the parties, remain the sole property of Service Provider. Recipient shall and hereby does assign to Service Provider, and agrees to assign automatically in the future upon first recordation in a tangible medium or first reduction to practice, all of Recipient's right, title and interest in and to all Improvements, if any. Service Provider hereby, on behalf of itself and its Affiliates, grants to Recipient and its Affiliates a worldwide, nonexclusive, nontransferable and royalty-free right and license, during the term of the applicable Service, to use, reproduce, distribute and display, as applicable, all Service Provider IP and Improvements, solely to the extent and for the duration necessary to enable Recipient and its Affiliates to receive, use and utilize the Services.

Section 10.2 Recipient Intellectual Property. New BellRing hereby, on behalf of itself and its Subsidiaries, grants to Service Provider and its Affiliates a worldwide, nonexclusive, nontransferable and royalty-free right and license, during the term of the applicable Service, to use, reproduce, distribute and display, as applicable, the Recipient Intellectual Property solely as necessary for the performance of the Services.

Section 10.3 Reservation of Rights. All rights not expressly granted herein are reserved.

ARTICLE XI
TERM, TERMINATION

Section 11.1 Term of Agreement; Early Termination of Services. This Agreement shall terminate three (3) years from the Effective Date (such three (3) year period, the "Term" and any one (1) year period within the Term, a "Term Year"), unless sooner terminated by the parties as set forth in this Agreement, including this Article XI, and subject to Section 3.4. Upon mutual written consent of the parties, the parties may renew this Agreement for additional three (3) year or shorter terms. Some Services shall be provided for a period of less than three (3) years if so specified by the applicable Services Schedule. Recipient may elect to terminate Service Provider's provision of all or any portion of the Services (or any Service) by providing Service Provider written notice of such election at least sixty (60) days in advance of the effective date of termination of any such Service (unless Service Provider agrees to shorten or waive such notice period in writing); provided, however, that the written notice period shall be at least ninety (90) days in advance of the effective date of termination of the benefits and payroll administration services. Service Provider may elect to terminate all or any portion of the Services (or any Service) by providing Recipient written notice of such election at least six (6) months in advance of the effective date of termination (unless Recipient agrees to shorten or waive such notice period in writing) (such period being the "Service Provider Notice Period"); provided, however, that if during the Service Provider Notice Period, after working in good faith to transition the terminated Service or Services, Recipient reasonably believes it will be unable to complete such transition by the end of the Service Provider Notice Period, Recipient may request to extend the termination date, and thus extend the Service Provider Notice Period, for a reasonable period of time, in order for Recipient to complete the transition of the terminated Service or Services. Such request to extend will be made by Recipient's delivery of written notice of such request to Post prior to the end of the initial Service Provider Notice Date. Promptly after Post's receipt of such request, the parties will negotiate in good faith with regard to whether to extend beyond the Service Provider Notice Period and the period of time for which the termination date and the Service Provider Notice Period will be extended, if any. For the purposes of this Section 11.1, each row in the Services Schedule is considered a single Service unless otherwise described in the Services Schedule. If Recipient provides written notice to Service Provider that it desires to terminate a portion of the Services or a Service or Service Provider provides written notice to Recipient that it desires to terminate a portion of the Services or a Service, the parties shall cooperate in good faith to determine what the portions of the Services may terminated, if any, or what additional Services will also need to be terminated along with such Services (it being understood that Recipient or Service Provider, as the case may be, shall only be permitted to terminate a portion of a Service to the extent that it does not materially change Service Provider's provision of related Services and that certain inter-related Services may only be terminated as a whole). In addition to the foregoing, if Service Provider discontinues providing a given Service for its own operations, Service Provider may, upon at least sixty (60) days' notice to Recipient, terminate providing such Service hereunder (e.g., if Service Provider is no longer providing online training services for its own employees, Service Provider may, upon sixty (60) days' notice, terminate any online training services that are Services hereunder). In addition to other termination rights, this Agreement will automatically terminate when all Services have been terminated hereunder.

Section 11.2 Termination upon Breach. In the event of a material breach of this Agreement by a party (the "Breaching Party"), the party claiming the breach (the "Claiming Party") shall give written notice of such breach to the Breaching Party, which shall have sixty (60) days to cure such breach or, if such breach is capable of cure within a commercially reasonable period of time but cannot reasonably be expected to be cured within sixty (60) days, the Breaching Party shall have sixty (60) days to undertake all available and appropriate action to begin the cure of the breach and shall proceed as promptly as practicable thereafter to effect the cure. In the event of such cure, the notice of breach shall be rescinded. If, however, the breach is not cured as set forth herein, the Claiming Party may then pursue any and all remedies available to it under this Agreement based on such uncured breach, including the right to terminate this Agreement effective on a date of termination prior to the end of the Term established by the Claiming Party. Notwithstanding the foregoing provisions of this Section 11.2, Service Provider shall have the right to terminate this Agreement immediately if Recipient fails to make any payment due to Service Provider hereunder within five (5) Business Days after receipt of written notice of such failure, unless

the amount in issue is subject to a bona fide dispute between the parties. For the avoidance of doubt, if the amount of any such payment is subject to a bona fide dispute, Recipient shall continue to make all other payments hereunder that are not subject to such dispute in accordance with the terms of this Agreement.

Section 11.3 Termination upon Mutual Agreement. This Agreement may be terminated at any time upon mutual agreement of the parties.

Section 11.4 Termination upon Bankruptcy. Service Provider and Recipient may terminate this Agreement immediately upon the filing by any court of competent jurisdiction (a) of a decision, order or judgment adjudicating the other bankrupt; (b) appointing a trustee or receiver of a substantial part of the property of the other or (c) approving a petition for, or effecting an arrangement in, bankruptcy or any other judicial modification or alteration of the rights of creditors of the other, which remain undismissed or unstayed after sixty (60) days.

Section 11.5 Termination upon Recipient Change of Control Transaction. Upon the occurrence of a Recipient Change of Control of New BellRing or any other Recipient(s), Service Provider shall have the right, upon delivery of written notice to New BellRing or the particular Recipient(s), as the case may be, to terminate this Agreement and/or the Services provided hereunder, in whole or in part as to the particular Recipient(s) suffering the Recipient Change of Control. Notwithstanding the foregoing, if a Recipient sells a business line or operating division, then Service Provider shall have the right, upon delivery of written notice to such Recipient, to terminate the Services provided hereunder to such business line or operating division, in whole or in part, as determined by Service Provider. In addition, to the extent that Canadian Services are provided pursuant to this Agreement, upon the occurrence of a Canadian Change of Control, Service Provider shall have the right, upon delivery of written notice to New BellRing or the particular Recipient(s), as the case may be, to terminate the Canadian Services (as defined in the Services Schedule), in whole or in part, as determined by Service Provider. As used in this Section 11.5, a "Canadian Change of Control" shall have occurred in the event any transaction or series of transactions (however structured or evidenced) is/are consummated which (a) result in Post or one of its wholly-owned subsidiaries no longer controlling more than 50% of the combined voting power of the capital stock of Post Foods Canada Inc. entitled to vote generally in the election of directors of Post Foods Canada Inc. or any successor thereto or (b) involve the sale, assignment, conveyance, transfer, lease or other disposition of all or substantially all of the assets of Post Foods Canada Inc. Notwithstanding the foregoing, if, at the time of a Canadian Change of Control, Post or one of its wholly-owned subsidiaries has an additional wholly-owned Canadian subsidiary that employs at least ten (10) employees in Ontario, a Canadian Change in Control shall not cause Service Provider to terminate the Canadian Services that are specified as dedicated or additional sales support in the Services Schedule, although such Canadian Services may cease for up to sixty (60) days (and Service Provider shall not be deemed to have breached this Agreement on account of that cessation of Canadian Services) while such Canadian Services are transitioned.

Section 11.6 Termination upon Post Change of Control Transaction. Upon the occurrence of a Post Change of Control, Post, or its successor in interest, shall have the right to terminate this Agreement and the Services provided hereunder upon delivery of written notice to New BellRing.

Section 11.7 Effect of Termination. Upon termination of this Agreement, Recipient shall pay all amounts outstanding for Services that have been provided by Service Provider as of the effective date of termination. Upon the termination of any Service or this Agreement, Service Provider and Recipient shall cooperate in good faith to effect an orderly transition of the applicable Service(s) to Recipient or its designee and Service Provider and Recipient shall negotiate in good faith with regard to a plan and agreement for (i) the transition and migration of the given Services from Service Provider's systems, facilities or hosting environments to the systems, facilities and hosting environments of Recipient (or its designee), as applicable, (ii) any Services that will be performed by Service Provider with regard thereto and (iii) the fees and costs that will be paid and/or reimbursed by Recipient for such Services.

Section 11.8 Survival. Section 2.6, Section 2.7, Section 3.2, Section 3.3, Section 5.2 and Section 7.2, Article I, Article IV, Article VI, Article VII, Article VIII, Article IX, Article X, this Article XI and Article XII shall survive any termination or expiration of this Agreement.

ARTICLE XII
MISCELLANEOUS

Section 12.1 Force Majeure. Service Provider shall not be liable for any failure of performance attributable to acts or events (including acts of God, war, terrorist activities, conditions or events of nature, pandemics (including the COVID-19 pandemic), industry wide supply shortages, civil disturbances, work stoppage, power failures, failure of telephone lines and equipment, fire and earthquake or any Applicable Law or decision, order or judgment of any Governmental Authority) beyond its reasonable control which impair or prevent in whole or in part performance by Service Provider hereunder. In the event that Service Provider is unable to perform its duties and obligations hereunder as a result of an event of force majeure, as described in the first sentence of this Section 12.1, Service Provider shall, as promptly as reasonably practicable, give written notice of the occurrence of such event to Recipient and shall use its commercially reasonable efforts to resume the Services at the earliest reasonably practicable date. Service Provider shall not be liable for the nonperformance or delay in performance of its obligations under this Agreement to the extent such failure is due to such a force majeure event and Service Provider has used its commercially reasonable efforts to resume the Services at the earliest reasonably practicable date; provided that, if Service Provider fails to perform any Service for fifteen (15) days or more, then Recipient shall have the right to promptly terminate its receipt of such Service upon notice to Service Provider.

Section 12.2 Relationship of the Parties. This Agreement does not create a fiduciary relationship, partnership or joint venture between Post, on the one hand, and New BellRing, Old BellRing and BellRing LLC, on the other hand, and does not make Post, on the one hand, or New BellRing, Old BellRing and BellRing LLC, on the other hand, the agent of the other for any purpose whatsoever. All Services provided by Service Provider hereunder are provided by Service Provider as an independent contractor. This Agreement does not give any party the authority to commit the other parties to any binding obligation or to execute, on behalf of the other parties, any agreement, lease or other document creating legal obligations on the part of the other parties, and no party shall represent to any third party that it has such authority.

Section 12.3 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 12.4 Actions and Proceedings. Each of the parties irrevocably agrees that any legal action or proceeding brought by any party with respect to this Agreement and the rights and obligations arising hereunder, or for recognition and enforcement of any judgment in respect of this Agreement and the rights and obligations arising hereunder brought by another party or its successors or assigns, shall be brought and determined exclusively in the Delaware Chancery Court or, if such court shall not have jurisdiction, any federal court located in the State of Delaware or other Delaware state court. Each of the parties hereby irrevocably submits with regard to any such action or proceeding for itself and in respect of its property, generally and unconditionally, to the personal jurisdiction of the aforesaid courts and agrees that it will not bring any action relating to this Agreement or any of the transactions contemplated by this Agreement in any court other than the aforesaid courts. Each of the parties hereby irrevocably waives, and agrees not to assert as a defense, counterclaim or otherwise, in any action or proceeding brought by any party with respect to this Agreement, (a) any claim that it is not personally subject to the jurisdiction of the above named courts for any reason other than the failure to serve in accordance with this Section 12.4, (b) any claim that it or its property is exempt or immune from the jurisdiction of any such court or from any legal process commenced in such courts (whether through service of notice, attachment prior to judgment, attachment in aid of execution of judgment, execution of judgment or otherwise) and (c) waives, to the fullest extent permitted by Applicable Law, any claim that (i) such suit, action or proceeding in such court is brought in an inconvenient forum, (ii) the venue of such suit, action or proceeding is improper or (iii) this

Agreement, or the subject matter hereof, may not be enforced in or by such courts. Each of the parties irrevocably agrees that, subject to any available appeal rights, any decision, order or judgment issued by such above named courts shall be binding and enforceable, and irrevocably agrees to abide by any such decision, order or judgment. Each of the parties hereto agrees that service of process upon such party in any such action or proceeding shall be effective if such process is given as a notice in accordance with Section 12.6.

Section 12.5 Waiver of Jury Trial. EACH PARTY ACKNOWLEDGES AND AGREES THAT ANY CONTROVERSY WHICH MAY ARISE UNDER THIS AGREEMENT, THE PARTIES' RELATIONSHIP HEREUNDER OR SERVICES PROVIDED UNDER THIS AGREEMENT IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES AND, THEREFORE, EACH SUCH PARTY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LEGAL ACTION ARISING OUT OF OR RELATING TO THIS AGREEMENT, THE PARTIES' RELATIONSHIP HEREUNDER OR SERVICES PROVIDED UNDER THIS AGREEMENT. EACH PARTY CERTIFIES AND ACKNOWLEDGES THAT (A) NO REPRESENTATIVE OF ANOTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH PARTY WOULD NOT SEEK TO ENFORCE THE FOREGOING WAIVER IN THE EVENT OF A LEGAL ACTION, (B) SUCH PARTY HAS CONSIDERED THE IMPLICATIONS OF THIS WAIVER, (C) SUCH PARTY MAKES THIS WAIVER VOLUNTARILY AND (D) SUCH PARTY HAS BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS SET FORTH IN THIS SECTION 12.5.

Section 12.6 Notices. All notices, requests, demands and other communications which are required or may be given under this Agreement shall be in writing and shall be deemed to have been duly given when received if personally delivered; when transmitted if transmitted by electronic or digital transmission method; the day after it is sent, if sent for next day delivery to a domestic address by recognized overnight delivery service (e.g., Federal Express); and upon receipt, if sent by certified or registered mail, return receipt requested. In each case, notice will be sent to:

If to Post:

Post Holdings, Inc.
2503 S. Hanley Road
St. Louis, MO 63144
Attention: General Counsel
E-mail: diedre.gray@postholdings.com;

If to New BellRing, Old BellRing or BellRing LLC:

BellRing Brands, Inc.
2503 S. Hanley Rd.
St. Louis, MO 63144
Attention: General Counsel
E-mail: craig.rosenthal@bellringbrands.com

or to such other address(es) as shall be furnished in writing by any such party to the other party in accordance with the provisions of this Section 12.6.

Section 12.7 Successors and Assigns; Benefit.

(a) No assignment of this Agreement or of any rights or obligations hereunder may be made by any party hereto without the prior written consent of the other parties hereto and any attempted assignment without the required consent shall be void; provided, however, that any party may assign, in whole or in part, this

Agreement and its rights and obligations hereunder without notice or the prior written consent of the other party to any Affiliate of such party provided the assigning party shall remain liable hereunder following any such assignment.

(b) This Agreement is for the sole benefit of the parties hereto and their permitted assigns and nothing herein express or implied shall give or be construed to give to any Person, other than the parties hereto and such permitted assigns, any legal or equitable rights hereunder. Nothing herein shall or shall be deemed to amend any benefit plan of any the parties hereto.

Section 12.8 Amendment and Restatement; Entire Agreement; Amendments; Waiver.

(a) This Agreement amends and restates the Original Agreement. Through the execution of this Agreement, each of the parties acknowledges and agrees that the Original Agreement is superseded and replaced in all respects by this Agreement and, as of the Effective Date, the Original Agreement is of no further force or effect.

(b) This Agreement, the Exhibits to this Agreement and the Transaction Agreement contain the entire agreement and understanding between the parties hereto with respect to the subject matter hereof and, except to the extent specifically set forth herein, supersede all prior agreements and understandings relating to such subject matter. In the event of any conflict between this Agreement and the Exhibits to this Agreement, this Agreement shall control.

(c) Except as otherwise provided in this Agreement, no amendment, supplement, modification or cancellation of this Agreement shall be effective unless it shall be in writing and signed by each party hereto. Except as otherwise provided in this Agreement, any failure of any of the parties to comply with any obligation, covenant, agreement or condition herein may be waived by the party entitled to the benefits thereof only by a written instrument signed by such party, granting such waiver, but such waiver or failure to insist upon strict compliance with such obligation, covenant, agreement or condition shall not operate as a waiver of, or estoppel with respect to, any other provision hereof (whether or not similar), nor shall such waiver constitute a continuing waiver unless otherwise expressly provided.

(d) During the term of this Agreement, there may be a Change in Circumstance (as defined below) that may require Service Provider, in its discretion, to modify, amend or change the Services provided hereunder. Notwithstanding anything to the contrary in this Agreement, in the event of a Change in Circumstance during the term of this Agreement, without the consent of Recipient, Service Provider may amend the given Services Schedule of this Agreement upon written notice to Recipient to the extent necessary to comply with such Change in Circumstance. Without limiting the foregoing, if the Change in Circumstance results in additional costs to Service Provider for providing the Services hereunder, then Service Provider may increase the fees and costs set forth on the applicable Services Schedule in amounts as will compensate Service Provider for such additional costs; provided, however, that such additional costs are borne on a *pro rata* basis by each of Recipient and Service Provider and its Affiliates receiving or utilizing such services, as applicable, to the extent such Change in Circumstance affects the provision of such services by Service Provider to itself or to such Affiliates, as well as to Recipient. Any amendment made in accordance with this Section 12.8(d) shall be effective as of the date specified in the notice of such amendment. "Change in Circumstance" shall mean any change in any Applicable Law, whether by adoption of a new Law, the amendment, modification, expiration or repeal of an existing Law or the reversal of a Law by a Governmental Authority.

Section 12.9 Severability. In the event that any one or more of the provisions contained in this Agreement or in any other instrument referred to in this Agreement shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, then to the maximum extent permitted by Applicable Law, such invalidity, illegality or unenforceability shall not affect any other provision of this Agreement or any other such instrument. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, 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 are consummated as originally contemplated to the greatest extent possible.

Section 12.10 Counterparts; Electronic Delivery. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. This Agreement may be executed and delivered by electronic mail, and an electronic copy of this Agreement or of a signature of a party shall be effective as an original.

Section 12.11 Other Agreements. This Agreement is not intended to amend or modify, and should not be interpreted to amend or modify in any respect, the rights and obligations of the parties under the Transaction Agreement or any of the Ancillary Agreements.

Section 12.12 Specific Performance. The parties hereto agree that irreparable damage could occur if any provision of this Agreement were not performed in accordance with the terms hereof and that the parties shall be entitled, without posting a bond or similar indemnity, to an injunction or injunctions to prevent breaches of this Agreement or to specific enforcement of the performance of the terms and provisions hereof.

Section 12.13 No Right of Setoff. Each of the parties hereto hereby acknowledges that it shall have no right under this Agreement to offset any amounts owed (or to become due and owing) to the other party(ies) under this Agreement against any other amount owed (or to become due and owing) to it by the other party(ies).

[*Signature Page Follows*]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

POST:

Post Holdings, Inc.

By: /s/ Dierdre J. Gray
Name: Diedre J. Gray
Title: Executive Vice President, General Counsel and Chief Administrative Officer, Secretary

NEW BELLRING:

BellRing Brands, Inc.

By: /s/ Craig L. Rosenthal
Name: Craig L. Rosenthal
Title: Senior Vice President & General Counsel

OLD BELLRING:

BellRing Intermediate Holdings, Inc.

By: /s/ Craig L. Rosenthal
Name: Craig L. Rosenthal
Title: Senior Vice President & General Counsel

BELLRING LLC:

BellRing Brands, LLC

By: /s/ Craig L. Rosenthal
Name: Craig L. Rosenthal
Title: Senior Vice President & General Counsel

Exhibit 10.2

REGISTRATION RIGHTS AGREEMENT

dated as of

March 10, 2022

among

BELLRING BRANDS, INC.

and

POST HOLDINGS, INC.

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THIS REGISTRATION RIGHTS AGREEMENT dated as of March 10, 2022 (this "Agreement") is among (i) BellRing Brands, Inc. (f/k/a BellRing Distribution, LLC), a Delaware corporation (the "Company"), (ii) Post Holdings, Inc., a Missouri corporation ("Post"), and (iii) other Persons (as defined below) party hereto from time to time.

RECITALS

WHEREAS, BellRing Intermediate Holdings, Inc. (f/k/a BellRing Brands, Inc.), a Delaware corporation ("BellRing Inc."), and Post entered into that certain Investor Rights Agreement, effective as of October 21, 2019 (the "Investor Rights Agreement");

WHEREAS, Post and the Company entered into a Transaction Agreement and Plan of Merger, by and among BellRing Inc., Post, the Company and BellRing Merger Sub Corporation ("Merger Sub") on October 26, 2021, as amended by that certain Amendment No. 1 to the Transaction Agreement and Plan of Merger, dated as of February 28, 2022 (as it may be further amended from time to time, the "Transaction Agreement"), pursuant to which, among other things, (i) Merger Sub merged with and into BellRing Inc. and BellRing Inc. was the surviving corporation in the Merger (as defined in the Transaction Agreement), (ii) as a result of the Merger, BellRing Inc. became a wholly owned subsidiary of the Company and (iii) following the Merger, the Company converted into a Delaware corporation and changed its name to BellRing Brands, Inc.;

WHEREAS, in connection with the transactions contemplated by the Transaction Agreement, the parties hereto desire to enter into this Agreement in accordance with the terms herein and to terminate the Investor Rights Agreement effective as of the date hereof;

WHEREAS, the parties hereto are entering into this Agreement to provide certain registration rights under the Securities Act (as defined below) and applicable state securities laws to each Stockholder (as defined below) with respect to Registrable Securities (as defined below) each may hold.

NOW, THEREFORE, in consideration of the covenants and agreements contained herein, the parties hereto agree as follows:

ARTICLE I.
DEFINITIONS

Section 1.01. Definitions.

(a) As used herein, the following terms have the following meanings:

"Affiliate" means, with respect to any Person, any other Person directly or indirectly controlling, controlled by or under common control with such Person. For the purpose of this definition, the term "control" (including, with correlative meanings, the terms "controlling," "controlled by" and "under common control with"), as used with respect to any Person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities, by contract or otherwise.

"Applicable Governance Rules" means applicable federal and Delaware laws and the rules of the NYSE relating to the Board and the corporate governance of the Company, including, without limitation, Rule 10A-3 of the Exchange Act and NYSE Rule 303A, in each case, subject to applicable phase-in periods.

"Automatic Shelf Registration Statement" means an "automatic shelf registration statement" as defined in Rule 405 under the Securities Act.

"BellRing LLC" means BellRing Brands, LLC, a Delaware limited liability company.

"beneficial ownership" and "beneficially own" and similar terms have the meaning set forth in Rule 13d-3 under the Exchange Act.

"Board" means the board of directors of the Company.

"Business Day" means any day except a Saturday, Sunday or other day on which commercial banks in New York City are authorized by law to close.

"Bylaws" means the Amended and Restated Bylaws of the Company, as the same may be amended, modified, supplemented and/or restated from time to time.

"Certificate of Incorporation" means the Amended and Restated Certificate of Incorporation of the Company, as the same may be amended, modified, supplemented and/or restated from time to time.

"Common Stock" means the common stock, par value $0.01 per share, of the Company.

"Company Securities" means (i) the Common Stock, (ii) any securities of the Company or any successor or assign of the Company into which such Common Stock is reclassified or reconstituted or into which such Common Stock is converted or otherwise exchanged in connection with a split or combination of shares, recapitalization, merger, sale of assets, consolidation or other reorganization or otherwise or (iii) any securities received as a dividend or a distribution in respect of the securities described in clauses (i) or (ii) above.

"Exchange Act" means the Securities Exchange Act of 1934, as amended, and the rules and regulations of the SEC thereunder.

"FINRA" means the Financial Industry Regulatory Authority.

"Free Writing Prospectus" means any "free writing prospectus" as defined in Rule 405 under the Securities Act relating to the Registrable Securities included in the applicable Registration Statement.

"NYSE" means the New York Stock Exchange.

"Person" means an individual, corporation, partnership, limited liability company, association, trust or other entity or organization, including a government or political subdivision or an agency or instrumentality thereof, and shall include any successor (by merger or otherwise) thereto.

"Post Party" means Post and its Affiliates (other than the Company and its Subsidiaries).

"Post Stockholder" means each Post Party that is a Stockholder.

"Public Offering" means an underwritten public offering of Company Securities pursuant to an effective registration statement under the Securities Act, other than pursuant to a registration statement on Form S-4 or Form S-8 or any similar or successor form under the Securities Act.

"Registering Stockholder" means, with respect to any Registration Statement, each Stockholder whose Registrable Securities are or are to be registered pursuant to such Registration Statement.

"Registrable Class Securities" means the Registrable Securities and any other securities of the Company that are of the same class as the relevant Registrable Securities.

"Registrable Securities" means, at any time, any Company Securities beneficially owned (whether beneficially owned as of the date hereof or hereinafter beneficially owned) by a Stockholder until (i) a registration statement covering such securities has been declared effective by the SEC and such securities have been disposed of pursuant to such effective registration statement, (ii) such securities are sold pursuant to Rule 144 (or any similar provisions then in force) under the Securities Act, (iii) such securities are otherwise transferred, assigned, sold, conveyed or otherwise disposed of and thereafter such securities may be resold without subsequent registration under the Securities Act or (iv) with respect to any such securities held by any single Stockholder (or group of Stockholders that are aggregated for purposes of Rule 144), all of such securities held by any Stockholder or group of Stockholders that are able to be sold in a single transaction pursuant to Rule 144 (or any similar provisions then in force) and such securities of such Stockholder (or group of Stockholders) represent no more than 2.5% of outstanding shares of the relevant class of Company Securities.

"Registration Expenses" means any and all expenses incident to the performance of or compliance with any registration or marketing of Registrable Securities, regardless of whether such Registration Statement is declared effective, including all (i) registration and filing fees, and all other fees and expenses payable in connection with the listing of securities on any securities exchange or automated interdealer quotation system, (ii) fees and expenses incurred in complying with any securities or "blue sky" laws (including reasonable fees and disbursements of counsel in connection with "blue sky" qualifications of the Registrable Securities as may be set forth in any underwriting agreement), (iii) expenses in connection with the preparation, printing, mailing and delivery of any registration statements, prospectuses and other documents in connection therewith and any amendments or supplements thereto, (iv) security engraving and printing expenses, (v) internal expenses of the Company (including all salaries and expenses of its officers and employees performing legal or accounting duties), (vi) reasonable fees and disbursements of counsel for the Company and customary fees and expenses for independent certified public accountants retained by the Company (including the expenses relating to any comfort letters or costs associated with the delivery by independent certified public accountants of any "comfort" letters requested pursuant to Section 2.04(h) or any special audits incidental to or required by any registration or qualification), (vii) reasonable fees and expenses of any special experts retained by the Company in connection with such registration, (viii) reasonable fees, out-of-pocket costs and expenses of one firm of counsel selected by the holder(s) of a majority of the Registrable Securities covered by each Registration Statement (the "Holders' Counsel"), (ix) fees and expenses in connection with any review by FINRA of the underwriting arrangements or other terms of the offering, and all fees and expenses of any qualified independent underwriter, including the reasonable fees and expenses of any counsel thereto, (x) fees and disbursements of underwriters customarily paid by issuers or sellers of securities, but excluding any underwriting fees, discounts and commissions attributable to the sale of Registrable Securities, (xi) costs of printing and producing any agreements among underwriters, underwriting agreements, any "blue sky" or legal investment memoranda and any selling agreements and other documents in connection with the offering, sale or delivery of the Registrable Securities, (xii) transfer agents' and registrars' fees and expenses and the fees and expenses of any other agent or trustee appointed in connection with such offering, (xiii) expenses relating to any analyst or investor presentations or any "road shows" undertaken in connection with the registration, marketing or selling of the Registrable Securities, (xiv) fees and expenses payable in connection with any ratings of the Registrable Securities, including expenses relating to any presentations to rating agencies, (xv) all out-of pocket costs and expenses incurred by the Company or its appropriate officers in connection with their compliance with Section 2.04(m) and (xvi) any liability insurance or other premiums for insurance obtained in connection with any Demand Registration, Piggyback Registration or Shelf Registration pursuant to the terms of this Agreement.

"Registration Statement" means any registration statement of the Company under the Securities Act that covers any of the Registrable Securities pursuant to the provisions of this Agreement.

"Requesting Stockholder" means, with respect to any Demand Registration or Shelf Registration, any Stockholder holding any Registrable Securities initially making the request for such Demand Registration or Shelf Registration.

"Rule 144" means Rule 144 under the Securities Act.

"SEC" means the U.S. Securities and Exchange Commission or any successor governmental agency.

"Securities Act" means the Securities Act of 1933, as amended, and the rules and regulations of the SEC promulgated thereunder.

"Shares" means the shares of Common Stock.

"Shelf Registered Securities" means any Registrable Securities whose offer and sale is registered pursuant to a Registration Statement filed in connection with a Shelf Registration (including an Automatic Shelf Registration Statement).

"Specified Period" means 90 days; provided that such period may be extended as may be reasonably requested by the managing or co-managing underwriter of a registered offering required hereunder to accommodate regulatory restrictions on (i) the publication or other distribution of research reports and (ii) analyst recommendations and opinions, including, but not limited to, the restrictions contained in FINRA rules or any successor provisions or amendments thereto.

"Stockholder" means, at any time, each Post Party or any transferee or assignee of a Post Party pursuant to Section 2.12 of this Agreement, beneficially owning Company Securities that shall be a party to or bound by this Agreement, so long as such Person shall beneficially own any Company Securities.

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

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

Term	Section
Alternative Transaction	Section 2.02(d)
Company	Preamble
Damages	Section 2.05
Demand Registration	Section 2.01(a)
Determination Date	Section 2.02(f)
Holders' Counsel	Section 1.01(a)
Indemnified Party	Section 2.07
Indemnifying Party	Section 2.07
Inspectors	Section 2.04(g)
Investor Rights Agreement	Recitals
Issuer Free Writing Prospectus	Section 2.14
Maximum Offering Size	Section 2.01(d)
Merger Sub	Recitals
Piggyback Registration	Section 2.02(g)(i)
Post	Preamble
Records	Section 2.04(g)
Registration Actions	Section 2.01(e)
Requested Shelf Registered Securities	Section 2.02(b)
Shelf Public Offering	Section 2.02(b)
Shelf Public Offering Notice	Section 2.02(b)
Shelf Public Offering Request	Section 2.02(b)
Shelf Public Offering Requesting Stockholder	Section 2.02(b)
Shelf Registration	Section 2.02(a)
SpinCo	Recitals

Term	Section
Stockholder Parties	Section 2.05
Suspension Notice	Section 2.01(e)
Suspension Period	Section 2.01(e)
Transaction Agreement	Recitals
Well-Known Seasoned Issuer	Section 2.02(f)

Section 1.02. Other Definitional and Interpretative 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 and Schedules are to Articles, Sections, Exhibits and Schedules of this Agreement unless otherwise specified. All Exhibits 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 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 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 laws, rules, regulations and forms shall be deemed to be references to such laws, rules, regulations and forms as amended, succeeded or replaced.

ARTICLE II.
REGISTRATION RIGHTS

Section 2.01. Demand Registration.

(a) Subject to Section 2.01(g), at any time, any Stockholder may give a written request to the Company to effect the registration under the Securities Act (other than (i) pursuant to a registration statement on Form S-4 or Form S-8 or any similar or successor form under the Securities Act or (ii) with respect to any corporate reorganization or transaction under Rule 145 of the Securities Act or other business combination or acquisition transaction, any registration statement related to the issuance or resale of securities issued in such a transaction) of all or any portion of such Requesting Stockholder's Registrable Securities, which written request shall specify the number of Registrable Securities to be registered and the intended method of disposition thereof. Such registration may be for the offering of the Stockholder's Registrable Securities on a delayed or continuous basis under Rule 415 under the Securities Act. At any time the Company is eligible to use Form S-3ASR, such registration shall occur on such form. Upon the receipt of such written request, the Company shall promptly give notice (via electronic transmission) of such requested registration (each such registration shall be referred to herein as a "Demand Registration") at least 10 Business Days prior to the anticipated filing date of the Registration Statement relating to such Demand Registration to any other Stockholders. Thereafter, the Company shall use its commercially reasonable efforts to effect, as soon as possible, the registration under the Securities Act of:

(i) all Registrable Securities for which the Requesting Stockholder has requested registration under this Section 2.01;

(ii) all other Registrable Securities of the same class or series as those requested to be registered by the Requesting Stockholder that any other Stockholder has requested the Company register by request received by the Company and Post within 10 Business Days after such Stockholders receive the Company's notice of the Demand Registration; and

(iii) any Company Securities to be offered or sold by the Company;

all to the extent necessary to permit the disposition (in accordance with the intended methods thereof as described in the Requesting Stockholder's written request) of the Registrable Securities so to be registered; provided that the Company shall not be obligated to effect (1) any such Demand Registration (i) within the Specified Period after the effective date of any other registration statement of the Company in connection with which Stockholders were given Piggyback Registration rights (other than (i) a registration statement filed in connection with an employee benefit plan or business combination transaction or a registration statement on Form S-8 or Form S-4 or (ii) with respect to any corporate reorganization or transaction under Rule 145 of the Securities Act or other business combination or acquisition transaction, any registration statement related to the issuance or resale of securities issued in such a transaction) or (ii) in accordance with Section 2.01(e), or (2) any Demand Registration if the aggregate proceeds expected to be received from the sale of the Registrable Securities requested to be included in such Demand Registration is less than $25,000,000. A Requesting Stockholder may require any Demand Registration that involves a Public Offering of at least $25,000,000 to be conducted as an underwritten offering.

(b) At any time prior to the effective date of the Registration Statement relating to such Demand Registration, the Requesting Stockholder may, upon notice to the Company, revoke such request in whole or in part with respect to the number of shares of Registrable Securities requested to be included in such Registration Statement, without liability to any of the other Registering Stockholders.

(c) The Company shall be liable for and pay all Registration Expenses in connection with any Demand Registration, regardless of whether such Demand Registration becomes effective.

(d) If a Demand Registration involves a Public Offering and the lead managing underwriter advises the Company and the Requesting Stockholder that, in its view, the number of shares of Registrable Securities requested to be included in such registration (including any securities that the Company proposes to be included that are not Registrable Securities) exceeds the largest number of shares that can be sold without having a material and adverse effect on such offering, including the price at which such shares can be sold (the "Maximum Offering Size"), the Company shall include in such registration, in the priority listed below, up to the Maximum Offering Size:

(i) first, all Registrable Securities requested to be registered by the Requesting Stockholder and all other Registering Stockholders pro rata on the basis of the relative number of shares of Registrable Securities so requested to be included in such registration by each such Registering Stockholder;

(ii) second, any securities proposed to be registered by the Company; and

(iii) third, any securities proposed to be registered for the account of any other Persons, with such priorities among them as the Company shall determine.

(e) Notwithstanding anything to the contrary contained in this Agreement, but subject to the limitation set forth in the next succeeding paragraph, the Company shall be entitled to suspend its obligation to file (but not the preparation of) any Registration Statement in connection with a Demand Registration and any Shelf Registration, file any amendment to such a Registration Statement, furnish any supplement or amendment to a prospectus included in such a Registration Statement, make any other filing with the SEC, cause such a Registration Statement or other filing with the SEC to become or remain effective or take any similar action (collectively, "Registration Actions") upon (i) the issuance by the SEC of a stop order suspending the effectiveness of any such Registration Statement or the initiation of proceedings with respect to such a Registration Statement under Section 8(d) or Section 8(e) of the Securities Act, (ii) the Board's determination, in its good faith judgment, that any such Registration Action should not be taken because it would reasonably be expected to materially interfere with or require the public disclosure of any material corporate development or plan, including any material financing, securities offering, acquisition, disposition, corporate reorganization or merger or other transaction involving the Company or any of its Subsidiaries or (iii) the Company possessing material non-public information the disclosure of which the Board determines, in its good faith judgment, would reasonably be

expected to not be in the best interests of the Company. Upon the occurrence of any of the conditions described in (i), (ii) or (iii) above, the Company shall give prompt notice of such suspension (and whether such action is being taken pursuant to (i), (ii) or (iii) above) (a "Suspension Notice") to the Stockholders. Upon the termination of such condition, the Company shall give prompt notice thereof to the Stockholders and shall promptly proceed with all Registration Actions that were suspended pursuant to this paragraph.

The Company may only suspend Registration Actions pursuant to the preceding paragraph on two occasions during any one-year period for a reasonable time specified in the Suspension Notice but not exceeding an aggregate of 90 days (which period may not be extended or renewed) (each such occasion, a "Suspension Period"). Each Suspension Period shall be deemed to begin on the date the relevant Suspension Notice is given to the Stockholders and shall be deemed to end on the earlier to occur of (i) the date on which the Company gives the Stockholders a notice that the Suspension Period has terminated and (ii) the date on which the number of days during which a Suspension Period has been in effect exceeds the 90-day period. If the filing of any Demand Registration or Shelf Registration is suspended pursuant to this Section 2.01(e), once the Suspension Period ends, the Requesting Stockholder may request a new Demand Registration and a Stockholder that requested a Shelf Registration may request a new Shelf Registration. Notwithstanding anything to the contrary in this Agreement, the Company shall not be in breach of, or have failed to comply with, any obligation under this Agreement (including without limitation obligations under this Section 2.01(e)) where the Company acts or omits to take any action in order to comply with applicable law, any interpretation of the staff of the SEC or any order or decree of any court or governmental agency.

(f) The Company shall have no obligation to file a Registration Statement under this Section 2.01 or Section 2.02 or proceed with Registration Actions related thereto during any time such filing or Registration Actions are prohibited by any applicable underwriting or lock-up agreement to which the Company is a party relating to an offering pursuant to a Registration Statement.

(g) Notwithstanding the rights and obligations set forth elsewhere in this Section 2.01 and Section 2.02(a) and (b), in no event shall the Company be obligated to take any action to effect more than two Demand Registrations in any twelve-month period initiated by any of the Stockholders; *provided* that, for the avoidance of doubt, any request for the Company to effect a Shelf Registration pursuant to Section 2.02(a) or any Shelf Public Offering Request pursuant to Section 2.02(b) shall constitute a Demand Registration for purposes of this Section 2.01(g).

Section 2.02. Shelf and Piggyback Registration.

(a) Subject to Section 2.01(g), at any time when (i) the Company is eligible to use Form S-3 in connection with a secondary public offering of its equity securities and (ii) a Shelf Registration on a Form S-3 registering Registrable Securities for resale is not then effective (subject to any applicable Suspension Period), upon the written request of any Stockholder, the Company shall use its commercially reasonable efforts to register, under the Securities Act on Form S-3 for an offering on a delayed or continuous basis pursuant to Rule 415 under the Securities Act (a "Shelf Registration"), the offer and sale of all or a portion of the Registrable Securities owned by such Requesting Stockholder. Upon the receipt of such written request, the Company shall promptly give notice (via electronic transmission) of such requested Shelf Registration at least 10 Business Days prior to the anticipated filing date of such Shelf Registration to any Stockholders, and such notice shall describe the proposed Shelf Registration, the intended method of disposition of such Registrable Securities and any other information that at the time would be appropriate to include in such notice, and offer such Stockholders the opportunity to register such number of Registrable Securities as each such Stockholder may request in writing to the Company, given within 10 Business Days after such Stockholders receive the Company's notice of the Shelf Registration. The "Plan of Distribution" section of such Shelf Registration shall permit all lawful means of disposition of Registrable Securities, including firm-commitment underwritten public offerings, block trades, agented transactions, sales directly into the market, purchases or sales by brokers and sales not involving a public offering. With respect to each Shelf Registration, the Company shall, subject to any Suspension Period, (i) as

promptly as practicable after the written request of the Requesting Stockholder, file a Registration Statement and (ii) use its commercially reasonable efforts to cause such Registration Statement to be declared effective as promptly as practicable, and remain effective until the date set forth in Section 2.04(a)(ii). No Stockholder shall be entitled to include any of its Registrable Securities in a Shelf Registration unless such Stockholder has complied with Section 2.15. The Company shall not be required to amend a Shelf Registration (or the related prospectus) to add or change the disclosure regarding selling security holders during any Suspension Period. The obligations set forth in this Section 2.02(a) shall not apply if the Company has a currently effective Automatic Shelf Registration Statement covering all Registrable Securities in accordance with Section 2.02(f) and has otherwise complied with its obligations pursuant to this Agreement.

(b) Subject to Section 2.01(g), upon written request by a Requesting Stockholder holding Shelf Registered Securities (such Stockholder, the "Shelf Public Offering Requesting Stockholder"), which request (the "Shelf Public Offering Request") shall specify the class or series and amount of such Shelf Public Offering Requesting Stockholder's Shelf Registered Securities to be sold (the "Requested Shelf Registered Securities"), the Company shall (subject to any Suspension Period) perform its obligations hereunder with respect to the sale of such Requested Shelf Registered Securities in the form of a firm commitment underwritten public offering (unless otherwise consented to by the Shelf Public Offering Requesting Stockholder) (a "Shelf Public Offering") if the aggregate proceeds expected to be received from the sale of the Requested Shelf Registered Securities equals or exceeds $25,000,000. Promptly upon receipt of a Shelf Public Offering Request, the Company shall provide notice (the "Shelf Public Offering Notice") of such proposed Shelf Public Offering (which notice shall state the material terms of such proposed Shelf Public Offering, to the extent known, as well as the identity of the Shelf Public Offering Requesting Stockholder) to any other Stockholders holding Shelf Registered Securities. Such other Stockholders may, by written request to the Company and the Shelf Public Offering Requesting Stockholder, within two Business Days after receipt of such Shelf Public Offering Notice, include up to all of their Shelf Registered Securities of the same class or series as the Requested Shelf Registered Securities in such proposed Shelf Public Offering; provided, that any such Shelf Registered Securities shall be sold subject to the same terms as are applicable to the Shelf Registered Securities of the Shelf Public Offering Requesting Stockholder. No Stockholder shall be entitled to include any of its Registrable Securities in a Shelf Public Offering unless such Stockholder has complied with Section 2.15. The lead managing underwriter or underwriters selected for such Shelf Public Offering shall be selected in accordance with Section 2.04(f)(i).

(c) In a Shelf Public Offering, if the lead managing underwriter advises the Company and the Shelf Public Offering Requesting Stockholder that, in its view, the number of shares of Registrable Securities requested to be included in such Shelf Public Offering (including any securities that the Company proposes to be included that are not Registrable Securities) exceeds the Maximum Offering Size, the Company shall include in such Shelf Public Offering, in the priority listed below, up to the Maximum Offering Size:

(i) first, all Shelf Registered Securities requested to be included in the Shelf Public Offering by the Shelf Public Offering Requesting Stockholder and all other Stockholders, pro rata on the basis of the relative number of shares of Shelf Registered Securities so requested to be included in the Shelf Public Offering by each such Stockholder;

(ii) second, any securities proposed to be included in the Shelf Public Offering by the Company; and

(iii) third, any securities proposed to be included in the Shelf Public Offering for the account of any other Persons, with such priorities among them as the Company shall determine.

(d) The Company shall use its commercially reasonable efforts to cooperate in a timely manner with any request of the Stockholders in respect of any block trade, hedging transaction or other transaction that is registered pursuant to a Shelf Registration that is not a firm commitment underwritten offering (each, an "Alternative Transaction"), including, without limitation, entering into customary agreements with respect to such Alternative Transactions (and providing customary representations, warranties, covenants and indemnities in such agreements) as well as providing other reasonable assistance in respect of such Alternative Transactions

of the type applicable to a Public Offering subject to Section 2.04, to the extent customary for such transactions. The Company shall bear all Registration Expenses in connection with any Shelf Registration, any Shelf Public Offering or any other transaction (including any Alternative Transaction) registered under a Shelf Registration pursuant to this Section 2.02, whether or not such Shelf Registration becomes effective or such Shelf Public Offering or other transaction is completed; provided, however, that if the Shelf Public Offering Requesting Stockholder revokes its request in whole with respect to a Shelf Public Offering, then the Shelf Public Offering Requesting Stockholder shall reimburse the Company for and/or pay directly all Registration Expenses incurred relating to such Shelf Public Offering.

(e) After the Registration Statement with respect to a Shelf Registration is declared effective but subject to the Suspension Period, upon written request by one or more Stockholders (which written request shall specify the amount of such Stockholders' Registrable Securities to be registered), the Company shall, as promptly as practicable after receiving such request, (i) if it is eligible for use of Form S-3 in connection with a secondary public offering of its equity securities, or if such Registration Statement is an Automatic Shelf Registration Statement, file a prospectus supplement to include such Stockholders as selling stockholders in such Registration Statement or (ii) if it is not eligible for use of Form S-3 in connection with a secondary public offering of its equity securities, file a post-effective amendment to the Registration Statement to include such Stockholders in such Shelf Registration and use commercially reasonable efforts to have such post-effective amendment declared effective.

(f) Upon the Company becoming aware that it is a "Well-Known Seasoned Issuer" (as defined in Rule 405 under the Securities Act), (i) the Company shall give written notice to all of the Stockholders as promptly as practicable but in no event later than 10 Business Days thereafter, and such notice shall describe, in reasonable detail, the basis on which the Company has become a Well-Known Seasoned Issuer, and (ii) the Company shall, as promptly as practicable and subject to any Suspension Period, register, under an Automatic Shelf Registration Statement, the sale of all of the Registrable Securities in accordance with the terms of this Agreement. The Company shall use its commercially reasonable efforts to file such Automatic Shelf Registration Statement as promptly as practicable, but in no event later than 45 days after it becomes a Well-Known Seasoned Issuer, and to cause such Automatic Shelf Registration Statement to remain effective thereafter until the date set forth in Section 2.04(a)(ii). The Company shall give written notice of filing such Registration Statement to all of the Stockholders as promptly as practicable thereafter. The Company shall not be required to include any Stockholder as a selling stockholder in any Registration Statement or prospectus unless such Stockholder has complied with Section 2.15. At any time after the filing of an Automatic Shelf Registration Statement by the Company, if the Company is no longer a Well-Known Seasoned Issuer as of a particular date (the "Determination Date"), the Company shall (A) give written notice thereof to all of the Stockholders as promptly as practicable but in no event later than 10 Business Days following such Determination Date and (B) if the Company is eligible to file a Registration Statement on Form S-3 with respect to a secondary public offering of its equity securities, file a Registration Statement on Form S-3 with respect to a Shelf Registration in accordance with Section 2.02(a), treating all selling Stockholders identified as such in the Automatic Shelf Registration Statement (and amendments or supplements thereto) as Requesting Stockholders and use all commercially reasonable efforts to have such Registration Statement declared effective as soon as reasonably practicable after such Determination Date. Any registration pursuant to this Section 2.02(f) shall be deemed a Shelf Registration for purposes of this Agreement.

(g) Piggyback Registration.

(i) If the Company proposes to register any Company Securities under the Securities Act (other than (i) a registration on Form S-8 or Form S-4 relating to Shares or any other class of Company Securities issuable upon exercise of employee stock options or in connection with any employee benefit or similar plan of the Company or in connection with a direct or indirect acquisition by the Company of another Person or (ii) with respect to any corporate reorganization or transaction under Rule 145 of the Securities Act or other business combination or acquisition transaction, any registration statement related to the issuance or resale

of securities issued in such a transaction) other than in connection with a rights offering, whether or not for sale for its own account, the Company shall each such time give prompt notice (via electronic transmission) at least 10 days prior to the anticipated filing date of the registration statement relating to such registration to each Stockholder, which notice shall offer such Stockholder the opportunity to include in such registration statement the number of Registrable Securities of the same class or series as those proposed to be registered as each such Stockholder may request (a "Piggyback Registration"), subject to the provisions of Section 2.02(g)(ii). Upon the request of any such Stockholder made within 5 days after the receipt of notice from the Company regarding a Piggyback Registration (which request shall specify the number of Registrable Securities intended to be registered by such Stockholder), the Company shall use its commercially reasonable efforts to effect the registration under the Securities Act of all Registrable Securities that the Company has been so requested to register by all such Requesting Stockholders, to the extent requisite to permit the disposition of the Registrable Securities so to be registered in accordance with the plan of distribution intended by the Company for such registration statement; provided that (i) if such registration involves a Public Offering, all such Registering Stockholders requesting to be included in the Company's registration must sell their Registrable Securities to the underwriters selected as provided in Section 2.04(f)(i) on the same terms and conditions as apply to the Company and (ii) if, at any time after giving notice of its intention to register any Company Securities pursuant to this Section 2.02(g) and prior to the effective date of the registration statement filed in connection with such registration, the Company shall determine for any reason not to register such securities, the Company shall give notice to all Registering Stockholders and, thereupon, shall be relieved of its obligation to register any Registrable Securities in connection with such registration. No registration effected under this Section 2.02(g) shall relieve the Company of its obligations to effect a Demand Registration to the extent required by Section 2.01 or a Shelf Registration to the extent required by Section 2.02. The Company shall pay all Registration Expenses in connection with each Piggyback Registration.

(ii) If a Piggyback Registration involves a Public Offering (other than any Demand Registration, in which case the provisions with respect to priority of inclusion in such offering set forth in Section 2.01(d) shall apply) and the lead managing underwriter advises the Company that, in its view, the number of Registrable Securities that the Company and such Registering Stockholders intend to include in such registration exceeds the Maximum Offering Size, the Company shall include in such registration, in the following priority, up to the Maximum Offering Size:

(A) first, so much of the Company Securities proposed to be registered for the account of the Company as would not cause the offering to exceed the Maximum Offering Size;

(B) second, all Registrable Securities requested to be included in such registration by any Registering Stockholders pursuant to this Section 2.02(g) (allocated, if necessary for the offering not to exceed the Maximum Offering Size, pro rata among such Stockholders on the basis of the relative number of shares of Registrable Securities so requested to be included in such registration by each such Stockholder); and

(C) third, any securities proposed to be registered for the account of any other Persons with such priorities among them as the Company shall determine.

Section 2.03. Lock-Up Agreements.

(a) Each Stockholder hereby agrees that it will not effect any public sale or distribution (including sales pursuant to Rule 144) of Registrable Securities (i) during (A) the 10 days prior to and the 90-day period beginning on the effective date of the registration of such Registrable Securities in connection with a Public Offering (which period following the effective date may, in each case, be extended as reasonably requested by the underwriters participating in such Public Offering to accommodate regulatory restrictions on (I) the publication or other distribution of research reports and (II) analyst recommendations and opinions, including, but not limited to, the restrictions contained in FINRA rules or any successor provisions or amendments thereto) or (B) such shorter period as the underwriters participating in such Public Offering may require, and (ii) upon

notice from the Company of the commencement of a Public Offering in connection with any Shelf Registration, during (A) 10 days prior to and the 90-day period beginning on the date of commencement of such Public Offering or (B) such shorter period as the underwriters participating in such Public Offering may require, in each case except as part of such Public Offering. Each Stockholder agrees to execute a lock-up agreement in favor of the underwriters in form and substance reasonably acceptable to the Company and the underwriters to such effect and, in any event, that the underwriters in any relevant offering shall be third party beneficiaries of this Section 2.03(a). The lock-up agreement to be executed by each Stockholder pursuant to this Section 2.03(a) shall be no less favorable to such Stockholder than the lock-up agreements (or provisions in any underwriting agreement) executed by the Company or any of the executive officers or directors of the Company pursuant to Section 2.03(b).

(b) The Company shall not effect any public sale or distribution of securities of the same type and class as Registrable Securities (except pursuant to (i) registrations on Form S-8 or Form S-4 or (ii) with respect to any corporate reorganization or transaction under Rule 145 of the Securities Act or other business combination or acquisition transaction, any registration statement related to the issuance or resale of securities issued in such a transaction) (i) with respect to any Public Offering pursuant to a Demand Registration or any Piggyback Registration in which the holders of Registrable Securities are participating, during (A) the 10 days prior to and the 90-day period beginning on the effective date of such registration (which period following the effective date may, in each case, be extended as reasonably requested by the underwriters participating in such Public Offering to accommodate regulatory restrictions on (I) the publication or other distribution of research reports and (II) analyst recommendations and opinions, including, but not limited to, the restrictions contained in FINRA rules or any successor provisions or amendments thereto) or (B) such shorter period as the underwriters participating in such Public Offering may require, and (ii) upon notice from any holder(s) of Registrable Securities subject to a Shelf Registration that such holder(s) intend to effect a Public Offering of Registrable Securities pursuant to such Shelf Registration (upon receipt of which, the Company will promptly notify all other Stockholders of the date of commencement of such Public Offering), during (A) the 10 days prior to and the 90-day period beginning on the date of commencement of such Public Offering and (B) such shorter period as the underwriters participating in such Public Offering may require), in each case except as part of such Public Offering. To the extent required by any underwriter participating in such Public Offering, the Company shall use commercially reasonable efforts to cause its executive officers and directors to execute customary lock-up agreements in connection with such Public Offering, which lock-up agreements shall not have a duration shorter than that of the lock-up agreement or provisions applicable to the Company.

Section 2.04. Registration Procedures. Whenever a Stockholder requests that any Registrable Securities be registered pursuant to Section 2.01 or Section 2.02, subject to the provisions of such Sections, the Company shall use its commercially reasonable efforts to effect the registration and the sale of such Registrable Securities in accordance with the intended method of disposition thereof as soon as reasonably practicable and, in connection with any such request:

(a) The Company shall as soon as reasonably practicable prepare and file with the SEC a Registration Statement on any form for which the Company then qualifies or that counsel for the Company shall deem appropriate and which form shall be available for the sale of the Registrable Securities to be registered thereunder in accordance with the intended method of distribution thereof, and use its commercially reasonable efforts to cause such filed Registration Statement to become and remain effective for a period of (i) not less than 180 days (or, if sooner, until all Registrable Securities have been sold under such Registration Statement), or (ii) in the case of a Shelf Registration, until the earlier of the date (x) on which all of the securities covered by such Shelf Registration are no longer Registrable Securities and (y) on which the Company cannot extend the effectiveness of such Shelf Registration because it is no longer eligible for use of Form S-3; subject in each case to any Suspension Period.

(b) Prior to filing a Registration Statement or related prospectus or any amendment or supplement thereto, or before using any Free Writing Prospectus, the Company shall provide each Registering Stockholder, the

Holders' Counsel and each underwriter, if any, with an adequate and appropriate opportunity to review and comment on such Registration Statement, each prospectus included therein (and each amendment or supplement thereto) and each Free Writing Prospectus proposed to be filed with the SEC, and thereafter the Company shall furnish to such Registering Stockholder, the Holders' Counsel and underwriter, if any, such number of copies of such Registration Statement, each amendment and supplement thereto filed with the SEC (in each case including all exhibits thereto and documents incorporated by reference therein), the prospectus included in such Registration Statement (including each preliminary prospectus and any summary prospectus) and any other prospectus filed under Rule 424, Rule 430A, Rule 430B or Rule 430C under the Securities Act, each Free Writing Prospectus and such other documents as such Registering Stockholder or underwriter may reasonably request in order to facilitate the disposition of the Registrable Securities owned by such Registering Stockholder. In addition, the Company shall, as expeditiously as practicable, keep Holders' Counsel advised in writing as to the initiation and progress of any registration under Section 2.01 or Section 2.02 and provide Holders' Counsel with copies of all correspondence (including any comment letter) with the SEC, any self-regulatory organization or other governmental agency in connection with any such Registration Statement. Each Registering Stockholder shall have the right to request that the Company modify any information pertaining to such Registering Stockholder contained in such Registration Statement, amendment and supplement thereto or any Free Writing Prospectus, and the Company shall use its commercially reasonable efforts to comply with such request; provided, however, that the Company shall not have any obligation to so modify any information if the Company reasonably expects that so doing would cause the prospectus to contain an untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein not misleading.

(c) After the filing of the Registration Statement, the Company shall (i) cause the related prospectus to be supplemented by any required prospectus supplement, and, as so supplemented, to be filed pursuant to Rule 424 under the Securities Act, (ii) comply with the provisions of the Securities Act applicable to the Company with respect to the disposition of all Registrable Securities covered by such Registration Statement during the applicable period in accordance with the intended methods of disposition by the Registering Stockholder thereof set forth in such Registration Statement or supplement to such prospectus and (iii) promptly notify each Registering Stockholder holding Registrable Securities covered by such Registration Statement and the Holders' Counsel of any stop order issued or threatened by the SEC or any state securities commission and take all commercially reasonable actions required to prevent the entry of such stop order or to remove it if entered.

(d) The Company shall use its commercially reasonable efforts to (i) register or qualify the Registrable Securities covered by such Registration Statement under such securities or "blue sky" laws of such jurisdictions in the United States as any Registering Stockholder holding such Registrable Securities reasonably (in light of such Registering Stockholder's intended plan of distribution) requests, and continue such registration or qualification in effect in such jurisdiction for the shortest of (A) as long as permissible pursuant to the laws of such jurisdiction, (B) as long as any such Registering Stockholder requests or (C) until all such Registrable Securities are sold and (ii) cause such Registrable Securities to be registered with or approved by such other governmental agencies or authorities as may be necessary by virtue of the business and operations of the Company and do any and all other acts and things that may be reasonably necessary or advisable to enable such Registering Stockholder to consummate the disposition of the Registrable Securities owned by such Registering Stockholder; provided that the Company shall not be required to (A) qualify generally to do business in any jurisdiction where it would not otherwise be required to qualify but for this Section 2.04(d), (B) subject itself to taxation in any such jurisdiction or (C) consent to general service of process in any such jurisdiction.

(e) The Company shall promptly notify each Registering Stockholder holding such Registrable Securities covered by such Registration Statement (i) at any time when a prospectus relating thereto is required to be delivered under the Securities Act, upon the discovery that, or upon the occurrence of an event as a result of which, the preparation of a supplement or amendment to such prospectus is required so that, as thereafter delivered to the purchasers of such Registrable Securities, such prospectus will not contain an untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements

therein not misleading and the Company shall promptly (subject to any applicable Suspension Period) prepare and make available to each Registering Stockholder and file with the SEC any such supplement or amendment, (ii) as soon as the Company becomes aware of any request by the SEC or any federal or state governmental authority for amendments or supplements to a Registration Statement or related prospectus covering Registrable Securities or for additional information relating thereto, (iii) as soon as the Company becomes aware of the issuance or threatened issuance by the SEC of any stop order suspending or threatening to suspend the effectiveness of a Registration Statement covering the Registrable Securities or (iv) of the receipt by the Company of any notification with respect to the suspension of the qualification or exemption from qualification of any Registrable Securities for sale in any jurisdiction, or the initiation or threatening of any proceeding for such purpose.

(f) (i) The Registering Stockholders holding a majority of the Registrable Securities to be included in a Demand Registration or intended to be sold pursuant to a Public Offering pursuant to a "take down" under a Shelf Registration shall have the right to select an underwriter or underwriters in connection with such Public Offering or "take down" (as the case may be) (which underwriter or underwriters may include any Affiliate of any Registering Stockholder so long as including such Affiliate would not require the separate engagement of a qualified independent underwriter with respect to such offering), subject to the Company's approval (which shall not be unreasonably withheld, conditioned or delayed) and (ii) the Company shall select an underwriter or underwriters in connection with any other Public Offering. In connection with any Public Offering, the Company shall enter into customary agreements (including an underwriting agreement in customary form) and take all other actions as are reasonably required in order to expedite or facilitate the disposition of such Registrable Securities in any such Public Offering, including, if required, the engagement of a "qualified independent underwriter" in connection with the qualification of the underwriting arrangements with FINRA.

(g) Subject to confidentiality arrangements customarily applicable to underwriters and the Registering Stockholders, the Company shall make available for inspection by any Registering Stockholder and any underwriter participating in any disposition pursuant to a Registration Statement being filed by the Company pursuant to this Section 2.04 and any attorney, accountant or other professional retained by any such Stockholder or underwriter (collectively, the "Inspectors"), all financial and other records, pertinent corporate documents and properties of the Company and its Subsidiaries (collectively, the "Records") as shall be reasonably necessary or desirable to enable them to exercise their due diligence responsibility, and cause the Company's officers, directors, managers and employees (and those of the Company's Subsidiaries) to supply all information reasonably requested by any Inspectors in connection with such Registration Statement.

(h) The Company shall furnish to each Registering Stockholder and to each such underwriter, if any, a signed counterpart of (i) any opinion or opinions of counsel to the Company and (ii) any comfort letter or comfort letters from the Company's independent public accountants, each in customary form and covering such matters of the kind customarily covered by opinions or comfort letters, as the case may be, any Registering Stockholder or the lead managing underwriter therefor reasonably requests.

(i) The Company shall otherwise comply with all applicable rules and regulations of the SEC, and make available to its security holders, as soon as reasonably available, an earnings statement or such other document that shall satisfy the provisions of Section 11(a) of the Securities Act and the requirements of Rule 158 thereunder.

(j) The Company may require each Registering Stockholder promptly to furnish in writing to the Company such information regarding the distribution of the Registrable Securities as the Company may from time to time reasonably request and such other information as may be reasonably required in connection with such registration.

(k) Each Registering Stockholder agrees that, upon receipt of any notice from the Company of the happening of any event of the kind described in Section 2.04(e), such Stockholder shall forthwith discontinue

disposition of Registrable Securities pursuant to the Registration Statement (including any Shelf Registration) covering such Registrable Securities until such Stockholder's receipt of (i) copies of the supplemented or amended prospectus from the Company or (ii) further notice from the Company that distribution can proceed without an amended or supplemented prospectus, and, in the circumstances described in clause (i), if so directed by the Company, such Stockholder shall deliver to the Company all copies, other than any permanent file copies then in such Stockholder's possession, of the most recent prospectus covering such Registrable Securities at the time of receipt of such notice. If the Company shall give such notice, the Company shall extend the period during which such Registration Statement shall be maintained effective (including the period referred to in Section 2.04(a)) by the number of days during the period from and including the date of the giving of notice pursuant to Section 2.04(e) to the date when the Company shall (x) make available to such Stockholder a prospectus supplemented or amended to conform with the requirements of Section 2.04(e) or (y) deliver to such Stockholder the notice described in clause (ii).

(l) The Company shall use its commercially reasonable efforts to list all Registrable Securities of any class or series covered by such Registration Statement on any national securities exchange on which any of the Registrable Securities of such class or series are then listed or traded.

(m) Upon written request (which request shall be given with reasonable advance notice) to the Company by Registering Stockholders holding a majority of the Registrable Securities being sold in such offering, the Company shall have appropriate officers of the Company or its Subsidiaries (i) upon reasonable request and at reasonable times prepare and make presentations at any "road shows" and before analysts and rating agencies, as the case may be, (ii) take other actions to obtain ratings for any Registrable Securities and (iii) otherwise use its commercially reasonable efforts to cooperate as requested by the underwriters in the offering, marketing or selling of the Registrable Securities.

(n) The Company shall, as soon as possible following its actual knowledge thereof, notify each Registering Stockholder: (A) when a prospectus, any prospectus supplement, a Registration Statement or a post-effective amendment to a Registration Statement has been filed with the SEC, and, with respect to a Registration Statement or any post-effective amendment, when the same has become effective; (B) of any request by the SEC or any other federal or state governmental authority for amendments or supplements to a Registration Statement, a related prospectus (including a Free Writing Prospectus) or any other additional information; or (C) of the receipt by the Company of any notification with respect to the suspension of the qualification or exemption from qualification of any of the Registrable Securities for sale in any jurisdiction or the initiation or threatening of any proceedings for such purpose.

(o) The Company shall reasonably cooperate with each Registering Stockholder and each underwriter participating in the disposition of such Registrable Securities and their respective counsel in connection with any filings required to be made by FINRA.

(p) The Company shall take all other steps reasonably necessary to effect the registration of such Registrable Securities and reasonably cooperate with the holders of such Registrable Securities to facilitate the disposition of such Registrable Securities.

(q) The Company shall, within the deadlines specified by the Securities Act, make all required filings of all prospectuses (including any Free Writing Prospectus) with the SEC and make all required filing fee payments in respect of any Registration Statement or related prospectus used under this Agreement (and any offering covered hereby).

(r) The Company shall, if such registration is pursuant to a Registration Statement on Form S-3 or any similar short-form registration, include in such Registration Statement such additional information for marketing purposes as the managing underwriter with respect to an underwritten public offering reasonably requests.

Section 2.05. Indemnification by the Company. The Company agrees to indemnify and hold harmless each Registering Stockholder holding Registrable Securities covered by a Registration Statement, its Affiliates, stockholders, members, directors, officers, managers, employees, partners and agents, and each Person, if any, who controls such Registering Stockholder within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act (collectively, "Stockholder Parties") from and against any and all losses, claims, damages, liabilities and expenses (including reasonable expenses of investigation and reasonable attorneys' fees and expenses) ("Damages") caused by or relating to any untrue statement or allegedly untrue statement of a material fact contained in any Registration Statement or prospectus relating to the Registrable Securities (as amended or supplemented if the Company shall have furnished any amendments or supplements thereto) or any preliminary prospectus or Free Writing Prospectus relating to the Registrable Securities (including any information that has been deemed to be a part of any prospectus under Rule 159 under the Securities Act), or caused by or relating to any omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading; provided, however, that the Company shall not be liable to any Stockholder Party for any Damages that are caused by or related to any such untrue statement or omission or alleged untrue statement or omission so made based upon information furnished in writing to the Company by or on behalf of such Registering Stockholder expressly for use therein. The Company also agrees to indemnify and hold harmless any underwriters of the Registrable Securities, their respective officers and directors and each Person who controls any underwriter within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act on substantially the same basis as that of the indemnification of the Registering Stockholders provided in this Section 2.05.

Section 2.06. Indemnification by Registering Stockholders. Each Registering Stockholder holding Registrable Securities included in any Registration Statement agrees, severally but not jointly, to indemnify and hold harmless (i) the Company, (ii) each Person, if any, who controls the Company within the meaning of either Section 15 of the Securities Act or Section 20 of the Exchange Act, (iii) each other Registering Stockholder participating in any offering of Registrable Securities and (iv) the respective Affiliates, stockholders, members, directors, officers, managers, employees, partners and agents of each of the Persons specified in clauses (i) through (iii) from and against all Damages to the same extent as the foregoing indemnity from the Company to such Registering Stockholder, but only with respect to information furnished in writing by or on behalf of such Registering Stockholder expressly for use in any Registration Statement or prospectus relating to the Registrable Securities, or any amendment or supplement thereto, or any preliminary prospectus or Free Writing Prospectus relating to the Registrable Securities (including any information that has been deemed to be a part of any prospectus under Rule 159 under the Securities Act). Each Registering Stockholder also agrees to indemnify and hold harmless any underwriters of the Registrable Securities, their respective officers and directors and each Person who controls any underwriter within the meaning of either Section 15 of the Securities Act or Section 20 of the Exchange Act on substantially the same basis as that of the indemnification of the Company and the other Registering Stockholders provided in this Section 2.06. As a condition to including Registrable Securities in any Registration Statement filed in accordance with Article II, the Company may require that it shall have received an undertaking reasonably satisfactory to it from any underwriter to indemnify and hold the Company harmless to the extent customarily provided by underwriters with respect to similar securities and offerings. No Registering Stockholder shall be liable under this Section 2.06 for any Damages in excess of the net proceeds (after deducting the underwriters' discounts and commissions) realized by such Registering Stockholder in the sale of Registrable Securities of such Registering Stockholder to which such Damages relate.

Section 2.07. Conduct of Indemnification Proceedings. If any proceeding (including any investigation by any governmental authority) shall be instituted involving any Person in respect of which indemnity may be sought pursuant to Section 2.05 or Section 2.06, such Person (an "Indemnified Party") shall promptly notify the Person against whom such indemnity may be sought (the "Indemnifying Party") in writing and the Indemnifying Party shall assume the defense thereof, including the employment of counsel reasonably satisfactory to such Indemnified Party, and shall assume the payment of all reasonable fees and expenses in connection therewith; provided that the failure of any Indemnified Party to so notify the Indemnifying Party shall not relieve the Indemnifying Party of its obligations hereunder except to the extent that the Indemnifying Party is materially

prejudiced by such failure to notify. In any such proceeding, any Indemnified Party shall have the right to retain its own counsel, but the fees and expenses of such counsel shall be at the expense of such Indemnified Party unless (i) the Indemnifying Party and the Indemnified Party shall have mutually agreed to the retention of such counsel; (ii) in the reasonable judgment of such Indemnified Party, representation of both parties by the same counsel would be inappropriate due to actual or potential differing interests between them; or (iii) the Indemnified Party shall have reasonably concluded (based on the advice of counsel) that there may be legal defenses available to it that are different from or in addition to those available to the Indemnifying Party. It is understood that, in connection with any proceeding or related proceedings in the same jurisdiction, the Indemnifying Party shall not be liable for the fees and expenses of more than one separate firm of attorneys (in addition to any local counsel) at any time for all such Indemnified Parties, and that all such fees and expenses shall be reimbursed promptly after receipt of an invoice setting forth such fees and expenses in reasonable detail. In the case of any such separate firm for any Indemnified Party, such firm shall be designated in writing by the Indemnified Party. The Indemnifying Party shall not be liable for any settlement of any proceeding effected without its written consent, but if settled with such consent, or if there is a final judgment for the plaintiff, the Indemnifying Party shall indemnify and hold harmless each Indemnified Party from and against any Damages (to the extent obligated herein) by reason of such settlement or judgment. Without the prior written consent of an Indemnified Party, no Indemnifying Party shall effect any settlement of any pending or threatened proceeding in respect of which any Indemnified Party is or could have been a party and indemnity could have been sought hereunder by such Indemnified Party, unless such settlement includes an unconditional release of such Indemnified Party from all liability arising out of such proceeding.

Section 2.08. Contribution. If the indemnification provided for in Section 2.05 or Section 2.06 is unavailable to an Indemnified Party or insufficient in respect of any Damages caused by or relating to any untrue statement or allegedly untrue statement of a material fact contained in any Registration Statement or prospectus relating to the Registrable Securities (as amended or supplemented if the Company shall have furnished any amendments or supplements thereto) or any preliminary prospectus or Free Writing Prospectus relating to the Registrable Securities (including any information that has been deemed to be a part of any prospectus under Rule 159 under the Securities Act), or caused by or relating to any omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading, then each such Indemnifying Party, in lieu of indemnifying such Indemnified Party, shall contribute to the amount paid or payable by such Indemnified Party as a result of such Damages in such proportion as is appropriate to reflect the relative fault of the Indemnifying Party and the Indemnified Party in connection with such actions which resulted in such Damages, as well as any other relevant equitable considerations. The relative fault of such Indemnifying Party and the Indemnified Party shall be determined by reference to, among other things, whether any action in question, including any untrue or alleged untrue statement of a material fact or the omission or alleged omission to state a material fact has been made by, or relates to information supplied by, such Indemnifying Party or Indemnified Party and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such action.

The parties agree that it would not be just and equitable if contribution pursuant to this Section 2.08 were determined by pro rata allocation or by any other method of allocation that does not take account of the equitable considerations referred to in the immediately preceding paragraph. The amount paid or payable by a party as a result of the Damages referred to in the preceding paragraph shall be deemed to include, subject to the limitations set forth in Section 2.05 and Section 2.06, any legal or other expenses reasonably incurred by a party in connection with investigating or defending any such action or claim. Notwithstanding the provisions of this Section 2.08, no Registering Stockholder shall be required to contribute any amount in excess of the net proceeds (after deducting the underwriters' discounts and commissions) received by such Registering Stockholder in the applicable offering. No Person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act), and no Person under the control, within the meaning of either Section 15 of the Securities Act or Section 20 of the Exchange Act, of a Person guilty of such fraudulent misrepresentation, shall be entitled to contribution from any Person who was not guilty of such fraudulent misrepresentation. Each Registering Stockholder's obligation to contribute pursuant to this Section 2.08 is several in the proportion that the net

proceeds of the applicable offering received by such Registering Stockholder bears to the net total proceeds of the applicable offering received by all such Registering Stockholders and not joint.

Section 2.09. Participation in Public Offering. No Stockholder may participate in any Public Offering hereunder unless such Stockholder (i) agrees to sell such Stockholder's Registrable Securities on the basis provided in any underwriting arrangements approved by the Persons entitled hereunder to approve such arrangements and (ii) completes and executes all questionnaires, powers of attorney, indemnities, underwriting agreements and other documents reasonably required under the terms of such underwriting arrangements and the provisions of this Agreement in respect of registration rights.

Section 2.10. Other Indemnification. Indemnification similar to that specified herein (with appropriate modifications) shall be given by the Company and each Registering Stockholder participating therein with respect to any required registration or other qualification of securities under any federal or state law or regulation or governmental authority other than the Securities Act.

Section 2.11. Cooperation by the Company. If any Stockholder shall transfer, assign, sell, convey or otherwise dispose of any Registrable Securities pursuant to Rule 144, the Company shall reasonably cooperate with such Stockholder, provide to such Stockholder such information as such Stockholder shall reasonably request and make publicly available information necessary to permit sales pursuant to Rule 144 for so long as necessary.

Section 2.12. Transfer of Registration Rights. The rights of a Stockholder under this Article II may be transferred or assigned in connection with a transfer of Registrable Securities, provided that all of the following additional conditions are satisfied: (x) such transfer or assignment is effected in accordance with applicable securities laws, (y) such transfer is effected in accordance with the Certificate of Incorporation, as applicable, and (z) such transferee or assignee executes and delivers to the Company an agreement to be bound by this Agreement in the form of Exhibit A.

Section 2.13. Limitations on Subsequent Registration Rights. The Company agrees that it shall not enter into any agreement with any holder or prospective holder of any securities of the Company that would allow such holder or prospective holder to include such securities in any Demand Registration, Piggyback Registration or Shelf Registration unless, under the terms of such agreement, such holder or prospective holder may include such securities in any such registration only to the extent that their inclusion would not be on terms more favorable in the aggregate to such holder or prospective holder than this Agreement. The Company also represents and warrants to each Stockholder that it has not prior to the date of this Agreement entered into any agreement with respect to any of its securities granting any registration rights to any Person.

Section 2.14. Free Writing Prospectuses. Except for a prospectus relating to Registrable Securities included in a Registration Statement, an "Issuer Free Writing Prospectus" (as defined in Rule 433 under the Securities Act) or other materials prepared by or on behalf of the Company, each Registering Stockholder represents and agrees that it (i) shall not make any offer relating to the Registrable Securities that would constitute an Issuer Free Writing Prospectus or that would otherwise constitute a Free Writing Prospectus, and (ii) has not distributed and will not distribute any written materials in connection with the offer or sale pursuant to a Registration Statement of Registrable Securities without the prior written consent of the Company and, in connection with any Public Offering, the underwriters.

Section 2.15. Information from Registering Stockholders; Obligations of Registering Stockholders.

(a) It shall be a condition precedent to the obligations of the Company to include the Registrable Securities of any Registering Stockholder that has requested inclusion of its Registrable Securities in any Registration Statement or related prospectus, as the case may be, that such Registering Stockholder shall take the actions described in this Section 2.15.

(b) Each Registering Stockholder that has requested inclusion of its Registrable Securities in any Registration Statement shall (i) furnish to the Company (as a condition precedent to such Registering Stockholder's participation in such registration) in writing such information with respect to such Registering Stockholder, its ownership of Company Securities and the intended method of disposition of its Registrable Securities as the Company may reasonably request or as may be required by law or regulations for use in connection with any related Registration Statement or prospectus (or amendment or supplement thereto) and all information required to be disclosed in order to make the information previously furnished to the Company by such Registering Stockholder not contain a material misstatement of fact or necessary to cause such Registration Statement or prospectus (or amendment or supplement thereto) not to omit a material fact with respect to such Registering Stockholder necessary in order to make the statements therein not misleading and (ii) comply with the Securities Act and the Exchange Act and all applicable state securities laws and comply with all applicable regulations in connection with the registration and the disposition of Registrable Securities.

(c) Each Registering Stockholder shall promptly (i) following its actual knowledge thereof, notify the Company of the occurrence of any event that makes any statement made in a Registration Statement, prospectus, Issuer Free Writing Prospectus or other Free Writing Prospectus regarding such Registering Stockholder untrue in any material respect or that requires the making of any changes in a Registration Statement, prospectus, Issuer Free Writing Prospectus or other Free Writing Prospectus so that, in such regard, it shall not contain any untrue statement of a material fact or omit any material fact required to be stated therein or necessary to make the statements not misleading and (ii) provide the Company with such information as may be required to enable the Company to prepare a supplement or post-effective amendment to any such Registration Statement or a supplement to such prospectus or Free Writing Prospectus.

(d) Each Registering Stockholder shall use commercially reasonable efforts to cooperate with the Company in preparing the applicable Registration Statement.

(e) Each Stockholder agrees that no Stockholder shall be entitled to sell any Registrable Securities pursuant to a Registration Statement or to receive a prospectus relating thereto unless such Stockholder has furnished the Company with all information required to be included in such Registration Statement by applicable securities laws in connection with the disposition of such Registrable Securities as reasonably requested by the Company.

(f) Notwithstanding anything to the contrary herein, no Registering Stockholder shall be required to make any representations or warranties to or agreements with the Company, the underwriters of any underwritten Public Offering, or any other Person in connection with a disposition of Registrable Securities other than representations, warranties or agreements regarding such Registering Stockholder, such Registering Stockholder's ownership of Registrable Securities and such Registering Stockholder's intended method of distribution of Registrable Securities.

ARTICLE III.
TERMINATION

Section 3.01. Termination. This Agreement shall terminate when the Post Stockholders collectively on their own behalf own less than 2.5% of the total number of outstanding Shares; provided, however, that any Stockholder that ceases to own beneficially any Registrable Securities shall cease to be bound by the terms hereof other than (i) Section 2.05, Section 2.06, Section 2.07, Section 2.08 and Section 2.10 applicable to such Stockholder with respect to any offering of Registrable Securities completed before the date such Stockholder ceased to own any Registrable Securities and (ii) Section 4.01, Section 4.02 and Section 4.04 through Section 4.11.

ARTICLE IV.
MISCELLANEOUS

Section 4.01. Successors and Assigns.

(a) This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective heirs, successors, legal representatives and permitted assigns.

(b) Subject to Section 2.12, neither this Agreement nor any right, remedy, obligation or liability arising hereunder or by reason hereof shall be assignable by any party.

(c) Nothing in this Agreement, expressed or implied, is intended to confer on any Person other than the parties hereto, and their respective heirs, successors, legal representatives and permitted assigns, any rights, remedies, obligations or liabilities under or by reason of this Agreement.

Section 4.02. Notices. All notices, requests and other communications to any party hereunder shall be in writing (including electronic transmission) and shall be given,

if to the Company, to:

BellRing Brands, Inc.
Attn: General Counsel
2503 S. Hanley Rd.
St. Louis, MO 63144
E-mail: craig.rosenthal@bellringbrands.com

if to Post, to:

Post Holdings, Inc.
2305 S. Hanley Rd.
St. Louis, MO 63144
Attention: General Counsel
Email: diedre.gray@postholdings.com

if to any other party hereto, to the address (including electronic transmission) specified on the joinder to this Agreement signed by such party hereto,

or such other address as such party may hereafter specify for the purpose by notice to the other parties hereto. All 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. Any Person that becomes a Stockholder shall provide its address and e-mail address to the Company, which shall promptly provide such information to each other Stockholder.

Section 4.03. Amendments and Waivers. Any provision of this Agreement may be amended or waived if, but only if, such amendment or waiver is in writing and is signed by the Company and Post. 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 law.

Section 4.04. Governing Law. All issues and questions concerning the construction, validity, interpretation and enforcement of this Agreement and the exhibits and schedules hereto shall be governed by, and construed in accordance with, the laws of the State of Delaware, without regard to the choice of law or conflicts of law provisions that would indicate the applicability of the laws of any other jurisdiction.

Section 4.05. Jurisdiction. The parties hereby 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 any federal court located in the State of Delaware or any Delaware state court, so long as one of such courts shall have subject matter jurisdiction over such suit, action or proceeding, and that any cause of action arising out of this Agreement shall be deemed to have arisen from a transaction of business in the State of Delaware, and each of the parties hereby irrevocably consents to the 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 anywhere in the world, whether within or without the jurisdiction of any such court.

Section 4.06. 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 4.07. Specific Enforcement. Each party hereto acknowledges that the remedies at law of the other parties for a breach or threatened breach of this Agreement would be inadequate and, in recognition of this fact, any party to this Agreement, without posting any bond, and in addition to all other remedies that may be available, shall be entitled to obtain equitable relief in the form of specific performance, a temporary restraining order, a temporary or permanent injunction or any other equitable remedy that may then be available.

Section 4.08. 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 initial party hereto shall have received a counterpart hereof signed by all of the other initial parties hereto. Until and unless each initial party has received a counterpart hereof signed by the other initial parties 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). No provision of this Agreement 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 assigns.

Section 4.09. Entire Agreement. This Agreement, together with the Exhibit hereto and any documents, instruments and writings that are delivered pursuant hereto, constitutes the entire agreement among the parties with respect to the subject matter of this Agreement and supersedes all prior agreements and understandings, both oral and written, among the parties hereto with respect to the subject matter of this Agreement.

Section 4.10. Severability. If any term, provision, covenant or restriction of this Agreement is held by a court of competent jurisdiction or other 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. 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 so that the transactions contemplated hereby be consummated as originally contemplated to the fullest extent possible.

Section 4.11. Certificate of Incorporation Supersedes. Nothing in this Agreement is intended to conflict with any provision of the Certificate of Incorporation or Bylaws, each in effect from time to time and, in the event of any such conflict, the applicable provisions of the Certificate of Incorporation or Bylaws shall supersede the conflicting provision of this Agreement.

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.

[remainder of page left blank; signature pages follow]

BELLRING BRANDS, INC.

By: /s/ Craig L. Rosenthal
Name: Craig L. Rosenthal
Title: Senior Vice President & General Counsel

POST HOLDINGS, INC.

By: /s/ Diedre J. Gray
Name: Diedre J. Gray
Title: Executive Vice President, General Counsel and Chief Administrative Officer, Secretary

JOINDER TO REGISTRATION RIGHTS AGREEMENT

This Joinder Agreement (this "Joinder Agreement") is made as of the date written below by the undersigned (the "Joining Party") in accordance with the Registration Rights Agreement dated as of March 10, 2022 (the "Registration Rights Agreement") among BellRing Brands, Inc. and the other parties thereto, as the same may be amended from time to time. Capitalized terms used, but not defined, herein shall have the meanings ascribed to such terms in the Registration Rights Agreement.

The Joining Party hereby acknowledges, agrees and confirms that, by its execution of this Joinder Agreement, the Joining Party shall be deemed to be a party to the Registration Rights Agreement as of the date hereof and shall have all of the rights and obligations of a "Stockholder" thereunder as if it had executed the Registration Rights Agreement. The Joining Party hereby ratifies, as of the date hereof, and agrees to be bound by, all of the terms, provisions and conditions contained in the Registration Rights Agreement.

IN WITNESS WHEREOF, the undersigned has executed this Joinder Agreement as of the date written below.

Date: ,

[NAME OF JOINING PARTY]

By: _____
Name:
Title:

Address for Notices:

Email Address:

Exhibit 10.3

EXECUTION VERSION

AMENDED AND RESTATED
EMPLOYEE MATTERS AGREEMENT

This AMENDED AND RESTATED EMPLOYEE MATTERS AGREEMENT (this "Agreement"), dated as of March 10, 2022, is made by and among Post Holdings, Inc., a Missouri corporation ("Post"), BellRing Intermediate Holdings, Inc. (formerly known as BellRing Brands, Inc.) ("BellRing Inc."), BellRing Brands, LLC ("BellRing LLC") and BellRing Brands, Inc. (formerly known as BellRing Distribution, LLC) ("New BellRing", and collectively, the "Parties") and amends and restates the Employee Matters Agreement entered into by and among Post, BellRing Inc. and BellRing LLC dated as of October 21, 2019 (the "Prior EMA").

RECITALS

A. Post, BellRing Inc. and BellRing LLC entered into the Prior EMA in connection with the initial public offering of BellRing Inc.

B. BellRing Inc., Post and New BellRing are parties to that certain Transaction Agreement and Plan of Merger, dated as of October 26, 2021, as amended by that certain Amendment No. 1 to the Transaction Agreement and Plan of Merger, dated as of February 28, 2022 (as it may be further amended from time to time, the "Transaction Agreement").

C. To facilitate the transactions described in the Transaction Agreement, the parties have agreed to amend and restate the Prior EMA for the purpose of, together with the Master Services Agreement entered into by and among Post, New BellRing, BellRing Inc. and BellRing LLC dated as of March 10, 2022 (the "Master Services Agreement"), allocating assets, Liabilities and responsibilities with respect to certain employment matters, employee compensation and benefit plans and programs described herein between and among them.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby approve and adopt this Agreement and mutually covenant and agree with each other as follows:

ARTICLE I
DEFINITIONS

1.1 Unless otherwise defined or provided herein, the capitalized terms used herein shall have the meanings given to them in the Transaction Agreement. In addition to the other terms defined elsewhere in this Agreement, for the purposes of this Agreement, the following terms shall have the meaning set forth below:

"BellRing 401(k) Plan" means the BellRing Brands, Inc. 401(k) Plan.

"BellRing Benefit Plans" means any Benefit Plan sponsored or maintained or contributed to by any member of the BellRing Group (or their predecessors), and any Benefit Plan assumed or adopted by any member of the BellRing Group, specifically excluding any Post Benefit Plan.

"BellRing Employees" means employees of and individual service providers to any member of the BellRing Group.

"BellRing Group" means BellRing Inc., BellRing LLC or any of their Subsidiaries (or their predecessors), and following the Distribution shall include New BellRing.

"BellRing Health and Welfare Benefit Plan" shall mean the BellRing Brands, LLC Health and Welfare Benefit Plan.

"Benefit Plan" means, with respect to an entity, each plan, program, arrangement, agreement or commitment (whether written or unwritten, formal or informal) that is an employment, consulting, deferred compensation agreement, or an executive compensation, incentive bonus or other bonus, employee pension, profit-sharing, savings, retirement, supplemental retirement, stock option, stock purchase, stock appreciation rights, restricted stock, other equity-based compensation, severance pay, salary continuation, life, health, hospitalization, wellness, sick leave, vacation pay, disability or accident insurance plan, or other employee benefit plan, program, arrangement, agreement or commitment, (a) including any "employee benefit plan" (as defined in Section 3(3) of ERISA), sponsored or maintained by such entity (or to which such entity contributes or is required to contribute or has any Liabilities, directly or indirectly, contingent or fixed) and (b) excluding any indemnification obligations, other than any obligations contained in any of the foregoing.

"COBRA" means the Consolidated Omnibus Budget and Reconciliation Act of 1985, as amended.

"ERISA" means the Employee Retirement Income Security Act of 1974, as amended.

"Former BellRing Employees" means former employees of and former individual service providers to any member of the BellRing Group, or any predecessor company thereto.

"HIPAA" means the Health Insurance Portability and Accountability Act of 1996, as amended.

"Post Benefit Plans" means any Benefit Plan sponsored or maintained by any member of the Post Group, specifically excluding any BellRing Benefit Plan.

"Post Group" means Post and each Person that is a Subsidiary of Post; provided that no member of the BellRing Group shall be deemed to be a member of the Post Group.

"Post H&W Plan" means the Post Holdings, Inc. Health and Welfare Benefit Plan.

"Returning Post Employees" means (x) Former BellRing Employees or (y) BellRing Employees who become Former BellRing Employees, in each of (x) and (y), who following the Distribution Effective Time become employees of Post.

ARTICLE II
GENERAL PRINCIPALS; ALLOCATION OF LIABILITY

2.1 Allocation of Liabilities. As of the Distribution Effective Time, except as otherwise expressly provided for in this Agreement, New BellRing shall, or shall cause one or more members of the BellRing Group to, assume or retain, as applicable, and New BellRing shall, or shall cause one or more members of the BellRing Group, to pay, perform, fulfill and discharge, in due course in full (i) all Liabilities, whenever incurred, under all BellRing Benefit Plans and (ii) all Liabilities, whenever incurred, with respect to the employment, service, termination of employment or termination of service of all BellRing Employees and of all Former BellRing Employees, and the respective dependents and beneficiaries of such BellRing Employees and Former BellRing Employees.

2.2 Reimbursement for Liabilities. From time to time after the Distribution Effective Time, New BellRing (acting directly or through a member of the BellRing Group) shall promptly reimburse Post, upon Post's reasonable request and the presentation by Post of such substantiating documentation as the payor may reasonably request, for the cost of any Liabilities satisfied by Post or any member of the Post Group that are, pursuant to this Agreement, the responsibility of any member of the BellRing Group.

2.3 Unaddressed Liabilities. To the extent that this Agreement, or the Master Service Agreement, does not address particular Liabilities under any Benefit Plan and the Parties later determine that they should be allocated in connection with the Distribution, the Parties shall agree in good faith on the allocation, taking into account the handling of comparable Liabilities under this Agreement.

ARTICLE III
EMPLOYMENT OF BELLRING GROUP EMPLOYEES

3.1 Continuity of Employment. The Parties intend that there shall be continuity of employment with respect to the BellRing Employees and each BellRing Employee shall continue to be employed by the BellRing Group on and after the Distribution Effective Time, it being understood among the Parties that the Canadian Employees (as defined in Section 6.1(a)) will continue to provide services to the BellRing Group pursuant to and in accordance with Exhibit A. Notwithstanding the foregoing, the Parties may mutually agree to transfer and assign employees of, and service providers to, the Post Group to any member of the BellRing Group in connection with the Distribution. Effective as of the time of such assignment or transfer, such employee shall be an employee of the entity to which such employee was assigned or transferred.

3.2 Non-Solicitation.

(a) Non-Solicitation. For a period that ends on the later of (a) the date that is 24 months from the Distribution Effective Time or (b) the cessation of all Services (as defined in the Master Services Agreement) by Post under the Master Services Agreement, each Party (a "Soliciting Party") will not solicit for employment any employee of any other Party (such Party, the "Protected Party"); provided, however, that it is understood that this Section 3.2 shall not prohibit: (i) generalized solicitations by advertising and the like, which are not directed to specific individuals or employees of the Protected Party; (ii) solicitations of persons whose employment was terminated by the Protected Party; (iii) solicitations of persons who have terminated their employment with the Protected Party without any prior solicitation by the Soliciting Party; or (iv) an employee of the Protected Party applying for a position with the Soliciting Party of the employee's own initiative, not in response to a solicitation from the Soliciting Party. Notwithstanding the foregoing, either Party may agree in writing to waive the non-solicitation requirement as to a certain employee or employees of such Party in its sole discretion.

(b) Remedies; Enforcement. Each Party acknowledges and agrees that (i) injury to the Protected Party from any breach by the Soliciting Party of the obligations set forth in this Section 3.2 would be irreparable and impossible to measure and (ii) the remedies at Law for any breach or threatened breach of this Section 3.2, including monetary damages, would therefore be inadequate compensation for any loss and the Protected Party shall have the right to specific performance and injunctive or other equitable relief in accordance with this Section 3.2, in addition to any and all other rights and remedies at Law or in equity, and all such rights and remedies shall be cumulative. Each Party understands and acknowledges that the restrictive covenants and other agreements contained in this Section 3.2 are an essential part of this Agreement and the transactions contemplated hereby. It is the intent of the Parties that the provisions of this Section 3.2 shall be enforced to the fullest extent permissible under applicable Law applied in each jurisdiction in which enforcement is sought. If any particular provision or portion of this Section 3.2 shall be adjudicated to be invalid or unenforceable, such provision or portion thereof shall be deemed amended to the minimum extent necessary to render such provision or portion valid and enforceable, such amendment to apply only with respect to the operation of such provision or portion thereof in the particular jurisdiction in which such adjudication is made.

ARTICLE IV
U.S. 401(K) AND HEALTH AND WELFARE PLANS

4.1 401(k) Plan. In accordance with the terms of the Master Services Agreement, without obtaining the consent of Post, BellRing Inc. agrees not to modify the design or the terms and conditions of the BellRing 401(k) Plan to the extent that such modification would result in material changes to the Services to be provided by any member of the Post Group with respect to the BellRing 401(k) Plan; provided that the foregoing shall not prohibit BellRing Inc. from modifying the design or terms and conditions of the BellRing 401(k) Plan to comply with changes in applicable Law.

4.2 Health and Welfare Plans. With respect to the BellRing Health and Welfare Benefit Plan, BellRing LLC (or another member of the BellRing Group) shall ensure that during the term of the Master Services Agreement the component benefits and the terms and conditions of the BellRing Health and Welfare Benefit Plans are substantially comparable in the aggregate to those of the equivalent plans sponsored or maintained by any member of the Post Group unless otherwise consented to in writing by Post prior to the adoption of any changes to the terms and conditions of any BellRing Health and Welfare Benefit Plan; provided that the foregoing shall not prohibit BellRing LLC (or any other member of the BellRing Group) from adopting changes to the terms and conditions of any BellRing Health and Welfare Benefit Plan that are required to comply with changes in applicable Law. New BellRing, BellRing Inc. or BellRing LLC shall, or shall cause their applicable Subsidiaries to, enter into, or revise, HIPAA business associate agreements with applicable vendors of and service providers to the BellRing Health and Welfare Benefit Plan as required by applicable Law.

4.3 Former BellRing Employees. Notwithstanding anything in this Agreement to the contrary, New BellRing shall be responsible for any Liabilities associated with the participation in the Post H&W Plan of Former BellRing Employees (and their dependents or beneficiaries), no matter when such claims or Liabilities are filed, reported or payable, unless such claims or Liabilities (a) have been satisfied prior to Distribution Effective Time or (b) are incurred (i) after the Distribution Effective Time and (ii) in connection with such Former BellRing Employees' services as Returning Post Employees.

4.4 Health and Welfare and Human Resources Contracts. Effective as of the Distribution Effective Time, except as otherwise provided in the Master Services Agreement, the participation of all members of the BellRing Group in any Post Group health and welfare-related or human resources-related contracts will terminate, with the exception of those Post Contracts scheduled on Exhibit B (the "Post H&W Retained Contracts"). Following the Distribution Effective Time, the participation of the BellRing Group in those Post H&W Retained Contracts will cease (such date, the "Cessation Date") on either (x) the date specified in Exhibit B or, (y) if no such date is specified, at the time specified by the applicable vendor of such Post H&W Retained Contract and, in each of (x) and (y), no later than the cessation of Services (as defined in the Master Services Agreement) to the BellRing Group under the Master Services Agreement; provided that if no Cessation Date is specified in Exhibit B, Post shall provide written notice (including via email) of the Cessation Date to BellRing without unreasonable delay and as soon as administratively practicable, but in no event later than five (5) business days, after the applicable vendor notifies Post of the Cessation Date. Notwithstanding the foregoing, New BellRing (or the applicable member of the BellRing Group) shall be liable and solely responsible for any Liabilities of the Post Group (including, without limitation, by indemnifying Post against any claims) that arise out of the participation of the BellRing Group in the Post H&W Retained Contracts, including, without limitation, due to any act or omission of a member of the BellRing Group that directly results in a breach of any Post H&W Retained Contract; provided, however, neither New BellRing nor any member of the BellRing Group shall be responsible for any Liabilities (including, without limitation, any indemnification of Post against any claims) of the Post Group that arise out of the participation of the BellRing Group in the Post H&W Retained Contracts that proximately result from an act or omission of a member of the Post Group that constitutes gross negligence or intentional misconduct.

ARTICLE V
EXECUTIVE COMPENSATION & SEVERANCE BENEFITS

5.1 Nonqualified Deferred Compensation.

(a) The Parties acknowledge and agree that the consummation of the transactions contemplated by the Transaction Agreement shall not trigger a payment or distribution of compensation under either the Post Holdings, Inc. Deferred Compensation Plan for Key Employees and the Post Holdings, Inc. Executive Savings Investment Plan (either or both, a "Post Nonqualified Plan") for any BellRing Employee and that the transactions contemplated by the Distribution and the Merger shall not constitute a "separation from service" under the terms of the Post Nonqualified Plan and within the meaning of Section 409A of the Code. At the Distribution Effective Time, Post shall provide to New BellRing a list of each BellRing Employee who participates in the Post Nonqualified Plan immediately prior to the Distribution (each, a "BellRing Participant"). After the Distribution Effective Time, New BellRing shall, or shall cause the applicable member of the BellRing Group to, notify Post of

the occurrence of any termination of employment or "separation from service" (within the meaning of Section 409A of the Code) of any BellRing Participant, whether or not such termination of employment or separation from service is a payment event, in each case, as promptly as practicable but in no event later than ten (10) days following such termination of employment or separation from service, and shall promptly provide to Post any other relevant information reasonably requested by Post for purposes of administering the Post Nonqualified Plan with respect to the BellRing Participant. Notwithstanding the foregoing, New BellRing shall be liable and solely responsible for any Liabilities of the Post Group (including, without limitation, by indemnifying Post against any BellRing Participant claims) associated with the participation in the Post Nonqualified Plan of BellRing Employees and Former BellRing Employees, including without limitation, any Liabilities arising with respect to the Post Nonqualified Plan as a result of any failure by a member of the BellRing Group to provide proper notice of an employment termination, or failure by a member of the BellRing Group to provide other relevant information reasonably requested by Post, that results in the inability of Post to administer the Post Nonqualified Plan in compliance with Section 409A of the Code with respect to any BellRing Participant (after taking into account any available correction methodology permitted under Section 409A of the Code); provided, however, neither New BellRing nor any member of the BellRing Group shall be responsible for any Liabilities (including, without limitation, any indemnification of Post against any claims) of the Post Group associated with the participation in the Post Nonqualified Plan of BellRing Employees and Former BellRing Employees that proximately result from an act or omission of a member of the Post Group that constitutes gross negligence or intentional misconduct.

(b) During the period in which the Post Group provides Services for the BellRing 401(k) Plan pursuant to the Master Services Agreement (the "401(k) Plan Administration Period"), in the event Post provides written notice to BellRing, BellRing agrees to adopt a nonqualified deferred compensation plan for employees (any such plan a "BellRing Nonqualified Plan") that would be effective no later than 30 days before the end of the 401(k) Plan Administration period, for the purpose of effectuating Section 5.1(c)(i) and Section 5.1(c)(ii) of this Agreement, with the terms of such BellRing Nonqualified Plan satisfying the requirements of Section 409A of the Code and allowing for the effectuation of Section 5.1(c)(i) and Section 5.1(c)(ii) of this Agreement (including without limitation, preserving the time and form of payment under the Post Nonqualified Plan applicable to the BellRing Participants).

(c) Should any member of the BellRing Group adopt a BellRing Nonqualified Plan after the Distribution Effective Time, including at the written request of Post as provided in Section 5.1(b) above, (i) at Post's election, following reasonable consultation with the BellRing Group, Post shall take all necessary steps to cause the Post Nonqualified Plan to transfer (and the applicable member of the BellRing Group that adopts a BellRing Nonqualified Plan shall cause the BellRing Nonqualified Plan to accept a transfer of) (A) Liabilities in respect of the obligations to or otherwise in respect of BellRing Participants under the Post Nonqualified Plan and (B) any assets held by or on behalf of the Post Group (excluding Post stock) that correspond to such Liabilities and (ii) if Post so elects to transfer the Liabilities and assets in respect of BellRing Participants under the Post Nonqualified Plan, BellRing Inc. (or the applicable member of the BellRing Group that adopted such plan) agrees to assume all Liabilities associated with payment of account balances attributable to BellRing Participants under the Post Nonqualified Plans, all in accordance with Section 409A of the Code.

5.2 Equity Compensation.

(a) Post Long-Term Incentive Plans. Except as otherwise agreed in writing by the Parties, unvested restricted stock unit ("RSU") awards (whether cash or stock-settled) and nonqualified stock option awards granted to BellRing Employees under the Post 2012 Long-Term Incentive Plan, the Post 2016 Long-Term Incentive Plan and/or the Post 2019 Long-Term Incentive Plan (each or all, the "Post LTIP"), which remain outstanding as of the Distribution Effective Time (the "Outstanding Post Awards") will be treated as set forth in this Section 5.2.

(b) BellRing CEO Options. Effective as of, and contingent upon the occurrence of, the Distribution Effective Time, (i) nonqualified stock options awards granted to the Chief Executive Officer of BellRing Inc. (the "BellRing CEO") under the Post LTIP (the "BellRing CEO Options") which remain outstanding and unexercised as of the Distribution Effective Time will remain outstanding and exercisable under the Post LTIP and shall be adjusted in a manner consistent with adjustments made with respect to Post nonqualified stock options

held by Post Group employees under the applicable Post LTIP and (ii) the period during which the BellRing CEO Options may be exercised will be extended to ten (10) years from the date of grant, such that the Transaction will not truncate the exercise period.

(c) BellRing Cash-Settled RSUs. Effective as of, and contingent upon the occurrence of, the Distribution Effective Time, any Outstanding Post Awards that are cash-settled restricted stock unit awards granted to the Chief Financial Officer of BellRing Inc. under the Post LTIP (the "BellRing Cash-Settled RSUs") and which remain outstanding as of the Distribution Effective Time will be adjusted in a manner consistent with the adjustments made with respect to Post RSU awards held by Post Group employees under the applicable Post LTIP, and thereafter, such BellRing Cash Settled RSUs shall vest on their original terms and be settled in cash.

(d) BellRing RSUs. Effective as of, and contingent upon the occurrence of, the Distribution Effective Time, any Outstanding Post Awards that are stock-settled restricted stock unit awards granted to BellRing Employees under the Post LTIP (the "BellRing RSUs") and which remain outstanding as of the Distribution Effective Time will be adjusted in a manner consistent with the adjustments made with respect to Post RSU awards held by Post Group employees under the applicable Post LTIP, and such BellRing RSUs will either (i) accelerate upon the date that New BellRing ceases to be an Affiliate (as defined in the applicable Post LTIP) of Post and be settled in Post Common Stock, or (ii) vest on their original terms and be settled in Post Common Stock.

(e) Costs Relating to Outstanding Post Awards. New BellRing shall, or shall direct a member of the BellRing Group to, reimburse Post for the accounting cost of any acceleration, conversion or adjustment with respect to any Outstanding Post Awards, and will bear the monthly actual expense, the employer payroll expense and any other Liability related to the Outstanding Post Awards while outstanding and due to their settlement, exercise, conversion or adjustment. The actual expense of the Outstanding Post Awards while outstanding will be allocated to New BellRing or one or more member(s) of the BellRing Group through a monthly cash settlement process via cash-settlement inter-company accounts or through any other applicable related-party accounts, and, to the extent that the BellRing CEO Options remain unexercised after Post or its affiliates cease to provide payroll administration services to BellRing pursuant to the Master Services Agreement, the reimbursement and settlement process described in this paragraph shall be accomplished through commercially reasonable means other than inter-company or related-party accounts, and New BellRing's obligation under this paragraph shall survive for so long as the BellRing CEO Options remain exercisable by their terms.

5.3 Severance Benefits. Effective as of the Distribution Effective Time, (i) the BellRing CEO shall cease to be a participant in the Post Holdings, Inc. Executive Severance Plan, and (ii) Post shall have no Liability, and BellRing shall assume and retain any and all Liabilities, in respect of severance benefits or unemployment compensation to any BellRing Employee or Former BellRing Employee, regardless of whether the event giving rise to the Liability occurred before, at or after the Distribution Effective Time.

ARTICLE VI
CANADIAN EMPLOYMENT MATTERS

6.1 Canadian Benefit Plans.

(a) As of the Distribution Effective Time, certain employees located in Canada employed by a Canadian Subsidiary of Post are performing work in Canada exclusively for the BellRing Group (the "Canadian Employees"). Post and New BellRing shall, or shall cause a member of each of the Post Group and the BellRing Group to, enter into a secondment agreement in the form attached hereto as Exhibit A (the "Secondment Agreement"), which shall be effective as of the Distribution Effective Time, and in the event of a conflict between this Employee Matters Agreement with respect to the Canadian Employees and the Secondment Agreement, the Secondment Agreement shall control with respect to the Canadian Employees. Post may determine, in its sole discretion, to cease the participation of the Canadian Employees in (i) the Post Foods Canada Inc. Retirement Plan for Canadian Employees maintained by Post or the Post Group (the "Post Canadian Defined Contribution Plan") and/or (ii) the Canadian health and welfare plans maintained by Post or the Post Group (the "Post Canadian Health and Welfare Benefit Plan") if (A) Post determines that it would be legally inadvisable with respect to Post, the Post

Group or the Post Canadian Defined Contribution Plan or the Post Canadian Health and Welfare Benefit Plan to continue to permit such plan participation, in which case Post shall provide BellRing with written notice at least forty-five (45) days prior to ceasing the Canadian Employees' participation in the Post Canadian Defined Contribution Plan and/or the Post Canadian Health and Welfare Benefit Plan (provided that if forty-five (45) days advance notice cannot be provided due to circumstances beyond Post's control, Post shall provide written notice without unreasonable delay and as soon as administratively practicable after such circumstances occur) or (B) such Canadian Subsidiary of Post is no longer at least 50% owned or controlled by Post. Notwithstanding the foregoing, any continued participation of Canadian Employees in the Post Canadian Defined Contribution Plan or the Post Canadian Health and Welfare Plan is subject to the complete terms of the applicable plan or contract.

(b) Notwithstanding anything in this Agreement to the contrary, BellRing LLC shall be responsible for: (i) any and all claims and Liabilities attributable to the Canadian Employees' (and their dependents' and beneficiaries') participation in the Post Canadian Health and Welfare Benefit Plan incurred prior to their ceasing participation, no matter when such claims are filed, reported or payable, and (ii) any and all claims or Liabilities attributable to the employment of the Canadian Employees.

6.2 Services of Canadian Employees. Except in connection with an event described in Section 6.1(a)(ii)(B), Post agrees that its Canadian Subsidiary shall not terminate the employment of the Canadian Employees other than for cause (as determined under applicable Law) for the term of the Secondment Agreement and shall, to the extent practicable under the circumstances, provide advance written notice to the BellRing Group of such termination. In no event shall any member of the Post Group be obligated to hire employee(s) in Canada to perform work for any member of the BellRing Group.

ARTICLE VII
POST BENEFIT PLAN COSTS AND WORKERS COMPENSATION

7.1 Workers Compensation and Benefits/Compensation Costs.

(a) For so long as New BellRing or any member of the BellRing Group participates in, or any BellRing Employees participate in, any Post Benefit Plan, Post shall allocate or pass through, as applicable, the premiums, claims and other costs under any such program or plan, as applicable, to New BellRing and members of the BellRing Group in the same manner that Post administers and allocates or passes through such premiums, claims and costs thereunder to members of the BellRing Group as of the date of this Agreement.

(b) Effective as of the Distribution Effective Time, BellRing Inc., BellRing LLC and any other member of the BellRing Group shall cease participation in Post's workers compensation programs. BellRing Inc. and BellRing LLC will provide Post with all information reasonably requested by Post as it relates to BellRing Inc. and its Subsidiaries' participation in Post's workers compensation insurance programs, its withdrawal therefrom or its participation in its own workers compensation insurance programs, subject to the terms of the Master Services Agreement. In the case of any workers' compensation claim of any BellRing Employee or Former BellRing Employee who participates or participated in a workers' compensation program of a member of the Post Group (each, a "Post Workers' Compensation Program"), such claim shall be covered (i) under such Post Workers' Compensation Program if the event giving rise to the to the claim (the "Workers' Compensation Event") occurred prior to the Distribution Effective Time, and (ii) under a workers' compensation program of the BellRing Group (each, a "BellRing Workers' Compensation Program") if the Workers' Compensation Event occurs on or after the Distribution Effective Time. Notwithstanding the foregoing, New BellRing (or the applicable member of the BellRing Group) shall be liable and solely responsible for any outstanding Liabilities of the Post Group (including, without limitation, by indemnifying Post against any claims and by paying any open workers compensation claims under the Post Workers' Compensation Program related to BellRing Employees and Former BellRing Employees directly) associated with the participation in the Post Workers' Compensation Program of BellRing Employees and Former BellRing Employees.

ARTICLE VIII
MISCELLANEOUS

8.1 Sharing of Information. Subject to any limitations imposed by applicable Law, the Parties (acting directly or through members of the Post Group or the BellRing Group, respectively) shall provide to the other and their respective representatives, agents and vendors all information relevant to the performance of the parties to this Agreement.

8.2 Post Benefit Plans/Right to Amend. Nothing in this Agreement shall prohibit Post or any other member of the Post Group from amending, modifying or terminating any Post Benefit Plan at any time within its sole discretion, provided that any such amendment, modification or termination shall not relieve Post from any obligation herein.

8.3 Consent of Third Parties. If any provision of this Agreement is dependent on the consent of a third party and such consent is withheld, the parties to this Agreement shall use their commercially reasonable efforts to implement the applicable provisions of this Agreement to the fullest extent practicable. If any provision of this Agreement cannot be implemented due to the failure to obtain any such third party consent, the parties to this Agreement shall negotiate in good faith to implement the provision in a mutually satisfactory manner.

8.4 Regulatory Compliance. The parties to this Agreement shall, in connection with the actions taken pursuant to this Agreement, reasonably cooperate in making any and all appropriate filings required under the Code, ERISA and any applicable securities Laws.

8.5 Fiduciary Matters. It is acknowledged that actions required to be taken pursuant to this Agreement may be subject to fiduciary duties or standards of conduct under ERISA, and no party to this Agreement 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 that to do so would violate such a fiduciary duty or standard. Each party to this Agreement 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 hereto for any Liabilities caused by the failure to satisfy any such responsibility.

8.6 No Third Party Rights. The provisions of this Agreement are solely for the benefit of the parties hereto (and the other members of the Post Group and the BellRing Group) and nothing in this Agreement, express or implied, is intended to or shall confer upon any other Person or Persons any rights, benefits or remedies of any nature whatsoever under or by reason of this Agreement, including any employee, former employee or service provider (and each of the foregoing Person's dependents and beneficiaries) of the Post Group or the BellRing Group. Furthermore, nothing in this Agreement is (a) intended to confer upon any employee or former employee of any member of the Post Group or the BellRing Group any right to continued employment, or any recall or similar rights to an individual on layoff or any type of leave, or (b) to be construed to relieve any insurance company of any responsibility for any employee benefit under any Benefit Plan or any other Liability. Nothing in this Agreement is intended as an amendment to any Benefit Plan or employment practice.

8.7 Relation to Other Transaction Documents. In the event of a conflict between this Agreement and the Transaction Agreement, this Agreement shall control. This Agreement, together with the attached Exhibits and the applicable portions of the Transaction Agreement and the Master Services Agreement, constitute the entire agreement between the parties to this Agreement with respect to the subject matter of this Agreement.

8.8 Effective Date of this Agreement. Once executed by the Parties, this Agreement shall be effective upon the Distribution Effective Time and shall supersede the Prior EMA at such time, subject to the consummation of the Distribution. If the Transaction Agreement is terminated in accordance with its terms prior to the Distribution Effective Time, then this Agreement shall terminate and all actions and events that are, under this Agreement, to be taken or occur effective immediately prior to or as of the Distribution Effective Time, or otherwise in connection with the Distribution, shall not be taken or occur and the Prior EMA shall remain in effect in accordance with its terms, except to the extent specifically agreed by the Parties.

8.9 Amendment. This Agreement shall not be amended, modified or supplemented except by a written instrument signed by an authorized representative of each of each Party.

8.10 Termination.

(a) Except as provided in subsection (b) below, this Agreement may be terminated only by the mutual consent of each of the parties to this Agreement.

(b) Upon the termination of the Master Services Agreement, Post or its successor, as applicable, shall have the right to terminate this Agreement upon delivery of written notice to New BellRing.

8.11 Survival. Except as expressly set forth in this Agreement, the provisions contained in:

(a) Article II, Section 3.2, Article IV, Section 5.2(e), Article VI, Section 7.1, Section 8.5 and 8.6 of this Agreement and any Liabilities for the breach of any obligations contained herein;

(b) Section 8.11 (Indemnification), Section 12.6 (Governing Law) and Section 12.8 (Notices) of the Transaction Agreement are incorporated herein by reference; and

(c) any other provision of the Transaction Agreement incorporated herein by reference which survive the Separation, or the termination or expiration of the Transaction Agreement, shall survive the termination or expiration of this Agreement and shall remain in full force and effect.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the parties to this Agreement have caused this Agreement to be signed by their authorized representatives as of the date first above written.

POST HOLDINGS, INC.

By: /s/ Diedre J. Gray
Name: Diedre J. Gray
Title: EVP, General Counsel and CAO, Secretary

BELLRING INTERMEDIATE HOLDINGS, INC.

By: /s/ Craig L. Rosenthal
Name: Craig L. Rosenthal
Title: Senior Vice President & General Counsel

BELLRING BRANDS, LLC

By: /s/ Craig L. Rosenthal
Name: Craig L. Rosenthal
Title: Senior Vice President & General Counsel

BELLRING BRANDS, INC.

By: /s/ Craig L. Rosenthal
Name: Craig L. Rosenthal
Title: Senior Vice President & General Counsel

TAX MATTERS AGREEMENT

by and among

BELLRING INTERMEDIATE HOLDINGS, INC.,

POST HOLDINGS, INC.

and

BELLRING BRANDS, INC.

DATED AS OF MARCH 10, 2022

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TAX MATTERS AGREEMENT

This Tax Matters Agreement (this "*Agreement*"), dated as of March 10, 2022 is entered into by and among BellRing Intermediate Holdings, Inc. (f/k/a BellRing Brands, Inc.), a Delaware corporation ("*BellRing*"), Post Holdings, Inc., a Missouri corporation ("*Post*"), and BellRing Brands, Inc. (f/k/a BellRing Distribution, LLC, a Delaware limited liability company), a Delaware corporation and a direct, wholly owned Subsidiary of Post ("*SpinCo*" and, together with BellRing and Post, the "*Parties*"). Any capitalized term used herein without definition shall have the meaning given to it in the Transaction Agreement and Plan of Merger.

RECITALS

WHEREAS, BellRing, Post, SpinCo and the other Persons party thereto have entered into a Transaction Agreement and Plan of Merger, dated as of October 26, 2021, as amended by that certain Amendment No. 1 to the Transaction Agreement and Plan of Merger, dated as of February 28, 2022 (as it may be further amended from time to time, the "*Transaction Agreement*"), pursuant to which, in accordance with the terms and conditions thereof, at the Merger Effective Time, Merger Sub will merge with and into BellRing, with BellRing continuing as the surviving corporation, and BellRing becoming a wholly owned Subsidiary of SpinCo;

WHEREAS, prior to the Distribution, in accordance with the terms and conditions set forth in the Transaction Agreement, Post will cause the Separation to be completed;

WHEREAS, following the Separation, in accordance with the terms and conditions set forth in the Transaction Agreement, Post will effectuate the Debt Exchange;

WHEREAS, in connection with and as part of the Separation, in accordance with the terms and conditions set forth in the Transaction Agreement, Post will cause the Distribution to be completed;

WHEREAS, within six months following the Distribution and in connection with the Distribution, Post may effectuate the Equity Exchange;

WHEREAS, immediately following consummation of the Distribution, in accordance with the terms and conditions set forth in the Transaction Agreement, the Parties will effectuate the Merger;

WHEREAS, following the Merger, in accordance with the terms and conditions set forth in the Transaction Agreement, SpinCo may effectuate the Post-Merger Transactions;

WHEREAS, the material steps of the various transactions contemplated under the Separation Plan and Transaction Agreement ("*Transactions*") and their intended Tax treatment for U.S. federal income tax purposes are set forth in more detail in the Separation Plan;

WHEREAS, the Parties to this Agreement intend that, for U.S. federal income tax purposes, (i) the Separation, together with the Distribution, will qualify as a tax-free reorganization under Sections 368(a)(1)(D) and 355 of the Code; (ii) the Distribution will qualify as a distribution of SpinCo Common Stock to Post shareholders eligible for nonrecognition under Sections 355 and 361 of the Code; (iii) the Debt Exchange and Equity Exchange will each qualify as a distribution in connection with the Separation and Distribution eligible for nonrecognition under Section 361(c) of the Code; (iv) the Merger will qualify as a tax-free reorganization pursuant to Section 368(a) of the Code; (v) no gain or loss will be recognized as a result of such transactions for U.S. federal income tax purposes by any of Post, SpinCo, Merger Sub, BellRing or their respective Subsidiaries, BellRing stockholders (except as a result of cash paid to such stockholders) or the Post shareholders; (vi) the Post-Merger Transactions will be treated as contributions eligible for nonrecognition under Section 351 of the Code and (vii) the Transaction Agreement is a "plan of reorganization" within the meaning of Section 1.368-2(g) and 1.368-3(a) of the Treasury Regulations; and

WHEREAS, as a consequence of the Transaction Agreement, the Parties desire to make certain representations, warranties and covenants with respect to tax matters and to allocate the liability for certain Taxes that may be owed to or asserted by U.S. federal, state, local or non-U.S. Governmental Authorities.

NOW, THEREFORE, in consideration of these premises, and of the representations, warranties, covenants and agreements set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

ARTICLE I

Definitions

Section 1.01 *General.* As used in this Agreement, the following terms shall have the following meanings.

"*Accounting Firm*" has the meaning set forth in *Section 8.02*.

"*Active Business*" means BellRing LLC's "active nutrition" business (including such business conducted through any entities that are disregarded as separate from BellRing LLC for U.S. federal income tax purposes) conducted at substantially the same or greater levels as prior to the Distribution.

"*Affiliate*" has the meaning set forth in the Transaction Agreement.

"*Agreement*" has the meaning set forth in the preamble to this Agreement.

"*BellRing*" has the meaning set forth in the preamble to this Agreement.

"*BellRing LLC*" has the meaning set forth in the Transaction Agreement.

"*Business Day*" has the meaning set forth in the Transaction Agreement.

"*Claimant*" has the meaning set forth in *Section 4.01(a)*.

"*Closing Date*" has the meaning set forth in the Transaction Agreement.

"*Closing of the Books Method*" means the apportionment of items between portions of a Tax 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 Tax Period, as if the Distribution Date were the last day of the Tax Period), subject to adjustment for items accrued on the Distribution Date that are properly allocable to the Tax Period following the Distribution and subject to adjustment for Tax payments made after the Distribution Date, which will be allocated to the Tax Period following the Distribution under the principles of Treasury Regulations Sections 1.1502-76 and 1.706-4; *provided* that any items not susceptible to such apportionment shall be apportioned on the basis of elapsed days during the relevant portion of the Tax Period.

"*Code*" means the U.S. Internal Revenue Code of 1986, as amended.

"*Control*" has the meaning set forth in the Transaction Agreement.

"*Covered Transaction*" means any Transaction contemplated by this Agreement or any Transaction Agreement and including, for the avoidance of doubt, any Transaction contemplated by the Separation Plan.

"*Debt Exchange*" has the meaning set forth in the Transaction Agreement.

"*Disqualified Ownership Shift*" means a transaction or series of transactions, as a result of which any Person or any group of related Persons would (directly or indirectly) acquire, or have the right to acquire (through an option or otherwise), from SpinCo or any of its Affiliates and/or one or more holders of SpinCo Equity Interests, respectively, any amount of SpinCo Equity Interests that would, when combined with any other changes in ownership of SpinCo Equity Interests pertinent for purposes of Section 355(e) of the Code (including the Merger), result in a shift of more than forty percent (40%) of (a) the value of all outstanding SpinCo Equity Interests as of the date of such transaction, or in the case of a series of transactions, the date of the last transaction of such series, or (b) the total combined voting power of all outstanding voting SpinCo Equity Interests as of the date of such transaction, or in the case of a series of transactions, the date of the last transaction of such series. Notwithstanding the foregoing, for purposes of the preceding sentence, (x) the total value or total combined voting power of all SpinCo Equity Interests issued and outstanding immediately after the Distribution shall be reduced by any redemption or repurchase (directly or indirectly) by SpinCo (or any of its Affiliates) of SpinCo Equity Interests following the Distribution, and (y) whether a Disqualified Ownership Shift has occurred shall be calculated by disregarding (i) issuances by SpinCo that 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), (ii) transfers of SpinCo Equity Interests that satisfy Safe Harbor VII (relating to public trading) of Treasury Regulations Section 1.355-7(d) and (iii) issuances, transfers, recapitalizations, redemptions, and repurchases (in each case, whether direct or indirect) that are the subject of any applicable IRS ruling described in Section 6.03(c) or Unqualified Tax Opinion received by one or more of the Parties with respect thereto, so long as such issuances, transfers, recapitalizations, redemptions or repurchases are not inconsistent with any applicable formal or informal written guidance provided by the IRS in connection with any IRS ruling request or any applicable assumptions, representations, warranties, covenants or certificates relied upon in such Unqualified Tax Opinion. For purposes of determining whether and to what extent a transaction constitutes an indirect acquisition for purposes of the first sentence of this definition, any recapitalization resulting in a shift of voting power or any redemption or repurchase of shares of stock shall be treated as an indirect acquisition of shares of stock by the benefitted or non-exchanging stockholders. This definition and the application thereof is intended to monitor compliance with Section 355(e) of the Code and the Treasury Regulations promulgated thereunder and shall be interpreted accordingly by the Parties in good faith.

"*Distribution*" has the meaning set forth in the Transaction Agreement.

"*Distribution Date*" has the meaning set forth in the Transaction Agreement.

"*Due Date*" means (i) with respect to a Tax Return, the date (taking into account all valid extensions) on which such Tax Return is required to be filed under applicable Law and (ii) with respect to a payment of Taxes, the date on which such payment is required to be made to avoid the incurrence of interest, penalties and/or additions to Tax.

"*Equity Exchange*" has the meaning set forth in the Transaction Agreement.

"*Equity Interests*" means stock or other securities, derivatives, instruments or arrangements treated as equity for Tax purposes, options, warrants, rights, subscriptions, convertible debt or any other instrument or security (or agreement or understanding or arrangement that could be treated as equity for Tax purposes) that affords any Person the right, whether conditional or otherwise, to acquire stock (or any rights thereof, including voting rights) or to be paid an amount determined by reference to the value of stock.

"*Final Determination*" means the final resolution of liability for any Tax for any Tax Period, by or as a result of (i) a final decision, judgment, decree or other order by any court of competent jurisdiction that can no longer be appealed, (ii) a final settlement with the IRS, a closing agreement or accepted offer in compromise under Sections 7121 or 7122 of the Code or a comparable agreement under the Laws of other jurisdictions, which resolves the entire Tax liability for any Tax Period, (iii) any allowance of a Refund in respect of an overpayment

of Tax, but only after the expiration of all periods during which such Refund or credit may be recovered by the jurisdiction imposing the Tax or (iv) any other final resolution, including by reason of the expiration of the applicable statute of limitations.

"*Governmental Authority*" has the meaning set forth in the Transaction Agreement.

"*Indemnified Party*" means, with respect to a matter, a Person that is entitled to seek indemnification under this Agreement with respect to such matter.

"*Indemnifying Party*" means, with respect to a matter, a Person that is obligated to provide indemnification under this Agreement with respect to such matter.

"*IRS*" means the U.S. Internal Revenue Service or any successor thereto, including its agents, representatives and attorneys acting in their official capacity.

"*Laws*" has the meaning set forth in the Transaction Agreement.

"*Merger*" has the meaning set forth in the Transaction Agreement.

"*Merger Effective Time*" has the meaning set forth in the Transaction Agreement.

"*Merger Sub*" has the meaning set forth in the Transaction Agreement.

"*Notified Action*" has the meaning set forth in *Section 6.03(a)*.

"*Opinion*" means the written opinions received by Post or BellRing with respect to certain Tax aspects of the Covered Transactions, including for the avoidance of doubt, BellRing Tax Opinion and 355 Tax Opinion, as such terms are defined in the Transaction Agreement.

"*Parties*" has the meaning set forth in the preamble to this Agreement.

"*Per Share Stock Consideration*" has the meaning set forth in the Transaction Agreement.

"*Person*" or "*person*" has the meaning set forth in the Transaction Agreement.

"*Post*" has the meaning set forth in the preamble to this Agreement.

"*Post Consolidated Return*" means any U.S. federal consolidated Tax Return required to be filed by Post or a member of the Post Group as the "common parent" of an "affiliated group" (in each case, within the meaning of Section 1504 of the Code) and any consolidated, combined, unitary or similar Tax Return required to be filed by Post or any member of the Post Group under a similar or analogous provision of state, local or non-U.S. Law.

"*Post Entity*" means Post and any entity that is a Subsidiary of Post immediately after the Distribution.

"*Post Group*" means (i) Post and each Person (including any Person treated as a disregarded entity for U.S. federal income tax purposes (or for purposes of any state, local or non-U.S. tax Law)) required to join in a Tax Return on a consolidated, combined or unitary basis with Post, (ii) any corporation (or other Person) that shall have merged or liquidated into Post or any such Person and (iii) any predecessor or successor to any Person otherwise described in this definition, in each of (i), (ii) and (iii), other than BellRing LLC and its Subsidiaries or SpinCo.

"*Post Taxes*" means, without duplication, any (i) U.S. federal consolidated or state or local consolidated or combined Taxes for a group of which any Post Entity is the current parent, (ii) Taxes arising under Treasury Regulation Section 1.1502-6 or any similar provision of state, local or non-U.S. Law, which are Taxes of a Post Entity but for which a SpinCo Entity is liable by virtue of having been a member of a consolidated, combined, affiliated, unitary or other similar tax group with such Post Entity prior to the Distribution, (iii) Taxes of any SpinCo Entity with respect to any Pre-Distribution Period (in the case of a Straddle Period, determined in accordance with *Section 2.03*; and without in any way negating the Post Group's rights under the Post-BellRing Tax Matters Agreement or Taxes allocated to BellRing or BellRing LLC under such Agreement) and (iv) Tax-Free Transaction Failure Taxes incurred by any action or failure to take any action within its control by a Post Entity.

"*Post Tax Return*" means any Tax Return required to be filed by any Post Entity that does not exclusively relate to the SpinCo Business, including for the avoidance of doubt, any Post Consolidated Return.

"*Post-BellRing Tax Matters Agreement*" means the Tax Matters Agreement entered into by and among Post, BellRing and BellRing LLC, dated as of October 21, 2019.

"*Post-Distribution Period*" means any Tax Period (or portion thereof) beginning after the Distribution Date, including for the avoidance of doubt, the portion of any Straddle Period beginning after the Distribution Date.

"*Post-Merger Transactions*" has the meaning set forth in the Transaction Agreement.

"*Pre-Distribution Period*" means any Tax Period (or portion thereof) ending on or before the Distribution Date, including for the avoidance of doubt, the portion of any Straddle Period ending at the end of the day on the Distribution Date.

"*Refund*" means any refund (or credit or offset in lieu thereof that results in an actual reduction in Taxes) of Taxes (including any overpayment of Taxes that can be refunded or, alternatively, applied to other Taxes payable to the extent it results in an actual reduction in Taxes), including any interest paid on or with respect to such refund of Taxes.

"*Restricted Period*" has the meaning set forth in *Section 6.02(b)*.

"*Section 336(e) Election*" has the meaning set forth in *Section 2.08*.

"*Separation*" has the meaning set forth in the Transaction Agreement.

"*Separation Plan*" means the steps for effecting the Covered Transactions.

"*SpinCo*" has the meaning set forth in the preamble to this Agreement.

"*SpinCo Business*" means the active nutrition business conducted by BellRing LLC and its Subsidiaries at any time since the initial public offering of BellRing on October 21, 2019.

"*SpinCo Common Stock*" the meaning set forth in the Transaction Agreement.

"*SpinCo Entity*" means SpinCo or any entity that is a Subsidiary of SpinCo following the Distribution.

"*SpinCo Equity Interests*" means any outstanding options, warrants, rights, calls, subscriptions, claims of any character, agreements, obligations, convertible or exchangeable securities or other commitments, contingent or otherwise, relating to SpinCo Common Stock or any capital stock equivalent or other nominal interest in SpinCo or any SpinCo Entity (including for the avoidance of doubt, BellRing or any BellRing Subsidiary).

"*SpinCo Group*" means (i) SpinCo and each Person (including any Person treated as a disregarded entity for U.S. federal income tax purposes (or for purposes of any state, local or non-U.S. tax Law)) required to join in a Tax Return on a consolidated, combined or unitary basis with SpinCo in any Post-Distribution Period; (ii) any corporation (or other Person) that shall have merged or liquidated into SpinCo or any such Person and (iii) any predecessor or successor to any Person otherwise described in this definition, in each of (i), (ii) and (iii).

"*SpinCo Separate Return*" means any Tax Return of or including any SpinCo Entity (including any consolidated, combined or unitary return) that does not include any member of the Post Group.

"*SpinCo Tainting Act*" has the meaning set forth in *Section 6.02(a)*.

"*SpinCo Taxes*" means, without duplication, any (i) Taxes arising from or attributable to the SpinCo Business or any SpinCo Entity that are not Post Taxes (whether or not required to be reported on a Tax Return with respect to a Post-Distribution Period), (ii) SpinCo Transaction Taxes, (iii) Taxes of any SpinCo Entity with respect to any Post-Distribution Period (in the case of a Straddle Period, determined in accordance with *Section 2.03*) (other than Taxes described in clause (ii) of Post Taxes), and (iv) Taxes reported, or required to be reported, on a SpinCo Separate Return with respect to a Post-Distribution Period.

"*SpinCo Transaction Taxes*" means any Taxes or Tax-related losses incurred by any Party to this Agreement or its Subsidiaries resulting from or attributable to a Tax-Free Transaction Failure if such Tax-Free Transaction Failure:

(i) is attributable to (x) a SpinCo Tainting Act, (y) any action (or the failure to take any action within its control) by any SpinCo Entity (including entering into any agreement, understanding or arrangement or any negotiations with respect to any transaction or series of transactions) that occurs after the Distribution or (z) any transaction or event (or series of events) within the control of a SpinCo Entity occurring after the Distribution and involving the capital stock or assets of any SpinCo Entity.

(ii) is attributable to any breach of any representation, warranty or covenant made by BellRing or its Affiliates in this Agreement, the Transaction Agreements or the Tax Materials;

(iii) is attributable to any breach after the Distribution of any representation, warranty or covenant made by SpinCo or any SpinCo Entity in this Agreement, the Transaction Agreement or the Tax Materials (unless such breach is attributable to any action taken in reasonable reliance upon a breached representation, or warranty made by Post in this Agreement, the Transaction Agreements or the Tax Materials);

(iv) is attributable to the application of Section 355(e) of the Code to the Distribution and would not have arisen but for an "acquisition" of SpinCo stock (within the meaning of Section 355(e) of the Code), which acquisition of stock is not pursuant to (x) the issuance of the Per Share Stock Consideration in the Merger, (y) the distribution of SpinCo Common Stock in the Distribution or (z) an agreement or arrangement entered into by Post or its Subsidiaries (including SpinCo) prior to the Distribution (other than any such agreement or arrangement as to which BellRing or any of its Affiliates is a Party or has consented in writing; or

(v) with respect to Taxes of SpinCo or BellRing, is attributable to the failure of the Merger to qualify as a reorganization eligible for nonrecognition under Section 368 (unless such failure is solely attributable to a breach of any representation or warranty made by Post in Section 6.01(c) or under Article V of the Transaction Agreement or in the Tax Materials).

For the avoidance of doubt, but without limiting the foregoing, a Tax will be treated as a SpinCo Transaction Tax under clause (i) above if such Tax would not have arisen but for both (a) the distribution of the SpinCo Common Stock pursuant to the Transaction Agreement and (b) any transaction or event (or series of events) within the control of a SpinCo Entity occurring after the Distribution involving (directly or indirectly) the stock or assets of any SpinCo Entity.

"*Straddle Period*" means any Tax Period that begins on or before and ends after the Distribution Date.

"*Subsidiary*" has the meaning set forth in the Transaction Agreement.

"*Taxes*" means any and all U.S. federal, state, local or non-U.S. taxes, assessments or similar charges and any interest, penalties or additional amounts related thereto.

"*Tax Attributes*" means net operating losses, capital losses, investment tax credit carryovers, carryovers under Section 163(j) of the Code, earnings and profits including those previously taxed, foreign tax credit carryovers, overall foreign losses, previously taxed income, separate limitation losses and any other losses, deductions, credits or other comparable items that could reduce a Tax liability for a past or future Tax Period.

"*Tax Benefit Recipient*" has the meaning set forth in *Section 2.07(b).*

"*Tax-Free Status*" means (i) the qualification of the Transactions contemplated by the Separation for their intended tax treatment (as determined by Post) under applicable Laws; (ii) the qualification of the Separation, together with the Distribution, as a tax-free reorganization under Sections 368(a)(1)(D) and 355 of the Code and of each of Post and SpinCo as a "party to a reorganization" within the meaning of Section 368(b) of the Code, pursuant to which none of SpinCo, Post or Post's shareholders recognizes any gain or loss for U.S. federal income tax purposes; (iii) the qualification of the Distribution as a transaction not subject to tax pursuant to Section 355(d) or Section 355(e) of the Code and as a transaction in which the stock distributed thereby is "qualified property" for purposes of Sections 355(d), 355(e) and 361(c) of the Code; (iv) the qualification of each of the Debt Exchange and Equity Exchange as a distribution in connection with the Separation and Distribution eligible for nonrecognition under Section 361(c) of the Code; (v) the qualification of the Merger as a reorganization eligible for nonrecognition pursuant to Section 368(a) of the Code and of each of BellRing, SpinCo and Merger Sub as a "party to a reorganization" within the meaning of Section 368(b) of the Code; (v) the Merger and any other Transactions contemplated by the Transaction Agreements not causing Section 355(e) of the Code to apply to the Distribution and (vi) the treatment of the assumption of liabilities in the Separation as not giving rise to Tax pursuant to Section 357(a) of the Code.

"*Tax-Free Transaction Failure*" means the failure of any applicable Covered Transaction to qualify for Tax-Free Status.

"*Tax Item*" means any item of income, gain, loss, deduction, credit, recapture of credit or any other item which increases, decreases or otherwise impacts Taxes paid or payable.

"*Tax Materials*" means (i) the Opinions, (ii) any representation letter from Post, BellRing, BellRing LLC or SpinCo supporting an Opinion and (iii) any other materials delivered or deliverable by Post, BellRing, BellRing LLC or SpinCo or other Persons in connection with the rendering of the Opinions.

"*Tax Matter*" has the meaning set forth in *Section 7.01*.

"*Tax Period*" means any taxable year or any other period that is treated as a taxable year (or other period, or portion thereof, in the case of a Tax imposed with respect to such other period) with respect to which any Tax may be imposed under any applicable Law.

"*Tax Proceeding*" means any audit, assessment of Taxes, pre-filing agreement, other examination by any Taxing Authority, proceeding, appeal of a proceeding or litigation relating to Taxes, whether administrative or judicial, including proceedings relating to competent authority determinations.

"*Tax Receivable Agreement*" has the meaning set forth in the Transaction Agreement.

"*Tax Return*" means any return, report, certificate, form or similar statement or document (including any related or supporting information or schedule attached thereto and any information return, or declaration of

estimated Tax) supplied to, or filed with, or required to be supplied to, or filed with, a Taxing Authority in connection with the payment, determination, assessment or collection of any Tax or the administration of any Laws relating to any Tax and any amended Tax Return or claim for a Refund of Taxes (including any overpayment of Taxes that can be refunded or, alternatively, applied to other Taxes payable), including any interest paid on or with respect to such Refund of Taxes.

"*Taxing Authority*" means any Governmental Authority having jurisdiction over the assessment, determination, collection or imposition of any Tax (including the IRS).

"*Transaction Agreement*" has the meaning set forth in the preamble.

"*Transaction Agreements*" has the meaning set forth in the Transaction Agreement.

"*Transfer Taxes*" means sales, use, transfer, real property transfer, intangible, recordation, registration, documentary, stamp or similar Taxes imposed in connection with the Transactions contemplated in the Transaction Agreements or Separation Plan.

"*Treasury Regulations*" means the proposed, final and temporary income tax regulations promulgated under the Code, as such regulations may be amended from time to time (including corresponding provisions of succeeding regulations).

"*Unqualified Tax Opinion*" means a "will" Opinion, without substantive qualifications, of a nationally recognized Law or accounting firm, which firm is reasonably acceptable to Post, to the effect that a transaction will not affect the Tax-Free Status of any applicable Covered Transaction. Post acknowledges that Ernst & Young LLP, Cleary Gottlieb Steen & Hamilton LLP and Simpson Thacher & Bartlett LLP are each reasonably acceptable to Post.

Section 1.02 *References to Time*. All references in this Agreement to times of the day shall be to New York City time.

ARTICLE II

Preparation, Filing and Payment of Taxes Shown Due on Tax Returns

Section 2.01 *Tax Returns*.

(a) *Post Consolidated Returns and Tax Returns Required to be Filed by Post*. In accordance with Article II of the Post-BellRing Tax Matters Agreement to the extent applicable, Post shall prepare and file (or cause to be prepared and filed) (i) each Post Consolidated Return and (ii) each Tax Return required to be filed by a Post Entity. Each SpinCo Entity shall file such consents, elections and other documents as may be required, appropriate or reasonably requested by Post in connection with the filing of such Tax Returns. SpinCo shall reimburse Post for any Taxes shown as due and payable on such Tax Returns that are SpinCo Taxes (taking into account the limitations set forth in *Article III*, as applicable).

(b) *SpinCo Entity Tax Returns*. Except as provided in *Section 2.01(c)*, SpinCo shall prepare and file (or cause to be prepared and filed) each SpinCo Separate Return required to be filed by a SpinCo Entity after the Distribution Date. Post shall reimburse SpinCo for any Taxes shown as due and payable on such Tax Returns that are Post Taxes (taking into account the limitations set forth in *Article III*, as applicable).

(c) *Pre-Distribution Period Tax Return of BellRing LLC and its Subsidiaries*. Post shall prepare and file (or cause to be prepared and filed) each Pre-Distribution Period Tax Return of, or including, BellRing LLC and any

Subsidiary of BellRing LLC. SpinCo shall be entitled to review and comment on any such Pre-Distribution Period Tax Returns at least twenty (20) days prior to the Due Date for the applicable Pre-Distribution Period Tax Return. SpinCo shall notify Post no later than ten (10) days after receipt of a Pre-Distribution Period Tax Return of any changes recommended thereby to such Pre-Distribution Period Tax Return. Post shall consider in good faith all reasonable comments of SpinCo to such Pre-Distribution Period Tax Returns. If Post does not accept any such comment, then Post shall notify SpinCo of that fact. If within five (5) days of such notification, SpinCo requests in writing a review of a rejected comment, Post shall cause its regular tax advisors to review the comment and consult with SpinCo. The determination of the tax advisors following such review and consultation shall definitively determine the position taken on such Pre-Distribution Period Tax Return.

(d) *Post-BellRing Tax Matters Agreement*. For the avoidance of doubt, the Post-BellRing Tax Matters Agreement shall remain in full force and effect and shall apply in respect of all periods, including the portion of the Straddle Period, ending with or before the Distribution Date; and the Distribution shall in no way diminish the rights of Post or BellRing, as applicable, to receive payments or indemnification pursuant to the Post-BellRing Tax Matters Agreement.

Section 2.02 *Tax Return Procedures*.

(a) *Post Tax Returns and Certain Tax Returns Prepared by Post*. Except as otherwise provided in this *Section 2.02(a)* and *Sections 2.09* and *6.02(d)*, Post may take any position on or make any elections or other determinations with respect to any Post Tax Return in its sole and absolute discretion and SpinCo shall have no rights with respect to any Post Tax Return. Notwithstanding the previous sentence, to the extent any income Tax Return prepared by Post pursuant to *Section 2.01(a)* includes SpinCo Taxes, would reasonably be expected to materially adversely affect the Tax position of any SpinCo Entity, or includes SpinCo as part of a consolidated, combined or unitary group, Post shall provide a draft of the portion of such Tax Return specifically relevant to SpinCo for its review and comment at least twenty (20) days prior to the Due Date for such Tax Return and shall consider in good faith whether to revise such relevant portions of such Tax Return in accordance with any reasonable written comments received from SpinCo.

(b) *Certain SpinCo Entity Tax Returns Prepared by SpinCo*. In the case of any Tax Return described in *Section 2.01(b)* that includes Post Taxes or would reasonably be expected to materially adversely affect the Tax position of any Post Entity, (i) such Tax Return shall (to the extent permitted by applicable Law) be prepared in a manner consistent with past practice and (ii) SpinCo shall provide a draft of such Tax Return to Post for its review and comment at least twenty (20) days prior to the Due Date for such Tax Return, or in the case of any such Tax Return filed on a monthly basis or property Tax Return, five (5) days prior to the Due Date for such Tax Return. The Parties shall negotiate in good faith to resolve all disputed issues. In the event that past practice is not applicable to a particular item or matter, SpinCo shall determine the reporting of such item or matter in good faith in consultation with Post. Any disputes that the Parties are unable to resolve shall be resolved by the Accounting Firm pursuant to *Section 8.02*. In the event that any such dispute is not resolved (whether pursuant to good faith negotiations among the Parties or by the Accounting Firm) prior to the Due Date for the filing of any Tax Return, such Tax Return shall be timely filed as prepared by SpinCo and such Tax Return shall be amended as necessary to reflect the resolution of such dispute in a manner consistent with such resolution. For the avoidance of doubt, SpinCo shall be responsible for any interest, penalties or additions to Tax resulting from the late filing of any Tax Return described in *Section 2.01(b)* except to the extent that such late filing is caused by the failure of any Post Entity to provide relevant information necessary for the preparation and filing of such Tax Return.

(c) *Information Statements*. Unless otherwise required by Law, Post, BellRing and SpinCo, as applicable, shall file the appropriate information statements, as required by Treasury Regulations Sections 1.355-5(a) and 1.368-3, with the IRS and shall retain the appropriate information relating to the Distribution and the Merger as described in Treasury Regulations Sections 1.355-5(d) and 1.368-3(d).

(d) *Amended Returns*. Any amendment of any Tax Return described in *Section 2.01* of any SpinCo Entity shall be subject to the same procedures required for the preparation of such Tax Return of such SpinCo Entity pursuant to this *Section 2.02* and shall be prepared and filed in a manner consistent with the Tax Materials and Tax-Free Status. Except to the extent required by applicable Law, no SpinCo Entity shall amend any Tax Return relating to a Pre-Distribution Period or any Tax Return that includes Post Taxes or would reasonably be expected to materially adversely affect the Tax position of any Post Entity without the written consent of Post (which consent shall not be unreasonably withheld, conditioned or delayed). Except to the extent required by applicable Law, no Post Entity shall amend any Tax Return of a SpinCo Entity that includes SpinCo Taxes or would reasonably be expected to materially adversely affect the Tax position of any SpinCo Entity without the written consent of SpinCo (which consent shall not be unreasonably withheld, conditioned or delayed).

(e) *Consistent Reporting*.

(i) With respect to any Tax Return for which SpinCo is responsible pursuant to this Agreement, SpinCo shall include any 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 Post is responsible to the extent such Tax Items are allocated in accordance with this Agreement.

(ii) With respect to any Tax Return that either Post, BellRing or SpinCo has the obligation or right to prepare and file, or cause to be prepared and filed, for any Pre-Distribution Period or any Straddle Period (or Post-Distribution Period to the extent items reported on such Tax Return might reasonably be expected to affect items as reported on any Tax Return for any Pre-Distribution Period or any Straddle Period), such Tax Return shall be prepared in accordance with past practices, including, for example, the methodology historically adopted by such Party for the accrual of non-U.S. Taxes for purposes of computing any foreign tax credit for U.S. tax purposes, used with respect to the Tax Returns in question (unless there is no reasonable basis for the use of such past practices), and to the extent any items are not covered by past practices (or in the event that there is no reasonable basis for the use of such past practices), in accordance with reasonable Tax accounting practices selected by the Party preparing and filing the Tax Return.

(f) *Reporting Consistent with Tax-Free Status*. All Tax Returns shall be prepared in a manner that is consistent with the Tax Materials and Tax-Free Status and shall be filed on a timely basis (including pursuant to extensions) by the Party responsible for such filing pursuant to *Section 2.01*. In the event that any Party determines that there is no reasonable basis for the Tax treatment described in the preceding sentence, such Party shall notify the other Party twenty (20) Business Days prior to filing the relevant Tax Return and the Parties shall attempt in good faith to agree on the manner in which the relevant portion of the Covered Transactions shall be reported.

Section 2.03 *Straddle Period Tax Allocation*. To the extent permitted by applicable Law, Post and SpinCo shall elect to close the Tax Period of each SpinCo Entity as of the close of the Distribution Date; *provided*, *however*, that if applicable Law does not permit a SpinCo Entity to close its Tax Period on the Distribution Date, the Tax attributable to the operations of the SpinCo Entities for any Pre-Distribution Period shall be the Tax computed using the Closing of the Books Method. All Taxes with respect to a Straddle Period shall be allocated in accordance with the Closing of the Books Method.

Section 2.04 *Timing of Payments*. Any reimbursement of Taxes under *Section 2.01* shall be made upon the later of (a) two (2) Business Days before the Due Date of such Taxes and (b) ten (10) Business Days after the Party required to make such reimbursement has received notice from the Party entitled to such reimbursement. Without limiting the foregoing, for the avoidance of doubt, a Party may provide notice of reimbursement of Taxes prior to the time such Taxes were paid, and such notice may represent a reasonable estimate (*provided* that the amount of reimbursement shall in all cases be based on the actual Taxes paid and not on such reasonable estimate).

Section 2.05 *Expenses*. Except as provided in *Section 8.02* in respect of the Accounting Firm, each Party shall bear its own expenses incurred in connection with this *Article II*.

Section 2.06 *No Extraordinary Actions on the Distribution Date*. Except as expressly contemplated by this Agreement or any Transaction Agreement, SpinCo shall not, and shall not permit any SpinCo Entity to, take any action outside of the ordinary course of business ("*Extraordinary Transactions*") on the Distribution Date. Notwithstanding anything to the contrary in this Agreement, for all Tax purposes, the Parties shall report any Extraordinary Transactions that are caused or permitted to occur by SpinCo or BellRing or any of their respective Subsidiaries on the Distribution Date as occurring on the day after the Distribution Date pursuant to Treasury Regulations Section 1.1502-76(b)(1)(ii)(B) or any similar or analogous provision of state, local or non-U.S. Law. The Parties agree that no Party will make a ratable allocation election under Treasury Regulations Sections 1.1502-76(b)(2)(ii)-(iii) and 1.706-4(a)(3) or any other similar provision of state, local or non-U.S. Law, and all allocations between the Pre-Distribution Period and the Post-Distribution Period shall be made on a Closing of the Books Method.

Section 2.07 *Allocation of Tax Attributes*.

(a) Post shall determine in good faith, consistent with the books and records of Post, the allocation of Tax Attributes among Post Entities and SpinCo Entities in accordance with the Code and Treasury Regulations, including Treasury Regulations Sections 1.1502-76, 1.312-10 and 1.706-4 (and any applicable state, local and non-U.S. Laws). Post shall consult in good faith with BellRing (or SpinCo, following the Merger) regarding the allocation of Tax Attributes and shall consider in good faith whether to revise such allocation in accordance with reasonable written comments received from BellRing (or SpinCo, following the Merger) regarding such allocation of Tax Attributes. Post, BellRing and SpinCo hereby agree to compute all Taxes (and hereby agree to cause each Post Entity (in the case of Post) or SpinCo Entity (in the case of SpinCo), as applicable, to compute all Taxes) consistently with the determination of the allocation of Tax Attributes pursuant to this *Section 2.07* unless otherwise required by a Final Determination. Except as otherwise provided, to the extent that the amount of any Tax Attribute is later reduced or increased by a Taxing Authority or Tax Proceeding, such reduction or increase shall be allocated to the Party to which such Tax Attribute was allocated pursuant to this *Section 2.07*, as agreed by the Parties.

(b) A Party receiving (or realizing) a Tax benefit to which another Party 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) within thirty (30) days of receipt thereof (or from the Due Date for payment of any Tax reduced thereby); *provided*, *however*, that the other Party, upon the request of such Tax Benefit Recipient, shall repay the amount paid to the other Party (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.

(c) To the extent permitted by applicable Law, any SpinCo Entity shall elect to forgo a carryback of any net operating losses, capital losses or credits for any Tax Period ending after the Distribution Date to a Tax Period, or portion thereof, ending on or before the Distribution Date. Notwithstanding the previous sentence, if any SpinCo Entity receives a Refund or otherwise realizes a Tax benefit as a result of any mandatory carryback of any item from any SpinCo Entity, it shall remit to Post the amount of such Refund or Tax benefit, less any Tax or other reasonable out-of-pocket costs incurred by such SpinCo Entity, as the case may be; *provided*, *however*, if a Taxing Authority subsequently reduces or disallows such Refund or Tax benefit, Post shall, within thirty (30) days of the reduction or disallowance, return the amount previously remitted to Post.

Section 2.08 *Section 336(e) Election*. Post shall make a timely protective election under and in accordance with Section 336(e) of the Code and the Treasury Regulations issued thereunder (and any similar election under state, local or non-U.S. Law) with respect to the Distribution for each SpinCo Entity that is a domestic

corporation for U.S. federal income tax purposes (a "*Section 336(e) Election*"). Post shall be solely responsible for the contents of a Section 336(e) Election and any agreements or filings required in connection with a Section 336(e) Election. Each SpinCo Entity shall take any action reasonably requested by Post in connection with the filing of a Section 336(e) Election. It is intended that a Section 336(e) Election shall have no effect unless the Distribution is a "qualified stock disposition" either because (i) the Distribution is not a transaction described in Treasury Regulations Section 1.336-1(b)(5)(i)(B) or (ii) Treasury Regulations Section 1.336-1(b)(5)(ii) applies to the Distribution. For the avoidance of doubt, if the Section 336(e) Election becomes effective, the calculation of Post Taxes and SpinCo Taxes, as the case may be, shall take into account any income, gain, loss, deduction or credit arising from the Section 336(e) Election.

Section 2.09 *Post TRA.*

(a) If and to the extent that there is a Tax-Free Transaction Failure, the Post Group incurs any Taxes attributable to the Section 336(e) Election, or the Post Group otherwise incurs a material Tax liability which gives rise to a quantifiable Tax benefit to SpinCo, in each case that (i) gives rise to adjustments to the tax basis of assets held by the SpinCo Group and (ii) for which the Post Group is not entitled to indemnification pursuant to *Article III* of this Agreement, then (x) Post shall be entitled to periodic payments from SpinCo (at such times and in such manner as will be mutually agreed in a tax receivable agreement) equal to 85% of the Tax savings arising from the aggregate increase to the tax basis of assets held by the SpinCo Group resulting from the Taxes attributable to a Tax-Free Transaction Failure or Section 336(e) Election and for which the Post Group was not entitled to indemnification pursuant to *Article III* of this Agreement, and (y) the Parties shall negotiate in good faith the terms of a tax receivable agreement to govern the calculation of such payments on a "when realized" basis and using a "with and without" methodology (treating any deductions or amortization attributable to the applicable increase in tax basis as the last items claimed for any Tax Period, including after the utilization of any available net operating loss carryforwards), and otherwise applying the principles of, and adhering as closely as practicable to, the existing Tax Receivable Agreement. Notwithstanding anything to the contrary, SpinCo shall not have any obligation to pay to the Post Group under such tax receivable agreement for Tax savings attributable to any losses, Taxes, damages, expenses or other liability to the extent the Post Group is entitled to indemnification with respect to such items pursuant to *Article III* of this Agreement.

(b) For the avoidance of doubt, the existing Tax Receivable Agreement shall remain in full force and effect and shall apply in respect of all periods ending with or before the Merger Effective Date; and the Transactions contemplated by the Transaction Agreements shall in no way diminish the rights of Post or BellRing, as applicable, to receive payments (except, for the avoidance of doubt, to the extent the Transactions reduce the amount of any tax benefit deemed to be realized for purposes of such Tax Receivable Agreement as determined in the reasonable discretion of Post) or indemnification pursuant to such Tax Receivable Agreement.

Section 2.10 *Transfer Taxes*. Transfer Taxes shall be borne fifty percent (50%) by Post and fifty percent (50%) by SpinCo. The Parties shall execute such documents, agreements, applications, instruments, or other forms as reasonably required, and shall permit any such Transfer Taxes to be assessed and paid in accordance with applicable Law.

ARTICLE III

Indemnification

Section 3.01 *Indemnification by Post*. Post shall pay (or cause to be paid), and shall indemnify and hold the SpinCo Group harmless from and against, without duplication, all Post Taxes.

Section 3.02 *Indemnification by SpinCo*. SpinCo shall pay (or cause to be paid), and shall indemnify and hold the Post Group harmless from and against, without duplication, all SpinCo Taxes.

Section 3.03 *Characterization of and Adjustments to Payments*. In the absence of a Final Determination to the contrary, for all Tax purposes, Post and SpinCo shall treat or cause to be treated any indemnification payment required by this Agreement or the Transaction Agreements (other than any payment treated for Tax purposes as interest) as either a contribution by Post to SpinCo or a distribution by SpinCo to Post, as the case may be, occurring immediately prior to the Distribution Date; and in each case, no Party shall take any position inconsistent with such treatment. In the event that a Taxing Authority asserts that a Party's treatment of a payment should be other than as required pursuant to this Agreement, such Party shall use its commercially reasonable efforts to contest such challenge and each other Party shall use commercially reasonable efforts to cooperate therewith.

Section 3.04 *Timing of Indemnification Payments*.

(a) Indemnification payments in respect of any liabilities for which an Indemnified Party is entitled to indemnification pursuant to this *Article III* shall be paid by the Indemnifying Party to the Indemnified Party pursuant to the procedures specified in *Section 8.11* of the Transaction Agreement.

(b) If the receipt or accrual of any payment pursuant to this Agreement or the Transaction Agreements (other than payments of interest pursuant to *Section 8.04*) results in taxable income to the Indemnified Party or any of its Affiliates, such payment shall be increased so that, after the payment of any Taxes with respect to such taxable income, the Indemnified Party and its Affiliates shall have realized the same net amount they would have realized had the payment not resulted in taxable income.

Section 3.05 *Exclusive Remedy*. Anything to the contrary in this Agreement notwithstanding, Post, SpinCo and BellRing hereby agree that the sole and exclusive monetary remedy of a Party for any breach or inaccuracy of any representation, warranty, covenant or agreement contained in *Article VI* of this Agreement or in the Tax Materials shall be the indemnification rights set forth in this *Article III*.

ARTICLE IV

Refunds

Section 4.01 *Refunds*.

(a) Each Party shall be entitled to Refunds that relate to Taxes for which it (or its Affiliates) is liable hereunder (the "*Claimant*"). A Party receiving a Refund to which the other Party is entitled pursuant to this Agreement shall pay the amount to which such other Party is entitled (less any tax or other reasonable out-of-pocket costs incurred by the first Party in receiving such Refund) within ten (10) Business Days after the receipt of the Refund.

(b) To the extent that the amount of any Refund under this *Section 4.01* is later reduced by a Taxing Authority or in a Tax Proceeding, such reduction shall be allocated to the Party to which such Refund was allocated pursuant to this *Section 4.01* and an appropriate adjusting payment shall be made.

ARTICLE V

Tax Proceedings

Section 5.01 *Notification of Tax Proceedings*. Within ten (10) days after an Indemnified Party becomes aware of the commencement of a Tax Proceeding that would reasonably be expected to give rise to Taxes for which an Indemnifying Party is responsible pursuant to *Article III*, such Indemnified Party shall notify the

Indemnifying Party in writing of such Tax Proceeding and thereafter shall promptly forward or make available to the Indemnifying Party copies of all notices and communications relating to such Tax Proceeding. The failure of the Indemnified Party to notify the Indemnifying Party in writing of the commencement of any such Tax Proceeding within such ten (10) day period or promptly forward any further notices or communications shall not relieve the Indemnifying Party of any obligation which it may have to the Indemnified Party under this Agreement.

Section 5.02 *Tax Proceeding Procedures*.

(a) *Separate Taxes*. Each of Post and SpinCo shall be entitled to administer and control in its sole discretion any adjustment that is proposed, asserted or assessed pursuant to any Tax Proceeding with respect to any Tax or Tax Return that Post or SpinCo would respectively be primarily liable for under this Agreement ("*Contesting Party*"); *provided* that, to the extent that such Tax Proceeding relates to Taxes of the other Party or would reasonably be expected to materially adversely affect the Tax position of the other Party for any Post-Distribution Period, the Contesting Party shall (i) keep the other Party informed in a timely manner of the actions proposed to be taken by the Contesting Party with respect to such Tax Proceeding, (ii) permit the other Party to participate (at such other Party's cost and expense) in the aspects of such Tax Proceeding that relate to such other Party's Taxes and (iii) not settle any aspect of such Tax Proceeding without the prior written consent of the other Party (such consent not to be unreasonably withheld, conditioned or delayed).

(b) *Transaction Taxes*. Notwithstanding *Section 5.02(a)*, (i) Post and SpinCo shall have the right to jointly control any audit or proceeding relating to the Tax-Free Status of the Transactions, and (ii) neither Post nor SpinCo shall compromise or settle any such audit or proceeding without the other Party's consent (such consent not to be unreasonably withheld, conditioned or delayed).

ARTICLE VI

Tax-Free Status of the Distribution

Section 6.01 *Representations, Warranties and Covenants*.

(a) *BellRing Representations, Warranties and Covenants*. BellRing hereby represents, warrants and covenants as of the date hereof and as of the Merger Effective Time that:

(i) (A) It has examined the Tax Materials, (B) all facts presented and representations made to the extent relating to BellRing, its Subsidiaries and (to the knowledge of BellRing) its stockholders, are true, correct and complete and (to the knowledge of BellRing) all other facts presented and representations made therein are true, correct and complete and (C) neither BellRing, its Subsidiaries nor (to the knowledge of BellRing) any of its stockholders has any plan or intention to take any action inconsistent with the Tax Materials. BellRing shall have notified Post by the date hereof if BellRing believes that any facts presented or representations made in such Tax Materials are not true, correct or complete, it being understood that if BellRing has failed to notify Post within such period and Post has notified BellRing of such failure, then BellRing shall be deemed to have represented and warranted that all such facts presented and representations made relating to BellRing, its Subsidiaries and (to the knowledge of BellRing) its stockholders in such Tax Materials are true, correct and complete and (to the knowledge of BellRing) all other facts presented and representations made in such Tax Materials are true, correct and complete. BellRing agrees to provide such supplemental representations and warranties as are reasonably requested by Post or SpinCo in connection with Post and SpinCo obtaining the Opinions.

(ii) BellRing is not aware of any fact that could cause the Transactions to fail for Tax-Free Status.

(b) *SpinCo Representations, Warranties and Covenants*. SpinCo hereby represents, warrants and covenants as of the date hereof and as of the Merger Effective Time that:

(i) (A) It has examined the Tax Materials, (B) all facts presented and representations made to the extent relating to any SpinCo Entity and (to the knowledge of SpinCo) its stockholders are true, correct and complete and (to the knowledge of SpinCo) all other facts presented and representations made therein are true, correct and complete and (C) neither any SpinCo Entity nor (to the knowledge of SpinCo) any of its stockholders has any plan or intention to take any action inconsistent with the Tax Materials. SpinCo shall have notified Post by the date hereof if SpinCo believes that any facts presented or representations made in such Tax Materials are not true, correct or complete, it being understood that if SpinCo has failed to notify Post within such period and Post has notified SpinCo of such failure, then SpinCo shall be deemed to have represented and warranted that all such facts presented and representations made relating to any SpinCo Entity and (to the knowledge of SpinCo) its stockholders in such Tax Materials are true, correct and complete and (to the knowledge of SpinCo) all other facts presented and representations made in such Tax Materials are true, correct and complete. SpinCo agrees to provide such supplemental representations and warranties as are reasonably requested by Post in connection with Post obtaining the Opinions.

(ii) SpinCo is not aware of any fact that could cause the Transactions to fail for Tax-Free Status.

(c) *Post Representations, Warranties and Covenants*. Post hereby represents, warrants and covenants as of the date hereof and as of the Merger Effective Time that:

(i) (A) all facts presented and representations made in such Tax Materials to the extent relating to (x) Post and any of its Subsidiaries (excluding for the avoidance of doubt, any SpinCo Entities) or (y) the SpinCo Entities at any time at or prior to the Distribution are true, correct and complete and (to the knowledge of Post) all other facts presented and representations are true, correct and complete and (B) neither Post nor any of its Subsidiaries (excluding for the avoidance of doubt, any SpinCo Entities) has any plan or intention to take any action inconsistent with the Tax Materials.

(d) *No Contrary Plan*. Each of Post, BellRing, BellRing LLC and SpinCo represents and warrants, as of the date hereof and as of the Merger Effective Time, that neither it nor any of its Affiliates, (i) has any plan or intent to take any action which is inconsistent with any statements or representations made in the Tax Materials (or that may jeopardize any Tax-Free Status of any applicable transaction) or (ii) knows of any plan or intent to take any action which is inconsistent with any statements or representations made in the Tax Materials or which may jeopardize any Tax-Free Status of any applicable transaction. None of Post, BellRing LLC or SpinCo has had agreements, understandings, arrangements or "substantial negotiations" (within the meaning of Section 1.355-7(h)(1) of the Treasury Regulations) during the two-year period ending on the date of the Distribution with any Person (other than BellRing).

(e) *No Contrary Knowledge*. Each of Post, BellRing, BellRing LLC and SpinCo represents and warrants, as of the date hereof and as of the Merger Effective Time, that it knows of no fact (after due inquiry) that would prevent any Covered Transaction from being consistent with the Tax-Free Status of such Transactions.

(f) *Tax Materials*. For the avoidance of doubt, the Parties shall have had the opportunity to review drafts of the facts represented and representations made with respect to the Tax Materials and to provide reasonable comments, which shall be considered in good faith.

Section 6.02 *Restrictions Relating to the Distribution*.

(a) *General*. Following the Distribution, (i) each of Post and BellRing will not (and will cause each Post Entity or BellRing Subsidiary not to) take any action (or refrain from taking any action within its control) which (A) is inconsistent with the facts presented and the representations made prior to the Distribution Date in the Tax

Materials (provided that statements of intent shall be effective only during the Restricted Period) or (B) could reasonably be expected to cause any Tax-Free Transaction Failure; and (ii) SpinCo will not (and will cause each SpinCo Entity not to) take any action (or refrain from taking any action within its control) which (A) is inconsistent with the facts presented and the representations made prior to the Distribution Date in the Tax Materials (provided that statements of intent shall be effective only during the Restricted Period) or (B) could reasonably be expected to cause any Tax-Free Transaction Failure (any such action or refraining from an action with respect to clause (ii) above, including any action specified in (b) below, a "*SpinCo Tainting Act*").

(b) *Restrictions*. Except as expressly contemplated in any Transaction Document, following the Distribution and prior to the first Business Day following the second anniversary of the Distribution (the "*Restricted Period*"):

(i) SpinCo shall not sell or otherwise issue to any Person any Equity Interests of SpinCo, except that (A) SpinCo may adopt, and sell or otherwise issue Equity Interests of SpinCo pursuant to, a customary stockholders rights plan, and (B) SpinCo may sell or otherwise issue Equity Interests of SpinCo to the extent that any such sales or 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 Regulation Section 1.355-7(d) or to the extent such issuance would not result in a Disqualified Ownership Shift; *provided* that in the event SpinCo adopts, sells or otherwise issues Equity Interests of SpinCo pursuant to, a customary stockholders rights plan pursuant to *Section 6.02(b)(i)(A)*, SpinCo shall represent to Post at such time that (x) based on an analysis of the facts and circumstances on the date that the shareholder rights plan is adopted, taking control premiums and minority and blockage discounts into account in determining the fair market value of stock underlying the rights, the exercise, at any time in the future, of the shareholder rights pursuant to the shareholder rights plan will not be more likely than not to occur as of the date of the plan adoption and (y) during the two-year period preceding the Distribution, there will not have been any agreement, understanding, arrangements or substantial negotiations with any person who will be a shareholder of SpinCo after the Distribution to exercise their rights pursuant to the shareholder rights plan.

(ii) SpinCo shall, directly or indirectly through its "separate affiliated group" (as defined in Section 355(b)(3)(B) of the Code), (A) continue the active conduct of the Active Business and (B) continue to hold sufficient assets to satisfy the requirements to support the Active Business;

(iii) SpinCo shall not dissolve or liquidate or take any action that is a liquidation for U.S. federal income tax purposes (excluding for the avoidance of doubt, the Post-Merger Transactions);

(iv) SpinCo shall not (A) approve or allow an extraordinary contribution to it by its stockholders in exchange for stock, (B) redeem or otherwise repurchase (directly or indirectly through an Affiliate) any SpinCo Equity Interests, (C) amend the certificate of incorporation (or other organizational documents) of SpinCo, or take any other action, whether through a stockholder vote or otherwise, if such amendment or other action would affect the relative voting rights of any SpinCo Equity Interests (including through the conversion of any capital stock into another class of Equity Interests of SpinCo) or (D) redeem or otherwise repurchase (directly or indirectly through an Affiliate) any of the debt obligations issued pursuant to the Debt Exchange other than pursuant to a mandatory redemption, repurchase or similar requirement contained in the indenture or other similar transaction document applicable to such debt obligations, *provided*, *however*, that SpinCo may take any of the actions described in clauses (A) or (C) above to the extent such actions would not result in a Disqualified Ownership Shift and may make redemptions or repurchases described in clause (B) above to the extent such actions would not result in a Disqualified Ownership Shift and such redemptions or repurchases satisfy 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);

(v) SpinCo shall not in a single transaction or series of transactions sell or transfer, or permit any SpinCo Entity to sell or transfer, thirty percent (30%) or more of the gross assets of the Active Business, other than (A) sales or transfers of assets in the ordinary course of business, (B) any cash paid to acquire assets from an unrelated Person in an arm's-length transaction, (C) any assets transferred to a Person that is disregarded as an entity separate from the transferor for U.S. federal income tax purposes, (D) any mandatory or optional repayment (or pre-payment) of any indebtedness of SpinCo or any member of SpinCo or (E) any sales or transfers of assets within the SpinCo Group; and

(vi) Notwithstanding any other provision contained this Section 6.02(b), the Parties hereto acknowledge that the Equity Exchange would give rise to a Disqualified Ownership Shift, and accordingly no SpinCo Entity shall enter into any transactions (or any agreement, understanding or arrangement within the meaning of Section 355(e) of the Code and Treasury Regulation Section 1.355-7, or any other regulations promulgated thereunder, to enter into a transaction or series of transactions) involving the issuance, redemption

or transfer of any SpinCo Equity Interests (other than any issuance, redemption or transfer that is the subject of Section 6.02(c) or issuances that 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)) until such time as SpinCo is notified by Post that the Equity Exchange will not occur and that the SpinCo Common Stock held by Post following the Distribution will be distributed to Post shareholders (including in a redemption or repurchase).

(c) *Certain Exceptions*. Notwithstanding the restrictions imposed by *Section 6.02(a)(i)(A), 6.02(a)(ii)(A) or Section 6.02(b)*, SpinCo may proceed with any of the actions or transactions described therein, if (i) Post shall have received a ruling in accordance with *Section 6.03(a)* in form and substance reasonably satisfactory to Post to the effect that such action or transaction will not affect the Tax-Free Status of any Covered Transaction, (ii) SpinCo shall have provided to Post an Unqualified Tax Opinion or a ruling in form and substance reasonably satisfactory to Post prior to effecting such action or transaction and Post shall use its reasonable best efforts to determine whether such Unqualified Tax Opinion or ruling is reasonably satisfactory to Post within fifteen (15) days of receipt of such Unqualified Tax Opinion or ruling by Post or (iii) Post shall have waived in writing the requirement to obtain such ruling or opinion. In determining whether a ruling or opinion is reasonably satisfactory, Post may consider, among other factors, the appropriateness of any underlying assumptions or representations used as a basis for the ruling or opinion and the views on the substantive merits; taking due account of the intention of the Parties to replace the "50-percent or greater interest" as defined in Section 355(e)(2)(A)(ii) of the Code with the forty percent (40%) threshold in the definition of Disqualified Ownership Shift contained herein. For the avoidance of doubt, notwithstanding the restrictions set forth in this *Section 6.02*, SpinCo shall be permitted to (A) consummate the Merger and (B) maintain the composition of its board of directors in place immediately following the Distribution, subject to re-election in the ordinary course.

(d) *Tax Reporting*. Each of (i) Post (on behalf of itself and any Post Entity), (ii) BellRing (on behalf of itself and any BellRing Subsidiary) and (iii) SpinCo (on behalf of itself and any SpinCo Entity) covenants and agrees that it will report the Covered Transactions consistently with the Tax-Free Status and will not take, and will cause its respective Affiliates to refrain from taking, any position on any Tax Return that is inconsistent with the Tax-Free Status of any applicable Covered Transaction.

Section 6.03 *Procedures Regarding Opinions and Rulings*.

(a) If SpinCo notifies Post that it desires to take one of the actions described in *Section 6.02(b)* (a "*Notified Action*"), Post and SpinCo shall cooperate in obtaining a ruling from the IRS or an Unqualified Tax Opinion for the purpose of permitting SpinCo to take the Notified Action unless Post shall have waived in writing the requirement to obtain such ruling or Unqualified Tax Opinion. If a the Parties seek a ruling from the IRS, Post shall apply for such ruling and Post shall control the process of obtaining such ruling, except to the extent Post elects to delegate control to SpinCo; in which case SpinCo shall control the process for obtaining such ruling but keep Post informed in a timely manner. In no event shall either Post or SpinCo file any ruling request under this *Section 6.03(a)* unless the other Party represents that (i) it has read such ruling request, and (ii) all information and representations, if any, relating to such other Party, its current or former stockholders or any Subsidiary contained in such ruling request documents are (subject to any qualifications therein) true, correct and complete in all material respects. SpinCo shall reimburse Post for all reasonable out-of-pocket costs and expenses incurred by any Post Entity in connection with any Notified Action within fifteen (15) days after receiving an invoice from Post therefor. For the avoidance of doubt, the presence of any such ruling or Unqualified Tax Opinion shall not relieve SpinCo from any indemnification obligations otherwise present under this Agreement.

(b) Post shall have the right to obtain a supplemental ruling or an Unqualified Tax Opinion at any time in its sole and absolute discretion. If Post notifies SpinCo that it has determined to obtain such ruling or opinion, SpinCo shall (and shall cause each SpinCo Entity to) cooperate with Post and take any and all actions reasonably requested by Post in connection with obtaining such ruling or opinion (including by making any representation

that is true or any reasonable covenant or providing any materials reasonably requested by the IRS or the law firm or accounting firm issuing such opinion). In connection with obtaining such ruling, Post shall apply for such ruling and shall have sole and exclusive control over the process of obtaining such ruling. Post shall reimburse SpinCo for all reasonable out-of-pocket costs and expenses incurred by any SpinCo Entity in connection with any supplemental ruling or Unqualified Tax Opinion requested by Post within fifteen (15) days after receiving an invoice from SpinCo therefor.

(c) Except as expressly provided in this Agreement, following the Merger Effective Time, no SpinCo Entity shall seek any guidance from the IRS or any other Taxing Authority (whether written, verbal or otherwise) at any time concerning any Covered Transaction (including the impact of any transaction or event on any Covered Transaction).

ARTICLE VII

Cooperation

Section 7.01 *General Cooperation*. The Parties shall each cooperate fully (and each shall cause its respective Subsidiaries to cooperate fully) with all reasonable requests in writing or via e-mail from another Party hereto, or from an agent, representative or advisor to such Party, in connection with the preparation and filing of Tax Returns, claims for Refunds, Tax Proceedings and calculations of amounts required to be paid pursuant to this Agreement, in each case, related or attributable to or arising in connection with Taxes of any of the Parties or their respective Subsidiaries covered by this Agreement and the establishment of any reserve required in connection with any financial reporting (a "*Tax Matter*"). Such cooperation shall include the provision of any information reasonably necessary or helpful in connection with a Tax Matter.

Section 7.02 *Retention of Records*. Post, BellRing, BellRing LLC and SpinCo shall retain or cause to be retained all Tax Returns, schedules and work papers and all material records or other documents relating thereto in their possession, including all such electronic records and shall maintain all hardware necessary to retrieve such electronic records, in all cases until (i) ninety (90) days after the expiration of the applicable statute of limitations (including any waivers or extensions thereof) of the Tax Periods to which such Tax Returns and other documents relate or (ii) the expiration of any additional period that any Party reasonably requests, in writing, with respect to specific material records and documents. A Party intending to destroy any material records or documents shall provide the other Party with reasonable advance notice and the opportunity to copy or take possession of such records and documents. The Parties hereto will notify each other in writing of any waivers or extensions of the applicable statute of limitations that may affect the period for which the foregoing records or other documents must be retained.

ARTICLE VIII

Miscellaneous

Section 8.01 *Governing Law; Jurisdiction; Waiver of Jury Trial.*

(a) THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF DELAWARE, WITHOUT GIVING EFFECT TO THE PRINCIPLES OF CONFLICTS OF LAW THEREOF. 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 will be brought exclusively in the Court of Chancery of the State of Delaware or, if the Court of Chancery of the State of Delaware does not have subject matter jurisdiction, in the federal courts located in the State of Delaware. Each of the Parties hereby consents to personal jurisdiction in any such action, suit or proceeding brought in any such court (and of the appropriate

appellate courts therefrom) 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 8.15* shall be deemed effective service of process on such Party.

(b) EACH PARTY HERETO ACKNOWLEDGES AND AGREES THAT ANY CONTROVERSY WHICH MAY ARISE UNDER THIS AGREEMENT IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES, AND, THEREFORE, EACH SUCH PARTY HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT SUCH PARTY MAY HAVE TO A TRIAL BY JURY IN RESPECT TO ANY ACTION DIRECTLY OR INDIRECTLY ARISING OUT OF, UNDER OR IN CONNECTION WITH OR RELATING TO THIS AGREEMENT. EACH PARTY HERETO CERTIFIES AND ACKNOWLEDGES THAT (I) 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 SUCH ACTION, SEEK TO ENFORCE THE FOREGOING WAIVER, (II) EACH SUCH PARTY UNDERSTANDS AND HAS CONSIDERED THE IMPLICATIONS OF THIS WAIVER, (III) EACH SUCH PARTY MAKES THIS WAIVER VOLUNTARILY AND (IV) EACH SUCH PARTY HAS BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS *SECTION 8.01(b)*.

Section 8.02 *Dispute Resolution*. In the event of any dispute between the Parties as to any matter covered by *Section 2.02* or *Section 2.07*, the Parties to such dispute shall appoint a mutually acceptable independent public accounting firm (the "*Accounting Firm*") to resolve such dispute. In this regard, the Accounting Firm shall make determinations with respect to the disputed items based solely on representations made by Post and SpinCo and their respective representatives, and not by independent review, and shall function only as an expert and not as an arbitrator and shall be required to make a determination in favor of one Party only. The Parties shall require the Accounting Firm to resolve all disputes no later than thirty (30) days after the submission of such dispute to the Accounting Firm and agree that all decisions by the Accounting Firm with respect thereto shall be final and conclusive and binding on the Parties. The Accounting Firm shall resolve all disputes in a manner consistent with this Agreement. The Parties shall require the Accounting Firm to render all determinations in writing and to set forth, in reasonable detail, the basis for such determination. The fees and expenses of the Accounting Firm shall be borne equally by the Parties.

Section 8.03 *Tax Sharing Agreements*. All Tax sharing, indemnification and similar agreements, written or unwritten, as between a Post Entity, on the one hand, and a SpinCo Entity, on the other (other than this Agreement, the Tax Receivable Agreement, Post-BellRing Tax Matters Agreement and any Transaction Agreement, and any other agreement for which Taxes is not the principal subject matter), shall be or shall have been terminated no later than the Distribution Date and, after the Distribution Date, no Post Entity or SpinCo Entity shall have any further rights or obligations under any such Tax sharing, indemnification or similar agreement.

Section 8.04 *Interest on Late Payments*. With respect to any payment between the Parties pursuant to this Agreement not made by the due date set forth in this Agreement for such payment (once the amount of the payment has been finally determined), the outstanding amount will accrue interest at a rate per annum equal to the rate in effect for underpayments under Section 6621 of the Code from such due date to and including the payment date.

Section 8.05 *Survival of Covenants*. Except as otherwise contemplated by this Agreement, the covenants and agreements contained herein to be performed following the Distribution shall survive the Merger Effective Time in accordance with their respective terms.

Section 8.06 *No Circumvention*. The Parties agree not to directly or indirectly take any actions, act in concert with any Person who takes an action, or cause or allow any member of any such Party's group to take any actions (including the failure to take a reasonable action) such that the resulting effect is to materially undermine the effectiveness of any of the provisions of this Agreement (including adversely affecting the rights or ability of any Party to successfully pursue any indemnification or payment hereunder).

Section 8.07 *Severability*. If any term or other provision of this Agreement is determined by a court of competent jurisdiction to be invalid, illegal or incapable of being enforced by any rule of Law or public policy, all other terms, provisions and conditions of this Agreement shall nevertheless remain in full force and effect. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the Parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the Parties as closely as possible to the fullest extent permitted by applicable Law in an acceptable manner to the end that the Transactions contemplated hereby are fulfilled to the extent possible.

Section 8.08 *Entire Agreement; No Third-Party Beneficiaries*. This Agreement, each other Transaction Agreement, the Tax Receivable Agreement, the Post-BellRing Tax Matters Agreement, any agreement entered into at the Closing in accordance with the terms of any Transaction Agreement, the Post Disclosure Schedule and the BellRing Disclosure Schedule constitute the entire agreement, and supersede all other prior agreements and understandings, both written and oral, among the Parties, or any of them, with respect to the subject matter hereof and thereof. This Agreement is solely for the benefit of, and is only enforceable by, the Parties and their permitted successors and assigns and should not be deemed to confer upon third Parties any remedy, benefit, claim, liability, reimbursement, claim of action or other right of any nature whatsoever, including any rights of employment for any specified period, in excess of those existing without reference to this Agreement.

Section 8.09 *Assignment*. Neither this Agreement nor any of the rights, interests or obligations hereunder shall be assigned, in whole or in part, by operation of Law or otherwise (other than, following the Closing, by operation of Law in a merger), by any of the Parties without the prior written consent of the other Parties. Subject to the preceding sentence, this Agreement shall be binding upon, inure to the benefit of, and be enforceable by, the Parties hereto and their respective successors and permitted assigns. Any purported assignment not permitted under this *Section 8.09* shall be null and void.

Section 8.10 *Specific Enforcement*. The Parties agree that irreparable damage would occur in the event that any of the provisions of this Agreement were not performed in accordance with their specific terms or were otherwise breached. It is accordingly agreed that the Parties shall be entitled to an injunction or injunctions to prevent breaches of this Agreement and to enforce specifically the terms and provisions of this Agreement in the courts specified in *Section 8.01(b)*, without bond or other security being required, this being in addition to any other remedy to which they are entitled at Law or in equity.

Section 8.11 *Amendment or Supplement*. This Agreement may be amended or supplemented in any and all respects by written agreement of the Parties hereto.

Section 8.12 *Interpretation*.

(a) When a reference is made in this Agreement to an Article, Section, Exhibit or Schedule, such reference shall be to an Article of, a Section of, or an Exhibit or Schedule to, this Agreement unless otherwise indicated. The table of contents and headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement. Whenever the words "include," "includes" or "including" are used in this Agreement, they shall be deemed to be followed by the words "without limitation." The words "hereof," "herein" and "hereunder" and words of similar import when used in this Agreement shall refer to this Agreement as a whole and not to any particular provision of this Agreement. All terms defined in this Agreement shall have the defined meanings when used in any certificate or other document made or delivered pursuant hereto unless otherwise defined therein. The definitions contained in this Agreement are

applicable to the singular as well as the plural forms of such terms and to the masculine as well as to the feminine and neuter genders of such term. Any agreement, instrument or statute defined or referred to herein or in any agreement or instrument that is referred to herein means such agreement, instrument or statute as from time to time amended, modified or supplemented, including (in the case of agreements or instruments) by waiver or consent and (in the case of statutes) by succession of comparable successor statutes and references to all agreements and instruments including attachments thereto and instruments incorporated therein. References to a Person are also to its permitted successors and assigns.

(b) The Parties hereto have participated jointly in the negotiation and drafting of this Agreement and, in the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as jointly drafted by the Parties hereto and no presumption or burden of proof shall arise favoring or disfavoring any Party by virtue of the authorship of any provision of this Agreement.

Section 8.13 *Counterparts*. This Agreement may be executed in counterparts (each of which shall be deemed to be an original but all of which taken together shall constitute one and the same agreement) and shall become effective when one or more counterparts have been signed by each of the Parties and delivered to the other Parties.

Section 8.14 *Coordination with the Employee Matters Agreement*. To the extent any covenants or agreements between the Parties with respect to employee withholding Taxes are set forth in the Employee Matters Agreement, such Taxes shall be governed exclusively by the Employee Matters Agreement and not by this Agreement.

Section 8.15 *Notices.* All notices, requests, claims, demands and other communications to be given or delivered under or by the provisions of this Agreement shall be in writing and shall be deemed given only (a) when delivered personally to the recipient, (b) on the date of transmission with confirmation of transmission if sent via e-mail during normal business hours of the recipient during a Business Day, otherwise on the next Business Day or (c) five (5) Business Days after being mailed to the recipient by certified or registered mail (return receipt requested and postage prepaid). Such notices, demands and other communications shall be sent to the Parties at the following addresses (or at such address for a Party as will be specified by like notice):

(a) If to Post or, prior to the Merger Effective Time, SpinCo, to:

Post Holdings, Inc.
2503 S. Hanley Rd.
St. Louis, Missouri, 63144
Attention: General Counsel
Email: diedre.gray@postholdings.com

with a copy (which shall not constitute notice) to:

Cleary Gottlieb Steen & Hamilton LLP
One Liberty Plaza
New York, New York 10006
Attention: William L. McRae
Benet J. O'Reilly
Email: wmcrae@cgsh.com
boreilly@cgsh.com

(b) If to BellRing, or after the Merger Effective Time, SpinCo, to:

BellRing Brands, Inc.
2503 S. Hanley Rd.
St. Louis, Missouri 63144
Attention: Senior Vice President & General Counsel
Email: craig.rosenthal@bellringbrands.com

with a copy (which shall not constitute notice) to:

Simpson Thacher & Bartlett LLP
425 Lexington Avenue
New York, New York 10017
Attention: Eric Swedenburg
Andrew Purcell
Email: eswedenburg@stblaw.com
apurcell@stblaw.com

Any Party to this Agreement may notify any other Party of any changes to the address or any of the other details specified in this paragraph; *provided* that such notification shall only be effective on the date specified in such notice or five (5) Business Days after the notice is given, whichever is later. Rejection or other refusal to accept or the inability to deliver because of changed address of which no notice was given shall be deemed to be receipt of the notice as of the date of such rejection, refusal or inability to deliver. Any notice to Post will be deemed notice to all members of the Post Group, and any notice to SpinCo will be deemed notice to all members of the SpinCo Group.

Section 8.16 *Effectiveness*. Except for purposes of giving effect to the provisions of the Transaction Agreement, no provision of this Agreement (other than *Section 2.01(d)*, *Section 2.09(b)* and *Section 6.01*) shall be effective until immediately after the Distribution.

[The remainder of this page is intentionally left blank.]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed as of the day and year first above written.

BELLRING BRANDS, INC.

By: /s/ Craig L. Rosenthal
Name: Craig L. Rosenthal
Title: Senior Vice President & General Counsel

POST HOLDINGS, INC.

By: /s/ Diedre J. Gray
Name: Diedre J. Gray
Title: Executive Vice President, General Counsel and Chief Administrative Officer, Secretary

BELLRING INTERMEDIATE HOLDINGS, INC.

By: /s/ Craig L. Rosenthal
Name: Craig L. Rosenthal
Title: Senior Vice President & General Counsel

Exhibit 10.5

Execution Version

CREDIT AGREEMENT

DATED AS OF MARCH 10, 2022

AMONG

BELLRING BRANDS, INC.,
AS BORROWER

VARIOUS LENDERS,

AND

JPMORGAN CHASE BANK, N.A.,
AS ADMINISTRATIVE AGENT

JPMORGAN CHASE BANK, N.A.,
BOFA SECURITIES, INC.,
BARCLAYS BANK PLC,
CITIBANK, N.A.,
CREDIT SUISSE LOAN FUNDING LLC,
GOLDMAN SACHS BANK USA,
MORGAN STANLEY SENIOR FUNDING, INC.

AND

WELLS FARGO SECURITIES, LLC
AS JOINT LEAD ARRANGERS AND JOINT BOOKRUNNERS
AND
BMO CAPITAL MARKETS CORP.,
COÖPERATIEVE RABOBANK U.A., NEW YORK BRANCH,
TRUIST SECURITIES INC.

AND

STIFEL BANK & TRUST

AS CO-MANAGERS

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SCHEDULES

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CREDIT AGREEMENT

This CREDIT AGREEMENT (as amended, restated, amended and restated, supplemented or otherwise modified from time to time after the date hereof, this "**Agreement**") is entered into as of March 10, 2022, among BELLRING BRANDS, INC., a Delaware corporation, formerly known as BellRing Distribution, LLC, a Delaware limited liability company (the "**Borrower**"), each lender from time to time party hereto (collectively, the "**Lenders**" and individually, a "**Lender**"), JPMORGAN CHASE BANK, N.A., as Administrative Agent, and each L/C Issuer (as defined below).

WITNESSETH

Whereas, the Borrower has requested that (a) the Revolving Credit Lenders provide Original Revolving Credit Commitments in an aggregate amount of $250,000,000 and (b) the L/C Issuers agree to issue Letter of Credit in an aggregate amount available to drawn not in excess of the Letter of Credit Sublimit, in each case, on the terms and subject to the conditions set forth herein; and

Whereas, the Lenders have indicated their willingness to lend and each L/C Issuer has indicated its willingness to issue letters of credit, in each case, on the terms and subject to the conditions set forth herein.

Now, therefore, in consideration of the mutual covenants and agreements herein contained, the parties hereto covenant and agree as follows:

ARTICLE 1.
DEFINITIONS AND ACCOUNTING TERMS

Section 1.01 *Defined Terms*. As used in this Agreement, the following terms shall have the meanings set forth below:

"**Act**" has the meaning specified in Section 10.19.

"**Additional Refinancing Lender**" has the meaning specified in Section 2.17.

"**Adjusted Daily Simple RFR**" means, with respect to any RFR Borrowing denominated in Sterling, an interest rate per annum equal to (a) the Daily Simple RFR for Sterling, *plus* (b) 0.0326%; *provided that* if the Adjusted Daily Simple RFR as so determined would be less than the Floor, such rate shall be deemed to be equal to the Floor for the purposes of this Agreement.

"**Adjusted Daily Simple SOFR**" means, with respect to any Borrowing denominated in U.S. Dollars, an interest rate per annum equal to (a) the Daily Simple SOFR, *plus* (b) 0.10%; *provided that* if the Adjusted Daily Simple SOFR Rate as so determined would be less than the Floor, such rate shall be deemed to be equal to the Floor for the purposes of this Agreement.

"**Adjusted Eurodollar Rate**" means, with respect to any Borrowing denominated in Euros for any Interest Period, an interest rate per annum equal to (a) the Eurodollar Rate for such Interest Period multiplied by (b) the Statutory Reserve Rate; provided that if the Adjusted Eurodollar Rate as so determined would be less than the Floor, such rate shall be deemed to be equal to the Floor for the purposes of this Agreement.

"**Adjusted Term SOFR Rate**" means, with respect to any Borrowing denominated in U.S. Dollars for any Interest Period, an interest rate per annum equal to (a) Term SOFR for such Interest Period, *plus* (b) the Applicable SOFR Adjustment; *provided that* if the Adjusted Term SOFR Rate as so determined would be less than the Floor, such rate shall be deemed to be equal to the Floor for the purposes of this Agreement.

"**Administrative Agent**" means JPMorgan Chase Bank, N.A., in its capacity as administrative agent under any of the Loan Documents, or any successor administrative agent.

"**Administrative Agent's Office**" means the Administrative Agent's address and, as appropriate, account as set forth on Schedule 10.02, or such other address or account as the Administrative Agent may from time to time notify the Borrower and the Lenders.

"**Administrative Questionnaire**" means an Administrative Questionnaire in substantially the form of Exhibit E-2 or any other form approved by the Administrative Agent.

"**Affected Financial Institution**" means (a) any EEA Financial Institution or (b) any UK Financial Institution.

"**Affected Foreign Subsidiary**" means any Foreign Subsidiary to the extent such Foreign Subsidiary acting as a Guarantor, or having a Lien granted in its Equity Interests to secure the Obligations or granting a Lien on any of its assets to secure the Obligations would, in any case, cause a Deemed Dividend Problem.

"**Affiliate**" means, with respect to any 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.

"**Agreed Currencies**" means U.S. Dollars and each Alternative Currency.

"**Agent**" means the Administrative Agent.

"**Agent Parties**" has the meaning specified in Section 10.02(c).

"**Aggregate Commitments**" means the Commitments of all the Lenders.

"**Agreement**" has the meaning specified in the introductory paragraph hereto.

"**Agreement Currency**" has the meaning specified in Section 10.20.

"**Alternative Currency**" means Euros and Sterling.

"**Annual Financial Statements**" means the most recently delivered audited financial statements required to be delivered pursuant to Section 6.01(a) of this Agreement (or, until such time as such financial statements are so required to be delivered, the audited financial statements of Old BRBR for the period ended September 30, 2021).

"**Anti-Corruption Laws"** means any laws, rules and regulations of any jurisdiction applicable to the Borrower or any of its Restricted Subsidiaries from time to time concerning or relating to bribery or corruption of public officials, including without limitation the U.S. Foreign Corrupt Practices Act of 1977, as amended.

"**Anti-Terrorism Laws**" has the meaning specified in Section 5.19.

"**Applicable Percentage**" means, with respect to any Lender at any time, the percentage (carried out to the ninth decimal place) of the aggregate principal amount of all Commitments and, if applicable and without duplication, Loans of such Lender under the applicable Facility or Facilities at such time; *provided* that, with respect to any Revolving Credit Facility, if the commitment of each Revolving Credit Lender to make Revolving Credit Loans under such Revolving Credit Facility and the obligation of the L/C Issuers to make L/C Credit Extensions have been terminated pursuant to Section 8.02, or if the Revolving Credit Commitments in respect thereof have expired, then the Applicable Percentage of each Revolving Credit Lender in respect of such Revolving Credit Facility shall be determined based on the Applicable Percentage of such Revolving Credit Lender immediately prior to such termination and after giving effect to any subsequent assignments. The initial Applicable Percentage of each Revolving Credit Lender in respect of the Revolving Credit Facility is set forth opposite the name of such Revolving Credit Lender on Schedule 2.01 or in the Assignment and Assumption pursuant to which such Revolving Credit Lender becomes a party hereto, as applicable. The Applicable Percentage of any Revolving Credit Lender is subject to adjustment as provided in Section 2.16.

"**Applicable Rate**" means in respect of Original Revolving Credit Loans, (i) from the Closing Date to the date following the Closing Date on which a Compliance Certificate is delivered pursuant to Section 6.02(a) in respect of the first full fiscal quarter ending after the Closing Date, 2.00% per annum for Base Rate Loans that are Revolving Credit Loans and 3.00% per annum for Eurodollar Rate Loans, RFR Loans and Term SOFR loans that are Revolving Credit Loans and Letter of Credit Fees and (ii) thereafter, the applicable percentage *per annum* set forth below determined by reference to the Secured Net Leverage Ratio as set forth in the most recent Compliance Certificate received by the Administrative Agent pursuant to Section 6.02(a):

Pricing Level	Secured Net Leverage Ratio	Base Rate	Eurodollar Rate Loans/Term SOFR/RFR Loans/ Letters of Credit
1	> 3.50 to 1.00	2.75%	3.75%
2	< 3.50 to 1.00 and > 2.50 to 1.00	2.50%	3.50%
3	< 2.50 to 1.00 and > 1.50 to 1.00	2.25%	3.25%
4	< 1.50 to 1.00	2.00%	3.00%

Any increase or decrease in the Applicable Rate resulting from a change in the Secured Net Leverage Ratio shall become effective as of the first Business Day immediately following the date a Compliance Certificate is delivered pursuant to Section 6.02(a); *provided, however,* that if a Compliance Certificate is not delivered when due in accordance with such Section, then Pricing Level 1 shall apply as of the first Business Day after the date on which such Compliance Certificate was required to have been delivered and shall remain in effect until the date on which such Compliance Certificate is delivered (and thereafter the Pricing Level otherwise determined in accordance with this definition shall apply).

Furthermore, and notwithstanding anything to the contrary contained in this definition, the Applicable Rate in respect of any Incremental Term Loans, any Refinancing Term Loans or any Other Revolving Commitments (and any Other Revolving Loans thereunder) shall be the applicable percentages per annum set forth in the relevant Joinder Agreement or Refinancing Amendment, as applicable.

Notwithstanding anything to the contrary contained in this definition, the determination of the Applicable Rate for any period shall be subject to the provisions of Section 2.10(b).

"**Applicable Revolving Credit Percentage**" means with respect to any Revolving Credit Lender at any time, such Revolving Credit Lender's Applicable Percentages in respect of the Revolving Credit Facilities at such time.

"**Applicable SOFR Adjustment**" means the percentage set forth below for the corresponding Interest Period that is then in effect with respect to each Term SOFR Loan:

Interest Period	Percentage
Up to and including 1-month	0.10%
Greater than 1-month and up to and including 3-month	0.15%
Greater than 3-month	0.25%

"**Applicable Time**" means, with respect to any borrowings and payments in any Alternative Currency, the local time in the place of settlement for such Alternative Currency as may be reasonably determined by the Administrative Agent or the applicable L/C Issuer to be necessary for timely settlement on the relevant date in accordance with normal banking procedures in the place of payment.

"**Appropriate Lender**" means, at any time, (a) with respect to Loans of any Class, the Lenders of such Class and (b) with respect to Letters of Credit, (i) the relevant L/C Issuer and (ii) the Revolving Credit Lenders.

"**Approved Fund**" means any Fund that is administered or managed by (a) a Lender, (b) an Affiliate of a Lender or (c) an entity or an Affiliate of an entity that administers or manages a Lender.

"**Arrangers**" means JPMorgan Chase Bank, N.A., BOFA Securities, Inc., Barclays Bank PLC, Citibank, N.A., Credit Suisse Loan Funding LLC, Goldman Sachs Bank USA, Morgan Stanley Senior Funding, Inc. and Wells Fargo Securities, LLC in their capacities as joint lead arrangers and joint bookrunners.

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

"**Assignment and Assumption**" means an assignment and assumption entered into by a Lender and an Eligible Assignee (with the consent of any party whose consent is required by Section 10.06(b)), and accepted by the Administrative Agent, in substantially the form of Exhibit E-1 or any other form approved by the Administrative Agent.

"**Attributable Indebtedness**" means, on any date, in respect of any Capital Lease of any Person, the capitalized amount thereof that would appear on a balance sheet of such Person prepared as of such date in accordance with GAAP.

"**Auction**" has the meaning specified in Section 10.06(b)(vii)(A).

"**Availability Period**" means, in respect of any Revolving Credit Facility, the period from and including the Closing Date (or the date of the effectiveness of the applicable Revolving Credit Commitments in the case of any Revolving Credit Commitments other than the Original Revolving Credit Commitments) to the earliest of (i) the Maturity Date in respect of such Revolving Credit Facility, (ii) the date of termination of the Revolving Credit Commitments in respect of such Revolving Credit Facility pursuant to Section 2.06 and (iii) the date of termination of the commitment of each Revolving Credit Lender in respect of such Revolving Credit Facility to make Revolving Credit Loans under such Revolving Credit Facility and of the obligation of the L/C Issuers to make L/C Credit Extensions in respect of such Revolving Credit Facility pursuant to Section 8.02.

"**Available Amount**" means, at any time, an amount equal to, without duplication:

(a) the sum of:

(1) (A) the sum of $125,000,000 and (B) the greater of (x) $50,000,000 and (y) 20% of Consolidated EBITDA based on the Most Recent Financial Statements; plus

(2) an amount, not less than zero, determined on a cumulative basis equal to the Borrower Retained ECF Amount; plus

(3) the amount of any capital contributions or other proceeds of issuances of Equity Interests (other than Disqualified Equity Interests) received as cash and Cash Equivalents by the Borrower, *plus* the fair market value, as determined in good faith by the Borrower, of marketable securities or other property received by the Borrower as a capital contribution or in return for issuances of Equity Interests (other than Disqualified Equity Interests), in each case, during the period from and including the day immediately following the Closing Date through and including such time; plus

(4) the aggregate principal amount of any Indebtedness or Disqualified Equity Interests, in each case, of the Borrower and/or any Restricted Subsidiary issued after the Closing Date (other than Indebtedness or Disqualified Equity Interests issued to the Borrower or a Restricted Subsidiary) which has been converted into or exchanged for Equity Interests (other than Disqualified Equity Interests) of the Borrower, together with the fair market value of any Cash Equivalents and the fair market value (as reasonably determined by the Borrower) of any other property or assets received by the Borrower or such Restricted Subsidiary upon such exchange or conversion, in each case, during the period from and including the day immediately following the Closing Date through and including such time; plus

(5) the net proceeds received by the Borrower or any Restricted Subsidiary during the period from and including the day immediately following the Closing Date through and including such time in connection with the Disposition to a Person (other than the Borrower or any Restricted Subsidiary) of any Investment made pursuant to Section 7.02(o)(2); *provided* that such amount does not exceed the amount of such Investment made pursuant to Section 7.02(o)(2); plus

(6) to the extent not already reflected as a return of capital with respect to such Investment for purposes of determining the amount of such Investment, the cash proceeds received by the Borrower and/or any Restricted Subsidiary during the period from and including the day immediately following the Closing Date through and including such time in respect of any Investment made pursuant to Section 7.02(o)(2) (in an amount not to exceed the original amount of such Investment made pursuant to Section 7.02(o)(2)); plus

(7) an amount equal to the sum of (A) the amount of any Investments by the Borrower and/or any Restricted Subsidiary pursuant to Section 7.02(o)(2) in any Unrestricted Subsidiary (in an amount not to exceed the original amount of such Investment made pursuant to Section 7.02(o)(2)) that has been re-designated as a Restricted Subsidiary or has been merged, consolidated or amalgamated with or into, or is liquidated, wound up or dissolved into, the Borrower or any Restricted Subsidiary and (B) the fair market value (as reasonably determined by the Borrower) of the property or assets of any Unrestricted Subsidiary that have been transferred, conveyed or otherwise distributed (in an amount not to exceed the original amount of the Investment in such Unrestricted Subsidiary made pursuant to Section 7.02(o)(2)) to the Borrower and/or any Restricted Subsidiary, in each case, during the period from and including the day immediately following the Closing Date through and including such time; plus

(8) the amount of Declined Proceeds; minus

(b) an amount equal to the sum of (1) Investments made pursuant to Section 7.02(o)(2), (2) Restricted Payments made pursuant to Section 7.06(e)(2) and (3) payments, redemptions, purchases, defeasements or other satisfactions of Restricted Indebtedness made pursuant to Section 7.14(d), in each case, made after the Closing Date and prior to such time, or contemporaneously therewith.

"**Available Tenor**" means, as of any date of determination and with respect to the then-current Benchmark for any Agreed Currency, as applicable, 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 3.08.

"**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 Guarantee**" means any bank guarantee, demand guarantee, bank bond or comparable instrument issued or to be issued pursuant to Section 2.03(a) by a Bank Guarantee Issuer or Affiliate thereof in form and substance satisfactory to the issuer thereof.

"**Bank Guarantee Issuer**" means any Revolving Credit Lender that agrees, in its sole discretion, to issue any Bank Guarantee pursuant hereto, in its capacity as issuer of such Bank Guarantee.

"**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 1.00% and (c) the Adjusted Term SOFR Rate for a one month Interest Period as published two U.S. Government Securities Business Days prior to such day (or if such day is not a U.S. Government Securities Business Day, the immediately preceding U.S. Government Securities Business Day) plus 1.00%; provided that for the purpose of this definition, the Adjusted Term SOFR Rate for any day shall be based on the Term SOFR Reference Rate at approximately 5:00 a.m. Chicago time on such day the Adjusted Term SOFR Rate is published in accordance with clause (c) (or any amended publication time for the Term SOFR Reference Rate, as specified by the CME Term SOFR Administrator in the Term SOFR Reference Rate methodology). Any change in the Base Rate due to a change in the Prime Rate, the NYFRB Rate or the Adjusted Term SOFR Rate shall be effective from and including the effective date of such change in the Prime Rate, the NYFRB Rate or the Adjusted Term SOFR Rate, respectively. If the Base Rate is being used as an alternate rate of interest pursuant to Section 3.08 (for the avoidance of doubt, only until the Benchmark Replacement has been determined pursuant to Section 3.08(a)), then the Base Rate shall be the greater of clauses (a) and (b) above and shall be determined without reference to clause (c) above.

"**Base Rate Loan**" means a Revolving Credit Loan or a Term Loan that bears interest based on the Base Rate.

"**Benchmark**" means, initially, with respect to any (a) RFR Loan in any Agreed Currency, the applicable Relevant Rate for such Agreed Currency or (b) Term Benchmark Loan, the Relevant Rate for such Agreed Currency; *provided* that if a Benchmark Transition Event, and the related Benchmark Replacement Date have occurred with respect to the applicable Relevant Rate or the then-current Benchmark for such Agreed Currency, then "Benchmark" means the applicable Benchmark Replacement to the extent that such Benchmark Replacement has replaced such prior benchmark rate pursuant to clause (a) of Section 3.08.

"**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 an Alternative Currency, "Benchmark Replacement" shall mean the alternative set forth in clause (b) below:

(a) in the case of any Loan denominated in U.S. Dollars, the Adjusted Daily Simple SOFR;

(b) the sum of: (i) 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 (A) any selection or recommendation of a replacement benchmark rate or the mechanism for determining such a rate by the Relevant Governmental Body and (B) 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 Agreed Currency at such time in the United States and (ii) the related Benchmark Replacement Adjustment;

If the Benchmark Replacement as determined pursuant to clause (a) or (b) 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, 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 (a) any selection or recommendation of a spread adjustment, or method for calculating or determining such spread adjustment, for the replacement of such Benchmark with the applicable Unadjusted Benchmark Replacement by the Relevant Governmental Body on the applicable Benchmark Replacement Date and/or (b) any evolving or then-prevailing market convention for determining a spread adjustment, or method for calculating or determining such spread adjustment, for the replacement of such Benchmark with the applicable Unadjusted Benchmark Replacement for syndicated credit facilities denominated in the applicable Agreed Currency at such time.

"**Benchmark Replacement Conforming Changes**" means, with respect to any Benchmark Replacement, any technical, administrative or operational changes (including changes to the definition of "Base Rate," the definition of "Business Day," the definition of "U.S. Government Securities Business Day," the definition of "RFR Business Day," the definition of "Interest Period," timing and frequency of determining rates and making payments of interest, timing of request for credit extension and other technical or administrative matters) that the Administrative Agent decides may be appropriate to reflect the adoption and implementation of such Benchmark 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 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:

(i) in the case of clause (a) or (b) 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); or

(ii) in the case of clause (c) 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 (c) and even if any Available Tenor of such Benchmark (or such component thereof) continues to be provided on such date.

For the avoidance of doubt, (x) 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 (y) the "Benchmark Replacement Date" will be deemed to have occurred in the case of clause (i) or (ii) above 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:

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

(b) a public statement or publication of information by the regulatory supervisor for the administrator of such Benchmark (or the published component used in the calculation thereof), the Federal Reserve Board, the NYFRB, the CME Term SOFR Administrator, the central bank for the Agreed 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

(c) a public statement or publication of information by the regulatory supervisor for the administrator of such Benchmark (or the published component used in the calculation thereof) announcing that all Available Tenors of such Benchmark (or such component thereof) are 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 (i) or (ii) 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 3.08 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 3.08.

"**Beneficial Owner**" has the meaning assigned to such term in Rule 13d-3 and Rule 13d-5 under the Exchange Act, except that in calculating the beneficial ownership of any particular "person" (as such term is used in Section 13(d)(3) of the Exchange Act), such "person" shall be deemed to have beneficial ownership of all securities that such "person" has the right to acquire, whether such right is currently exercisable or is exercisable only upon the occurrence of a subsequent condition.

"**Beneficial Ownership Certification**" means a certification regarding beneficial ownership required by the Beneficial Ownership Regulation.

"**Beneficial Ownership Regulation**" means 31 C.F.R. § 1010.230.

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

"**Borrower**" has the meaning specified in the introductory paragraph hereto.

"**Borrower Materials**" has the meaning specified in Section 6.02.

"**Borrower Retained ECF Amount**" means, as at any date of determination, an amount equal to the Borrower Retained ECF Percentage of the Consolidated Excess Cash Flow of the Borrower for each Fiscal Year beginning with the Fiscal Year commencing October 1, 2021 through and including the last day of the most recently completed Fiscal Year with respect to which the Administrative Agent has received the Compliance Certificate required to be delivered pursuant to Section 6.02(a).

"**Borrower Retained ECF Percentage**" means, for any given Fiscal Year, 50%; *provided* that if, as of the last day of such Fiscal Year, the Secured Net Leverage Ratio is (x) less than or equal to 3.00:1.00 but greater than 2.25:1.00, the Borrower Retained ECF Percentage shall be 75% or (y) less than or equal to 2.25:1.00, the Borrower Retained ECF Percentage shall be 100%.

"**Borrowing**" means a Revolving Credit Borrowing of a particular Class, a Refinancing Term Loan Borrowing or an Incremental Borrowing, as the context may require.

"**Business Day**" means (a) any day excluding Saturday, Sunday and any day which is a legal holiday under the laws of the State of New York or is a day on which banking institutions located in such state are authorized or required by law or other governmental action to close, (b) with respect to all notices, determinations, fundings and payments in connection with Term SOFR or any Term SOFR Loans, the term "Business Day" shall exclude any day that is not a U.S. Government Securities Business Day, (c) when used in connection with an RFR Loan, the term "Business Day" shall exclude any day that is not an RFR Business Day and (d) when used in connection with a Eurodollar Rate or any Eurodollar Rate Loan, the term "Business Day" shall exclude any day that is not a TARGET Day.

"**Capital Expenditures**" means, with respect to any Person for any period, any expenditure in respect of the purchase or other acquisition or maintenance of any fixed or capital asset, in each case, that are capitalized in accordance with GAAP.

"**Capital Lease**" means, with respect to any Person, any lease that is required by GAAP to be capitalized on a balance sheet of such Person.

"**Cash Collateralize**" means to pledge and deposit with or deliver to the Administrative Agent, for the benefit of the Administrative Agent or any L/C Issuer (as applicable) and the Revolving Credit Lenders, as collateral for L/C Obligations or obligations of Revolving Credit Lenders to fund participations in respect thereof (as the context may require), cash or deposit account balances or, if the applicable L/C Issuer benefiting from such collateral shall agree in its sole discretion, other credit support, in each case pursuant to documentation in form and substance reasonably satisfactory to (a) the Administrative Agent and (b) the applicable L/C Issuer. "**Cash Collateral**" shall have a meaning correlative to the foregoing and shall include the proceeds of such cash collateral and other credit support.

"**Cash Equivalents**" means any of the following types of Investments, to the extent owned by the Borrower or any of its Restricted Subsidiaries free and clear of all Liens (other than Liens created under the Collateral Documents and other Liens permitted hereunder):

(a) readily marketable obligations issued or directly and fully guaranteed or insured by the United States of America or any agency or instrumentality thereof having maturities of not more than two years from the date of acquisition thereof; *provided* that the full faith and credit of the United States of America is pledged in support thereof;

(b) time deposits with, or insured certificates of deposit or bankers' acceptances of, any commercial bank that (i) (A) is a Lender or (B) is organized under the laws of the United States of America or Canada, any state or province thereof or the District of Columbia or is the principal banking subsidiary of a bank holding company organized under the laws of the United States of America, any state thereof or the District of Columbia, and is a member of the Federal Reserve System, (ii) issues (or the parent of which issues) commercial paper rated as described in clause (c) of this definition and (iii) has combined capital and surplus of at least $1,000,000,000, in each case with maturities of not more than 365 days from the date of acquisition thereof;

(c) commercial paper issued by any Person organized under the laws of any state of the United States of America and maturing no more than two years from the time of the acquisition thereof, and having, at the time of acquisition thereof, a rating of A-1 (or the then equivalent grade) or better from S&P or P-1 (or the then equivalent grade) or better from Moody's;

(d) Investments, classified in accordance with GAAP as current assets of the Borrower or any of its Restricted Subsidiaries, in money market investment programs registered under the Investment Company Act of 1940, which have portfolios which are limited solely to Investments of the character, quality and maturity described in clauses (a), (b) and (c) of this definition; and

(e) solely with respect to Foreign Subsidiaries, investments of the types and maturities described in clauses (a) through (d) above issued, where relevant, by any commercial bank of recognized international standing chartered in the country where such Foreign Subsidiary is domiciled having unimpaired capital and surplus of at least $500,000,000.

"**Cash Management Agreement**" means any agreement to provide cash management services, including treasury, depository, overdraft, card services (including services related to credit cards, including purchasing and commercial cards, prepaid cards, including payroll, stored value and gift cards, merchant services processing and debit cards), electronic funds transfer and other cash management arrangements.

"**Cash Management Bank**" means any Person that, (a) at the time it enters into a Cash Management Agreement with any Loan Party, is a Lender, the Administrative Agent or an Arranger or an Affiliate of a Lender, the Administrative Agent or an Arranger, in its capacity as a party to such Cash Management Agreement, and (b) in the case of any Cash Management Agreement entered into prior to, and existing on, the Closing Date, any Person that is, on the Closing Date, a Lender, the Administrative Agent or an Arranger or Affiliate of a Lender, the Administrative Agent or an Arranger, in its capacity as a party to such Cash Management Agreement.

"**Central Bank Rate**" means, the greater of (i) (x) for any Loan denominated in Sterling, the Bank of England (or any successor thereto)'s "Bank Rate" as published by the Bank of England (or any successor thereto) from time to time plus the applicable Central Bank Rate Adjustment and (y) for any Loan denominated in Euro, one of the following three rates as may be selected by the Administrative Agent in its reasonable discretion plus the applicable Central Bank Rate Adjustment: (1) the fixed rate for the main refinancing operations of the European Central Bank (or any successor thereto), or, if that rate is not published, the minimum bid rate for the main refinancing operations of the European Central Bank (or any successor thereto), each as published by the European Central Bank (or any successor thereto) from time to time, (2) the rate for the marginal lending facility of the European Central Bank (or any successor thereto), as published by the European Central Bank (or any successor thereto) from time to time or (3) the rate for the deposit facility of the central banking system of the Participating Member States, as published by the European Central Bank (or any successor thereto) from time to time and (ii) the Floor.

"**Central Bank Rate Adjustment**" means, for any day, for any Loan denominated in (a) Sterling, a rate equal to the difference (which may be a positive or negative value or zero) of (i) the average of Adjusted Daily Simple RFR for borrowings in Sterling for the five (5) most recent RFR Business Days preceding such day for which SONIA was available (excluding, from such averaging, the highest and the lowest such Adjusted Daily Simple RFR applicable during such period of five (5) RFR Business Days) minus (ii) the Central Bank Rate in respect of Sterling in effect on the last RFR Business Day in such period and (b) Euro, a rate equal to the difference (which may be a positive or negative value or zero) of (i) the average of the Adjusted Eurodollar Rate for the five most recent Business Days preceding such day for which the EURIBOR Screen Rate was available (excluding, from such averaging, the highest and the lowest Adjusted Eurodollar Rate applicable during such period of five Business Days) minus (ii) the Central Bank Rate in respect of Euro in effect on the last Business Day in such period. For purposes of this definition, the term Central Bank Rate shall be determined disregarding clause (B) of the definition of such term.

"**CERCLA**" means the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, and any rules or regulations promulgated thereunder.

"**CFC**" means a Subsidiary of the Borrower that is a "controlled foreign corporation" within the meaning of Section 957 of the Code.

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

"**Change of Control**" means the occurrence of any of the following:

(a) the sale, lease, 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 assets of the Borrower and its Subsidiaries taken as a whole to any "person" (as such term is used in Section 13(d)(3) of the Exchange Act);

(b) the adoption of a plan relating to the liquidation or dissolution of the Borrower;

(c) the consummation of any transaction (including, without limitation, any merger or consolidation) the result of which is that any "person" (as defined above) becomes the Beneficial Owner, directly or indirectly, of 50% or more of the Voting Stock of the Borrower, measured by voting power rather than number of shares; or

(d) a "Change of Control", "Change in Control" or other substantively similar term under any of the Senior Notes or any other Indebtedness of the Borrower or any of its Restricted Subsidiaries with an aggregate principal amount in excess of the Threshold Amount (to the extent that the occurrence of such event permits the holders of Indebtedness thereunder to accelerate the maturity thereof or to resell such other Indebtedness to the Borrower, or requires the Borrower to repay, or offer to repurchase, such Indebtedness prior to the stated maturity thereof).

Notwithstanding the foregoing, the consummation of any of the Transactions shall not give rise to a Change of Control.

"**Class**" (a) when used with respect to any Lender, refers to whether such Lender has a Loan or Commitment with respect to a particular class of Loans or Commitments, (b) when used with respect to Commitments, refers to whether such Commitments are Revolving Credit Commitments, Incremental Revolving Credit Commitments, Other Revolving Commitments of a given Refinancing Series, Incremental Term Loan Commitments or Refinancing Term Commitments of a given Refinancing Series and (c) when used with respect to Loans or a Borrowing, refers to whether such Loans, or the Loans comprising such Borrowing, are Original Revolving Credit Loans, Incremental Revolving Loans, Other Revolving Loans of a given Refinancing Series, Incremental Term Loans or Refinancing Term Loans of a given Refinancing Series. Loans that are not fungible for United States federal income tax purposes shall be construed to be in different Classes or tranches. Commitments that, if and when drawn in the form of Loans, would yield Loans that are construed to be in different Classes or tranches pursuant to the immediately preceding sentence shall be construed to be in different Classes or tranches of Commitments corresponding to such Loans. There shall be no more than an aggregate of two Classes of revolving credit facilities and two Classes of term loan facilities under this Agreement.

"**Closing Date**" means the first date all the conditions precedent referred to in Section 4.01 are satisfied or waived in accordance with Section 10.01, which date is March 10, 2022.

"**CME Term SOFR Administrator**" means CME Group Benchmark Administration Limited as administrator of the forward-looking term Secured Overnight Financing Rate (SOFR) (or a successor administrator).

"**Code**" means the Internal Revenue Code of 1986, as amended (unless otherwise provided herein).

"**Collateral**" means all of the "Collateral" referred to in the Collateral Documents and all of the other property provided as collateral security under the terms of the Collateral Documents.

"**Collateral Agreement**" means the guarantee and collateral agreement dated as of March 10, 2022 executed and delivered by the Loan Parties and substantially in the form of Exhibit G.

"**Collateral Documents**" means, collectively, the Collateral Agreement, collateral assignments, supplements to all of the foregoing, security agreements, pledge agreements, control agreements or other similar agreements delivered to the Administrative Agent pursuant to Section 4.01(a)(ii) or 6.11, and each of the other agreements, instruments or documents that creates or purports to create a Lien in favor of the Administrative Agent for the benefit of the Secured Parties.

"**Co-Managers**" means BMO Capital Markets Corp., Coöperatieve Rabobank U.A., New York Branch, Truist Securities, Inc., and Stifel Bank & Trust, in their capacities as co-managers.

"**Commitment**" means a Revolving Credit Commitment, an Incremental Revolving Credit Commitment, an Incremental Term Loan Commitment, a Refinancing Term Commitment or an Other Revolving Commitment, as the context may require.

"**Commitment Fee Rate**" means (a) from the Closing Date to the date following the Closing Date on which a Compliance Certificate is delivered pursuant to Section 6.02(a) in respect of the first full fiscal quarter following the Closing Date, 0.250% and (b) thereafter, the applicable percentage per annum set forth below determined by reference to the Secured Net Leverage Ratio as set forth in the most recent Compliance Certificate received by the Administrative Agent pursuant to Section 6.02(a):

Pricing Level	Secured Net Leverage Ratio	Commitment Fee Rate
1	> 3.50 to 1.00	0.375%
2	< 3.50 to 1.00 and > 2.50 to 1.00	0.300%
3	< 2.50 to 1.00	0.250%

Any increase or decrease in the Commitment Fee Rate resulting from a change in the Secured Net Leverage Ratio shall become effective as of the first Business Day immediately following the date a Compliance Certificate is delivered pursuant to Section 6.02(a); *provided*, *however,* that if a Compliance Certificate is not delivered when due in accordance with such Section, then Pricing Level 1 shall apply as of the first Business Day after the date on which such Compliance Certificate was required to have been delivered and shall remain in effect until the date on which such Compliance Certificate is delivered (and thereafter the Pricing Level otherwise determined in accordance with this definition shall apply).

Notwithstanding anything to the contrary contained in this definition, the determination of the Commitment Fee Rate for any period shall be subject to the provisions of Section 2.10(b).

"**Committed Loan Notice**" means a notice of (a) a Revolving Credit Borrowing or (b) an Incremental Borrowing, which shall be substantially in the form of Exhibit A-1.

"**Common Stock**" means with respect to any Person, any and all shares, interests or other participations in, and other equivalents (however designated and whether voting or nonvoting) of such Person's common stock whether or not outstanding on the Closing Date, and includes, without limitation, all series and classes of such common stock.

"**Compliance Certificate**" means a certificate substantially in the form of Exhibit D.

"**Consolidated Current Assets**" means, as at any date of determination, the total assets of a Person and its Restricted Subsidiaries on a consolidated basis that may properly be classified as current assets in conformity with GAAP, excluding cash and Cash Equivalents.

"**Consolidated Current Liabilities**" means, as at any date of determination, the total liabilities of a Person and its Restricted Subsidiaries on a consolidated basis that may properly be classified as current liabilities in conformity with GAAP, excluding the current portion of long term debt.

"**Consolidated EBITDA**" means, at any date of determination, an amount equal to Consolidated Net Income of the Borrower and its Restricted Subsidiaries on a consolidated basis for the most recently completed Measurement Period, plus (i) the following, without duplication, to the extent (other than in the case of clauses (n) and (p)) deducted in calculating such Consolidated Net Income:

(a) Consolidated Interest Charges, plus

(b) the provision for federal, state, local and foreign income and franchise taxes payable (calculated net of federal, state, local and foreign income tax credits) and other taxes, interest and penalties included under GAAP in income tax expense (*provided* that such amounts in respect of any Restricted Subsidiary shall be included in this clause (b) only to the extent that a corresponding amount would be permitted at the date of determination to be dividended or distributed to the Borrower by such Restricted Subsidiary without prior approval (that has not been obtained), pursuant to the terms of its Organization Documents and all agreements, instruments, judgments, decrees, orders, statutes, rules and governmental regulations applicable to such Restricted Subsidiary or its shareholders, partners or members), plus

(c) depreciation and amortization expenses (including amortization of goodwill and other intangibles but excluding amortization of prepaid cash expenses that were paid in a prior period), plus

(d) other non-recurring expenses, write-offs, write-downs or impairment charges which do not represent a cash item in such period (or in any future period) (excluding any such non-cash expense to the extent that it represents an accrual of or reserve for cash expenses in any future period or amortization of a prepaid cash expense that was paid in a prior period and any non-cash charge, expense or loss relating to write-offs, write-downs or reserves with respect to accounts receivable or inventory), plus

(e) non-cash charges or expenses related to stock-based compensation and other non-cash charges or non-cash losses (including extraordinary, unusual or non-recurring non-cash losses) incurred or recognized, plus

(f) cash or non-cash charges constituting fees and expenses incurred in connection with the Transactions entered into or consummated on or around the Closing Date and any other Transactions with respect to certain contributions of assets and liabilities among the Company and its Restricted Subsidiaries and with respect to the consummation of the debt for equity exchange, in each case, in connection with or as contemplated by the Transaction Agreement (as in effect on the date of this Agreement, or as amended, modified or restated from time to time in a manner not materially adverse to the interests of the Lenders), plus

(g) unrealized and realized net losses in the fair market value of any arrangements under Swap Contracts and losses, charges and expenses attributable to the early extinguishment or conversion of Indebtedness, arrangements under Swap Contracts or other derivative instruments (including deferred financing expenses written off and premiums paid), plus

(h) any expenses or charges related to any issuance of Equity Interests or debt securities, Investments (whether or not consummated), acquisitions (whether or not consummated), Dispositions (whether or not consummated), 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 any amendment or other modification of the Obligations or other Indebtedness, plus

(i) one-time deal advisory, financing, legal, accounting, and consulting cash expenses incurred by the Borrower and its Restricted Subsidiaries in connection with any Permitted Acquisitions or other Investment in the nature of an acquisition not constituting the consideration for any such Permitted Acquisition or other Investment in the nature of an acquisition, plus

(j) non-cash losses and expenses resulting from fair value accounting (as permitted by Accounting Standard Codification Topic No. 825-10-25 – Fair Value Option or any similar accounting standard), plus

(k) non-cash losses on sales of Receivables that are Disposed of in connection with a Qualified Receivables Transaction permitted hereunder, plus

(l) extraordinary, unusual or non-recurring cash charges and losses incurred or recognized, plus

(m) any increase in cost of goods sold resulting from the write up of inventory attributable to purchase accounting treatment with respect to any acquisition, plus

(n) the amount of any expected cost savings, operating improvements and expense reductions, product margin synergies and other synergies (net of the amount of actual amounts realized) reasonably identifiable and factually supportable (in the good faith determination of the Borrower) related to (A) the Transactions and (B) after the Closing Date, permitted asset sales, mergers or other business combinations, acquisitions, Investments, Dispositions or divestitures, integration costs, inventory optimizations, other optimizations, facility consolidations and/or closings, operating improvements and

expense reductions, restructurings, cost saving initiatives and other similar initiatives (in each case calculated on a pro forma basis as though such cost savings, operating improvements and expense reductions, product margin synergies and other synergies had been realized on the first day of such period and as if such cost savings, operating improvements and expense reductions, product margin synergies and other synergies were realized during the entirety of such period); *provided* that, such cost savings, operating improvements and expense reductions, product margin synergies and other synergies are reasonably expected to be realized within twenty four (24) months of the event giving rise thereto or the consummation of such transaction; *provided*, *further*, that with respect to clause (B) above, the aggregate amount of cost savings, operating improvements and expense reductions, product margin synergies and other synergies added-back pursuant to this clause (n) in any four consecutive fiscal quarter period, taken together with the aggregate amount of cost savings, operating expense reductions, other operating improvements and acquisition synergies added-back in connection with Permitted Acquisitions or other permitted Investments pursuant to clause (C) below, shall not exceed 25% of Consolidated EBITDA for such period prior to giving effect to this clause (n) and such clause (C) below, plus

(o) costs, charges, accruals, reserves or expenses attributable to the undertaking and/or implementation of cost savings initiatives or operating expense reductions, product margin synergies and other synergies and similar initiatives, integration, transition, reconstruction, decommissioning, recommissioning or reconfiguration of fixed assets for alternative uses, facilities opening and pre-opening, business optimization and other restructuring costs, charges, accruals, reserves and expenses including inventory optimization programs, software development costs and costs related to the closure or consolidation of facilities, branches or distribution centers, and plants, the closure, consolidation or transfer of production lines between facilities and curtailments, costs related to entry into new markets, consulting and other professional fees, signing costs and bonuses, retention or completion bonuses, executive recruiting costs, relocation expenses, severance payments, modifications to, or losses on settlement of, pension and post-retirement employee benefit plans, new systems design and implementation costs, and project startup costs, plus

(p) to the extent not otherwise included above, proceeds of business interruption insurance in an amount representing the earnings for the applicable period that such proceeds are intended to replace (whether or not received so long as such Person in good faith expects to receive the same within the next four fiscal quarters (it being understood that to the extent not actually received within such fiscal quarters, such proceeds shall be deducted in calculating Consolidated EBITDA for such fiscal quarters)), plus

(q) the amount of any earn-out and contingent consideration obligations incurred or accrued in connection with any Permitted Acquisition or other Investment in the nature of an acquisition and paid or accrued during such applicable period;

and (ii) minus, without duplication,

(x) unrealized and realized net gains included in Consolidated EBITDA for such Measurement Period in respect of hedging transactions and mark-to-market of Indebtedness denominated in foreign currencies resulting from the application of FASB ASC 830 or any similar accounting standard,

(y) non-cash gains included in Consolidated Net Income for such Measurement Period (excluding any such non-cash gain to the extent it represents the reversal of an accrual or a reserve for a potential cash gain in any prior period), and

(z) the amount added back in Consolidated EBITDA pursuant to clause (p) above, to the extent such business interruption proceeds were not received within the time period anticipated or required by such clause.

If there has occurred a Permitted Acquisition or other Investment in the nature of an acquisition permitted by this Agreement during the applicable Measurement Period, or for purposes of calculating the pro forma Total Net Leverage Ratio or Secured Net Leverage Ratio after the applicable Measurement Period but on or prior to the Ratio Calculation Date in accordance with Section 1.09(b), Consolidated EBITDA shall be calculated on a Pro Forma Basis.

Calculating Consolidated EBITDA on a "Pro Forma Basis" shall mean giving effect to any such Permitted Acquisition or other Investment in the nature of an acquisition, and any Indebtedness incurred or assumed in connection therewith, as follows:

(A) any Indebtedness incurred or assumed in connection with such Permitted Acquisition or other permitted Investment in the nature of an acquisition was incurred or assumed on the first day of the applicable Measurement Period and remained outstanding,

(B) the rate on such Indebtedness shall be calculated as if the rate in effect on the date of such Permitted Acquisition or other permitted Investment in the nature of an acquisition had been the applicable rate for the entire period (taking into account any interest rate Swap Contracts applicable to such Indebtedness), and

(C) all income, depreciation, amortization, taxes, and expenses associated with the assets or entity acquired in connection with such Permitted Acquisition or other permitted Investment in the nature of an acquisition for the applicable period shall be calculated on a pro forma basis after giving effect to cost savings, operating expense reductions, other operating improvements and acquisition synergies that are reasonably identifiable and projected by the Borrower in good faith to be realized within twenty four (24) months after such Permitted Acquisition or other such permitted Investment in the nature of an acquisition (calculated on a pro forma basis as though such items had been realized on the first day of such period) as a result of actions taken by the Borrower or any Restricted Subsidiary in connection with such Permitted Acquisition or other permitted Investment and net of (x) the amount of actual benefits realized during such period from

such actions that are otherwise included in the calculation of Consolidated EBITDA in each case from and after the first day of such Measurement Period and (y) the amount of all income, depreciation, amortization, taxes and expenses associated with any assets or entity acquired in connection with such Permitted Acquisition or other such permitted Investment that the Borrower reasonably anticipates will be divested pursuant to Section 7.05(k) or otherwise;

provided that:

(i) the aggregate amount of cost savings, operating expense reductions, other operating improvements and acquisition synergies added-back in connection with Permitted Acquisitions or other permitted Investments pursuant to this clause (C) in any four consecutive fiscal quarter period, taken together with the aggregate amount of cost savings, operating improvements and expense reductions, product margin synergies and other synergies added-back pursuant to clause (n) above, shall not exceed 25.00% of Consolidated EBITDA for such period prior to giving effect to this clause (C) and such clause (n); and

(ii) at the time any such calculation pursuant to this clause (C) is made, the Borrower shall deliver to the Administrative Agent a certificate signed by a Responsible Officer (which may be the Compliance Certificate) setting forth reasonably detailed calculations in respect of the matters referred to in this clause (C), as well as the relevant factual support in respect thereof.

Notwithstanding anything to the contrary contained herein, for any period that includes any of the fiscal quarters set forth below, Consolidated EBITDA (pro forma) for such fiscal quarter shall be deemed to be the amount set forth below opposite such fiscal quarter:

Fiscal Quarter Ended	Consolidated EBITDA
March 31, 2021	$ 42,200,000
June 30, 2021	$ 70,500,000
September 30, 2021	$ 60,500,000
December 31, 2021	$ 59,800,000

"**Consolidated Excess Cash Flow**" means, for any period, an amount (if positive) equal to: (a) the sum, without duplication, of the amounts for such period of (i) Consolidated Net Income, plus, (ii) to the extent reducing Consolidated Net Income, the sum, without duplication, of amounts for non-cash charges reducing Consolidated Net Income, including for depreciation and amortization (excluding any such non-cash charge to the extent that it represents an accrual or reserve for a potential cash charge in any future period or amortization of a prepaid cash charge that was paid in a prior period), plus (iii) the Consolidated Working Capital Adjustment, minus (b) the sum, without duplication, of (i) the amounts for such period paid in cash by the Borrower

and its Restricted Subsidiaries from operating cash flow (and not already reducing Consolidated Net Income) of (1) scheduled repayments (but not optional or mandatory prepayments) of Indebtedness for borrowed money of the Borrower and its Restricted Subsidiaries (excluding scheduled repayments of Revolving Credit Loans (or other loans which by their terms may be re-borrowed if prepaid) except to the extent the Revolving Credit Commitments (or commitments in respect of such other revolving loans) are permanently reduced in connection with such repayments) and scheduled repayments of obligations of the Borrower and its Restricted Subsidiaries under Capital Leases (excluding any interest expense portion thereof), (2) Capital Expenditures, (3) payments of the type described in clause (f) of the definition of Consolidated EBITDA, and (4) consideration in respect of Investments made pursuant to Section 7.02 (other than Section 7.02(a), (c), (g) or (p)) (and financed with internally generated cash (and not from the proceeds of Indebtedness)) plus (ii) other non-cash gains increasing Consolidated Net Income for such period (excluding any such non-cash gain to the extent it represents the reversal of an accrual or reserve for a potential cash gain in any prior period).

"**Consolidated Funded Indebtedness**" means, as of any date of determination, for the Borrower and its Restricted Subsidiaries on a consolidated basis, the sum, without duplication, of (a) the outstanding principal amount of all obligations, whether current or long-term, for borrowed money (including the Obligations hereunder and any Indebtedness owing or paid to non-Affiliated third parties in respect of Receivables Program Obligations) and all obligations evidenced by bonds, debentures, notes, loan agreements or other similar instruments, (b) all purchase money Indebtedness, (c) all direct non-contingent obligations arising in connection with letters of credit (including standby and commercial), bankers' acceptances, bank guaranties, surety bonds and similar instruments, (d) all obligations to pay the deferred purchase price of property or services (other than (i) trade accounts payable in the ordinary course of business and (ii) contingent earn-outs, hold-backs and other deferred payment of consideration in Permitted Acquisitions), (e) Attributable Indebtedness in respect of Capital Leases, (f) all Guarantees with respect to outstanding Indebtedness of the types specified in clauses (a) through (e) above of Persons other than the Borrower or any Restricted Subsidiary, and (g) all Indebtedness of the types referred to in clauses (a) through (f) above of any partnership or joint venture (other than a joint venture that is itself a corporation or limited liability company) in which the Borrower or a Restricted Subsidiary is a general partner or joint venturer, unless such Indebtedness is expressly made non-recourse to the Borrower or such Restricted Subsidiary.

"**Consolidated Interest Charges**" means, for any Measurement Period, consolidated interest expense (net of interest income) for such period whether paid or accrued (but without duplication if accrued and paid in the same period and, for purposes of clause (a) of the definition of Consolidated EBITDA, not including any such amount paid if previously accrued and added back in the prior period) and whether or not capitalized (including, without limitation, and without duplication, amortization of original issue discount, non-cash interest payments, the interest component of any deferred payment obligations, the interest component of all payments associated with Capital Leases, imputed interest with respect to Attributable Indebtedness, commissions, discounts and other fees and charges incurred in respect of letters of credit or bankers' acceptances, discounts, yield and other fees and charges (including any interest expense) related to any Qualified Receivables Transaction owing or paid to non-Affiliated third parties, dividend and distribution payments made in cash on any Disqualified Equity Interests, and net payments, if any, pursuant to interest rate Swap Contracts, but excluding amortization of debt issuance costs), in each case, of or by the Borrower and its Restricted Subsidiaries on a consolidated basis for the most recently completed Measurement Period.

"**Consolidated Interest Coverage Ratio**" means, as of any date of determination, the ratio of (a) Consolidated EBITDA for the most recently completed Measurement Period to (b) Consolidated Interest Charges for such Measurement Period.

"**Consolidated Net Income**" means, at any date of determination, the net income (or loss) of the Borrower and its Restricted Subsidiaries on a consolidated basis for the most recently completed Measurement Period taken as a single accounting period determined in conformity with GAAP; *provided* that Consolidated Net Income shall exclude, without duplication, (a) extraordinary gains and extraordinary non-cash losses for such Measurement Period, (b) the net income of any Restricted Subsidiary that is not a Loan Party (other than a Receivables Subsidiary) during such Measurement Period to the extent that the declaration or payment of dividends or similar distributions by such Restricted Subsidiary of such income is not permitted by operation of the terms of its Organization Documents or any agreement, instrument or Law applicable to such Restricted Subsidiary during such Measurement Period, except that the Borrower's equity in any net loss of any such Restricted Subsidiary for such Measurement Period shall be included in determining Consolidated Net Income, (c) any income (or loss) for such Measurement Period of any Person if such Person is not a Restricted Subsidiary or is a Receivables Subsidiary, except that (x) the Borrower's equity in the net income of any such Person for such Measurement Period shall be included in Consolidated Net Income up to the aggregate amount of cash actually distributed by such Person during such Measurement Period to the Borrower or a Restricted Subsidiary as a dividend or other distribution (and in the case of a dividend or other distribution to a Restricted Subsidiary, such Restricted Subsidiary is not precluded from further distributing such amount to the Borrower as described in clause (b) of this proviso) and (y) any such loss for such Measurement Period shall be included to the extent funded with cash contributed by the Borrower or a Restricted Subsidiary, (d) any cancellation of debt income arising from a repurchase of Term Loans by the Borrower pursuant to Section 10.06(b)(vii) or any other early extinguishment of Indebtedness, hedging agreements or other similar instruments, (e) any (i) write-off or amortization made in such period of deferred financing costs and premiums paid or other expenses incurred directly in connection with any early extinguishment of Indebtedness, or (ii) good will or other asset impairment charges, write-offs or write-downs, and (f) the effects of purchase accounting adjustments (including the effects of such adjustments pushed down to the Borrower and its Restricted Subsidiaries) in component amounts required or permitted by GAAP resulting from the application of purchase accounting in relation to any consummated acquisition or the amortization or write-off of any amounts thereof, net of taxes.

"**Consolidated Senior Secured Debt**" means, as of any date of determination, without duplication, the aggregate principal amount of Consolidated Funded Indebtedness outstanding on such date that is secured by a Lien on any asset or property of the Borrower or any Restricted Subsidiary (including, for the avoidance of doubt, purchase money Indebtedness and Attributable Indebtedness in respect of Capital Leases).

"**Consolidated Total Assets**" means, on any date of determination, the total assets of the Borrower and its Restricted Subsidiaries, determined in accordance with GAAP as shown on the most recent consolidated balance sheet of the Borrower delivered pursuant to Section 6.01(a) or (b) on or prior to such date or, for the period prior to the time any such statements are so delivered pursuant to Section 6.01(a) or (b), the financial statements for Old BRBR for the fiscal quarter ended December 31, 2021, in each case after giving pro forma effect to acquisitions or dispositions of Persons, divisions or lines of business that had occurred on or after such balance sheet date and on or prior to such date of determination.

"**Consolidated Working Capital**" means, as at any date of determination, Consolidated Current Assets of the Borrower and its Restricted Subsidiaries less Consolidated Current Liabilities of the Borrower and its Restricted Subsidiaries.

"**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. In calculating the Consolidated Working Capital Adjustment there shall be excluded the effect of reclassification during such period of current assets to long term assets and current liabilities to long term liabilities and the effect of any Permitted Acquisition during such period; *provided*, that there shall be included with respect to any Permitted Acquisition during such period an amount (which may be a negative number) by which the Consolidated Working Capital of the Person acquired in such Permitted Acquisition as at the time of such acquisition exceeds (or is less than) the Consolidated Working Capital of the Person acquired at the end of such period (in each case, substituting the Person acquired for the Borrower and its Restricted Subsidiaries in the calculation of such acquired Consolidated Working Capital).

"**Contractual Obligation**" means, as to any Person, any provision of any security issued by such Person or of any agreement, instrument or other undertaking to which such Person is a party or by which it or any of its property is bound.

"**Control**" means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ability to exercise voting power, by contract or otherwise. "**Controlling**" and "**Controlled**" have meanings correlative thereto.

"**Conversion/Continuation Notice**" means a notice of (a) a conversion of Loans of a particular Class from one Type to the other or (b) a continuation of Term SOFR Loans or Eurodollar Rate Loans pursuant to Section 2.02(a), which shall be substantially in the form of Exhibit A-2 or any other form approved by the Administrative Agent.

"**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 Transaction**" has the meaning specified in Section 1.09(d).

"**Credit Agreement Refinancing Indebtedness**" means Indebtedness incurred solely by the Borrower in the form of one or more series or classes of Loans or Commitments under this Agreement, in each case, issued, incurred or otherwise obtained (including by means of the amendment, extension, refinancing, or renewal of existing Indebtedness) in exchange for, or to refinance, in whole or part, existing Term Loans (and/or Term Commitments) and Revolving

Credit Loans (and/or Revolving Credit Commitments), or any then-existing Credit Agreement Refinancing Indebtedness ("**Refinanced Debt**"); *provided* that (i) such Indebtedness is secured by the Collateral on a pari passu basis with the Liens securing the other Obligations hereunder and is not secured by any property or assets other than the Collateral, (ii) such Indebtedness is not guaranteed by any Person other than the Guarantors, (iii) such Indebtedness is incurred solely to refinance, in whole or part, Refinanced Debt, and the proceeds thereof shall be substantially contemporaneously applied to prepay such Refinanced Debt, interest and any premium (if any) thereon, and fees and expenses incurred in connection with such Indebtedness, and any Term Commitments and/or Revolving Credit Commitments so refinanced shall be concurrently terminated, (iv) such Indebtedness (including, if such Indebtedness includes any Revolving Credit Commitments, the unused amount of such Revolving Credit Commitments) is in an original aggregate principal amount not greater than the aggregate principal amount of the Refinanced Debt (and, in the case of Refinanced Debt consisting, in whole or in part, of unused Revolving Credit Commitments, the applicable amount thereof), *plus* accrued and unpaid interest, any premium, and fees and expenses reasonably incurred in connection therewith, (v) such Indebtedness has a maturity no earlier, and a Weighted Average Life to Maturity no shorter, than the Refinanced Debt, (vi) the terms and conditions of such Indebtedness (except as otherwise provided above and with respect to pricing, premiums, fees, rate floors and optional prepayment or redemption terms) are substantially identical to the terms and conditions applicable to the Refinanced Debt, unless (x) such terms apply only after the Latest Maturity Date at the time such Indebtedness is established or (y) this Agreement is amended so that such terms are also applicable for the benefit of the Lenders under any then-existing Facilities and (vii) such Refinanced Debt shall be repaid, all accrued interest, fees, premiums (if any) and penalties in connection therewith shall be paid, and all commitments in respect thereof shall be terminated, on the date such Indebtedness is incurred.

"**Credit Extension**" means each of the following: (a) a Borrowing and (b) an L/C Credit Extension.

"**Daily Simple RFR**" means, for any day (an "**RFR Interest Day**"), an interest rate per annum equal to, for any RFR Loan denominated in Sterling, SONIA for the day that is five (5) RFR Business Days prior to (A) if such RFR Interest Day is an RFR Business Day, such RFR Interest Day or (B) if such RFR Interest Day is not an RFR Business Day, the RFR Business Day immediately preceding such RFR Interest Day.

"**Daily Simple SOFR**" means, for any day (a "**SOFR Rate Day**"), a rate per annum equal to SOFR for the day that is five (5) U.S. Government Securities Business Days prior to (i) if such SOFR Rate Day is a U.S. Government Securities Business Day, such SOFR Rate Day or (ii) if such SOFR Rate Day is not a U.S. Government Securities Business Day, the U.S. Government Securities Business Day immediately preceding such SOFR Rate Day, in each case, as such SOFR is published by the SOFR Administrator on the SOFR Administrator's Website. Any change in Daily Simple SOFR due to a change in SOFR shall be effective from and including the effective date of such change in SOFR without notice to the Borrower.

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

"**Declined Proceeds**" has the meaning assigned to such term in Section 2.05(b)(vii).

"**Deemed Dividend Problem**" means, with respect to any CFC, such CFC's current and accumulated and undistributed earnings and profits (other than earnings and profits described in Sections 959(c)(1) and 959(c)(2) of the Code) being deemed to be repatriated to the Borrower or the applicable Domestic Subsidiary of the Borrower under Section 956 of the Code and the United States Treasury Regulations promulgated thereunder and the effect of such deemed repatriation causing adverse tax consequences to the Borrower or the applicable Domestic Subsidiary of the Borrower in each case as determined by the Borrower in its commercially reasonable judgment acting in good faith and in consultation with the Administrative Agent.

"**Default**" means any event or condition that constitutes an Event of Default or that, with the giving of any notice, the passage of time, or both, would be an Event of Default.

"**Default Rate**" means (a) when used with respect to Obligations other than Letter of Credit Fees, an interest rate equal to (x) with respect to principal, interest or other fees attributable to a Facility, (i) in the case of Loans denominated in an Alternative Currency, the interest rate (including any Applicable Rate) otherwise applicable to such Loan plus 2.0% and (ii) in the case of Loans denominated in U.S. Dollars, the Base Rate plus the Applicable Rate applicable to Base Rate Loans under such Facility plus 2% per annum and (y) with respect to all other Obligations, (i) the Base Rate plus (ii) the Applicable Rate applicable to Base Rate Loans under the Original Revolving Credit Facility plus (iii) 2% per annum, in each case to the fullest extent permitted by applicable Laws, and (b) when used with respect to Letter of Credit Fees, a rate equal to the Applicable Rate plus 2% per annum.

"**Defaulting Lender**" means, subject to Section 2.16(b), any Lender that, as determined by the Administrative Agent, (a) has failed to perform any of its funding obligations hereunder, including in respect of its Loans or participations in respect of Letters of Credit, within three Business Days of the date required to be funded by it hereunder, unless, with respect to funding obligations in respect of Loans, such Lender notifies the Administrative Agent and the Borrower in writing that such failure is the result of such Lender's good faith determination that one or more conditions precedent to funding (each of which conditions precedent, together with any applicable default, shall be specifically identified in such writing) has not been satisfied, (b) has provided written notice to the Borrower and the Administrative Agent that it does not intend to comply with its funding obligations or has made a public statement to that effect with respect to its funding obligations hereunder (unless such written notice or public statement relates to such Lenders' obligation to fund a Loan hereunder and states that such position is based on such Lender's good faith 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) has failed, within three Business Days after request by the Administrative Agent made in good faith belief that such Lender may not honor its funding obligations, to confirm in a manner reasonably satisfactory to the Administrative Agent that it will comply with its funding obligations 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) or (d)

has, or has a direct or indirect parent company that has, (i) become the subject of a proceeding under any Debtor Relief Law, (ii) had a receiver, conservator, trustee, administrator, assignee for the benefit of creditors or similar Person charged with reorganization or liquidation of its business or a custodian appointed for it, (iii) taken any action in furtherance of, or indicated its consent to, approval of or acquiescence in any such proceeding or appointment or (iv) become the subject of a Bail-In Action; *provided* that a Lender shall not be a Defaulting Lender solely by virtue of the ownership or acquisition of any equity interest in that Lender or any direct or indirect parent company thereof by a Governmental Authority 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 from the enforcement of judgements or writs of attachment on its assets or permits such Lender (or such Governmental Authority) to reject, repudiate, disavow or disaffirm any contracts or agreements made with such Lender.

"**Designated Non-Cash Consideration**" means the fair market value (as determined by the Borrower in good faith) of non-cash consideration received by the Borrower or a Restricted Subsidiary in connection with a Disposition pursuant to Section 7.05(j) that is designated as Designated Non-Cash Consideration pursuant to a certificate of a Responsible Officer of the Borrower setting forth the basis of such valuation (which amount will be reduced by the amount of cash or Cash Equivalents received in connection with a subsequent sale or conversion of such Designated Non-Cash Consideration to cash or Cash Equivalents).

"**Disposition**" or "**Dispose**" means the sale, consignment, transfer, license, lease or other disposition (including any sale and leaseback transaction) of any property by any Person, including (x) any sale, assignment, transfer or other disposal, with or without recourse, of any notes or accounts receivable or any rights and claims associated therewith and (y) any issuance of Equity Interests by any Restricted Subsidiary of such Person. For the avoidance of doubt, any issuance of Equity Interests by the Borrower shall not be a Disposition.

"**Disqualified Equity Interests**" means any Equity Interests that, by their terms (or by the terms of any security or other Equity Interest into which they are convertible or for which they are exchangeable) or upon the happening of any event or condition, (a) mature or are mandatorily redeemable (other than solely for Qualified Equity Interests), pursuant to a sinking fund obligation or otherwise (except as a result of a change of control or asset sale so long as any rights of the holders thereof upon the occurrence of a change of control or asset sale event shall be subject to the prior repayment in full of the Loans and all other Obligations that are accrued and payable and the termination of the Commitments), (b) are redeemable at the option of the holder thereof (other than solely for Qualified Equity Interests) (except as a result of a change of control or asset sale so long as any rights of the holders thereof upon the occurrence of a change of control or asset sale event shall be subject to the prior repayment in full of the Loans and all other Obligations that are accrued and payable and the termination of the Commitments), in whole or in part, (c) provide for the mandatory scheduled payment of distributions or dividends in cash or (d) are or become convertible into or exchangeable for Indebtedness or any other Equity Interests that would constitute Disqualified Equity Interests, in each case prior to the date that is 91 days after the Latest Maturity Date in effect at the time of issuance of such Equity Interests; *provided, however,* that only the portion of Equity Interests which so mature or are mandatorily redeemable, are redeemable at the option of the holder thereof, provide for the mandatory scheduled prepayment of distributions or dividends, or which are or become convertible as described above prior to the

date that is 91 days after the Latest Maturity Date shall be deemed to be Disqualified Equity Interests; and *provided further, however,* that if such Equity Interests are issued pursuant to a plan for the benefit of the employees of the Borrower or its Restricted Subsidiaries, such Equity Interests shall not constitute Disqualified Equity Interests solely because they may be required to be repurchased by the Borrower or its Restricted Subsidiaries in order to satisfy applicable statutory or regulatory obligations.

"**Disqualified Lender**" means (a) any Person (or its Subsidiaries and Affiliates) who is an operating competitor of the Borrower or its Subsidiaries and that is separately identified by the Borrower to the Administrative Agent by name in writing prior to the Closing Date (which list of operating competitors may be supplemented by the Borrower after the Closing Date by means of a written notice to the Administrative Agent; *provided* that such supplementation shall not apply retroactively to disqualify any Persons that have previously acquired an assignment or participation in the Loans or Commitments hereunder) or become effective until five (5) Business Days after such written notice is delivered to the Administrative Agent. and (b) with respect to each Person that is a "Disqualified Lender" pursuant to clause (a) above, any of its Affiliates (other than any Affiliate of a Person that is a "Disqualified Lender" pursuant to clause (a) above and is a bona fide debt fund or an investment vehicle that is primarily engaged in making, purchasing, holding or otherwise investing in commercial loans, bonds and similar extensions of credit in the ordinary course of its business (and for purposes hereof, a "vulture fund" or Person that purchases distressed debt in the ordinary course of its business shall be deemed not to be a bona fide debt fund or an investment vehicle that is primarily engaged in making, purchasing, holding or otherwise investing in commercial loans, bonds and similar extensions of credit in the ordinary course of its business)) that is either (i) identified to the Administrative Agent by name in writing by the Borrower from time to time (*provided* that such supplementation shall not apply retroactively to disqualify any Persons that have previously acquired an assignment or participation in the Loans hereunder) or (ii) clearly identifiable as an Affiliate of such Disqualified Lender solely on the basis of such Affiliate's name.

"**Disregarded Domestic Subsidiary**" means any Domestic Subsidiary (a) substantially all of the assets of which consist of the Equity Interests of one or more CFCs or (b) that is treated as a disregarded entity for U.S. federal income tax purposes that holds, directly or indirectly, the Equity Interests of one or more CFCs.

"**Domestic Subsidiary**" means any Restricted Subsidiary organized in the United States or any political subdivision thereof but excluding any direct or indirect Subsidiary of a CFC.

"**EEA Financial Institution**" means (a) any credit institution or investment firm established in any EEA Member Country which is subject to the supervision of an EEA Resolution Authority, (b) any entity established in an EEA Member Country which is a parent of an institution described in clause (a) of this definition, or (c) any financial institution established in an EEA Member Country which is a subsidiary of an institution described in clauses (a) or (b) of this definition and is subject to consolidated supervision with its parent.

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

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

"**Effective Yield**" means, as to any Loans of any Class, the effective yield on such Loans, taking into account the applicable interest rate margins, any interest rate floors or similar devices and all fees, including upfront or similar fees or original issue discount (amortized over the shorter of (x) the original stated life of such Loans and (y) the four years following the date of incurrence thereof) payable generally to Lenders making such Loans, but excluding arrangement fees, structuring fees, administrative or agency fees, commitment fees, underwriting fees or other fees payable to any lead arranger (or its affiliates) (regardless of whether paid in whole or in part to any or all Lenders) in connection with the commitment or syndication of such Indebtedness.

"**Eligible Assignee**" means any Person that meets the requirements to be an assignee under Sections 10.06(b)(v) and (vi) (subject to such consents, if any, as may be required under Section 10.06(b)(iii)).

"Employee Matters Agreement" means that certain Amended and Restated Employee Matters Agreement by and among Post, the Borrower, Old BRBR, and BellRing Brands, LLC, dated as of March 10, 2022, as amended, modified, supplemented, restated or replaced from time to time.

"**Engagement Letter**" means the Engagement Letter, dated November 29, 2021, among the Borrower and certain Arrangers, as amended, modified, supplemented, restated or replaced from time to time.

"**Environmental Claim**" means any written notice, claim, demand, action, litigation, toxic tort, proceeding, demand, request for information, complaint, citation, summons, investigation, notice of non-compliance or violation, cause of action, consent order, consent decree, investigation, or other proceeding by any Governmental Authority or any other Person, arising out of, based on or pursuant to any Environmental Law or related in any way to any actual, alleged or threatened Environmental Liability.

"**Environmental Laws**" means any and all Federal, state, local, and foreign statutes, laws, regulations, ordinances, rules, judgments, orders, decrees, agreements or governmental restrictions relating to human health and safety, pollution, the protection of the environment or the release of any materials into the environment, including those related to hazardous materials, substances or wastes and air and water emissions and discharges.

"**Environmental Liability**" means any liability, contingent or otherwise (including any liability for damages, costs of environmental remediation, fines, penalties or indemnities), obligation, responsibility or cost directly or indirectly resulting from or based upon (a) any violation of, or liability under, any Environmental Law, (b) the generation, use, handling, transportation, storage, distribution, 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, (e) natural resource damage or (f) any contract, agreement or other consensual arrangement pursuant to which liability is assumed or imposed with respect to any of the foregoing.

"**Environmental Permit**" means any permit, approval, identification number, license or other authorization issued pursuant to or required under any Environmental Law.

"**Equity Interests**" means, with respect to any Person, all of the shares of capital stock of (or other ownership or profit interests in) such Person, all of the warrants, options or other rights for the purchase or acquisition from such Person of shares of capital stock of (or other ownership or profit interests in) such Person, all of the securities convertible into or exchangeable for shares of capital stock of (or other ownership or profit interests in) such Person or warrants, rights or options for the purchase or acquisition from such Person of such shares (or such other interests), and all of the other ownership or profit interests in such Person (including partnership, member or trust interests therein), whether voting or nonvoting, and whether or not such shares, warrants, options, rights or other interests are outstanding on any date of determination.

"**ERISA**" means the Employee Retirement Income Security Act of 1974, as amended, and the rules and regulations promulgated thereunder.

"**ERISA Affiliate**" means any trade or business (whether or not incorporated) under common control with the Borrower within the meaning of Section 414(b) or (c) of the Code (or Sections 414(m) and (o) of the Code for purposes of provisions relating to Section 412 of the Code).

"**ERISA Event**" means the occurrence of any of the following (a) a Reportable Event with respect to a Pension Plan; (b) the withdrawal of the Borrower or any ERISA Affiliate from a Pension Plan subject to Section 4063 of ERISA during a plan year in which such entity was a substantial employer (as defined in Section 4001(a)(2) of ERISA) or a cessation of operations that is treated as such a withdrawal under Section 4062(e) of ERISA; (c) a complete or partial withdrawal by the Borrower or any ERISA Affiliate from a Multiemployer Plan or notification concerning the imposition upon the Borrower or any of its ERISA Affiliates of any liability with respect to such withdrawal, or a determination that a Multiemployer Plan is or is expected to be insolvent within the meaning of Title IV of ERISA; (d) the filing of a notice of intent to terminate, or the treatment of a Pension Plan amendment as a termination of, any Pension Plan, under Section 4041 or 4041A of ERISA; (e) the institution by the PBGC of proceedings to terminate a Pension Plan; (f) any event or condition which constitutes grounds under Section 4042 of ERISA for the termination of, or the appointment of a trustee to administer, any Pension Plan; (g) the determination that the adjusted funding target attainment percentage (as defined in Section 436(j)(2) of the Code) of any Pension Plan is both less than 80% and such Pension Plan is more than $20,000,000 underfunded on an adjusted funding target attainment percentage basis; (h) the imposition of any liability under Title IV of ERISA, other than for PBGC premiums due but not delinquent under Section 4007 of ERISA, upon the Borrower or any ERISA Affiliate; or (i) the failure to satisfy the Pension Funding Rules with respect to any Pension Plan, whether or not waived.

"**Escrow Subsidiary**" means a wholly-owned Subsidiary (i) created by the Borrower or any Subsidiary for the sole purpose of issuing debt securities the net proceeds of which must be deposited into a secured escrow account of such Subsidiary pending consummation of a Permitted Acquisition and which debt securities must be redeemed if such Permitted Acquisition is not consummated, (ii) engaged in no activities other than those incidental to the issuance of such debt securities, (iii) owning no assets other than amounts that have been deposited into such secured escrow account and (iv) which has been designated as an Escrow Subsidiary by the Borrower's Board of Directors as evidenced by a filing with the Administrative Agent of (1) a board resolution of the Borrower giving effect to such designation and (2) an officers' certificate certifying that such designation, and the transactions in which such Subsidiary will engage (including the terms of the debt securities issued by such Subsidiary), comply with the requirements of this definition; *provided* that if at any time (x) such Subsidiary ceases to comply with the requirements of this definition or (y) the debt securities become guaranteed by (or secured by assets of) any Person other than such Subsidiary, such designated Subsidiary shall no longer constitute an Escrow Subsidiary under this Agreement.

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

"**Euro**" and "**€**" means the single currency of any member state of the European Union that adopts or has adopted the Euro as its lawful currency in accordance with the legislation of the European Union relating to economic and monetary union.

"**Eurodollar Rate**" means, with respect to any Term Benchmark Borrowing denominated in Euros and for any Interest Period, the EURIBOR Screen Rate, two TARGET Days prior to the commencement of such Interest Period .

"**EURIBOR Screen Rate**" means the euro interbank offered rate administered by the European Money Markets Institute (or any other person which takes over the administration of that rate) for the relevant period displayed (before any correction, recalculation or republication by the administrator) on page EURIBOR01 of the Thomson Reuters screen (or any replacement Thomson Reuters page which displays that rate) or on the appropriate page of such other information service which publishes that rate from time to time in place of Thomson Reuters as published at approximately 11:00 a.m. Brussels time two TARGET Days prior to the commencement of such Interest Period. If such page or service ceases to be available, the Administrative Agent may specify another page or service displaying the relevant rate after consultation with the Borrower.

"**Eurodollar Rate Loan**" means a Revolving Credit Loan or a Term Loan that bears interest at a rate based on the definition of "**Eurodollar Rate**."

"**Event of Default**" has the meaning specified in Section 8.01.

"**Exchange Act**" means the Securities Exchange Act of 1934, as amended.

"**Excluded Assets**" has the meaning specified in the Collateral Agreement.

"**Excluded Subsidiary**" means (a) any Affected Foreign Subsidiary, or any direct or indirect Subsidiary of any Affected Foreign Subsidiary, (b) any Receivables Subsidiary, (c) any Escrow Subsidiary, (d) any Unrestricted Subsidiary, (e) any Disregarded Domestic Subsidiary, (f) Active Nutrition International GmbH, or (g) any Restricted Subsidiary that is not a wholly owned Subsidiary and that constitutes a bona fide joint venture with a third party that is not an Affiliate of the Borrower, if, in the case of this clause (g), the granting of a security interest therein (i) would be prohibited by, cause a default under or result in a breach of, or would give another Person (other than the Borrower or any Restricted Subsidiary) a right to terminate, under any organizational document, shareholders, joint venture or similar agreement applicable to such Restricted Subsidiary that is not a wholly owned Subsidiary and that constitutes a bona fide joint venture with a third party that is not an Affiliate of the Borrower or (ii) would require obtaining the consent of any Person (other than the Borrower or any Restricted Subsidiary) unless such consent has been obtained; *provided* that the Borrower and its Restricted Subsidiaries shall not be required to obtain any such consents.

"**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) Taxes imposed on or measured by overall net income (however denominated), franchise Taxes (in lieu of net income Taxes), and branch profits Taxes in each case, (i) imposed by the jurisdiction (or any political subdivision thereof) 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) any backup withholding tax that is required by the Code to be withheld from amounts payable to a Lender that has failed to comply with clause (A) of Section 3.01(e)(ii), (c) in the case of a Lender (other than an assignee pursuant to a request by the Borrower under Section 10.13), any United States federal withholding Tax that (i) is required to be imposed on amounts payable to or for the account of such Lender pursuant to the Laws in force at the time such Lender acquires such interest in the Loan or Commitment (or designates a new Lending Office) or (ii) is attributable to such Lender's failure or inability (other than as a result of a Change in Law) to comply with clause (B) of Section 3.01(e)(ii), except that in the case of a Lender that designates a new Lending Office or becomes a Party to this Agreement pursuant to an assignment, withholding Taxes shall not be Excluded Taxes to the extent that such Taxes were not Excluded Taxes with respect to such Lender or its assignor, as the case may be, immediately before such designation of a new Lending Office or assignment; and (d) any U.S. federal withholding Taxes imposed under FATCA.

"**Existing Credit Agreement**" means that certain credit agreement dated October 21, 2019, by and among BellRing Brands, LLC, as the borrower, Credit Suisse AG, Cayman Islands Branch, as administrative agent and the lenders and issuing banks party thereto, (as amended, amended and restated, modified or supplemented from time to time prior to the date hereof).

"**Facility**" means the Revolving Credit Facility, an Incremental Facility or a Refinancing Facility, as the context may require.

"**FASB ASC**" means the Accounting Standards Codification of the Financial Accounting Standards Board.

"**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) and any current or future regulations or official interpretations thereof, any agreements entered into pursuant to Section 1471(b)(1) of the Code and any fiscal or regulatory legislation, rules or practices adopted pursuant to any intergovernmental agreement, treaty or convention among Governmental Authorities and implementing such Sections 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 depositary institutions, as determined in such manner as shall be set forth on the NYFRB's Website from time to time, and published on the next succeeding Business Day by the NYFRB as the effective federal funds rate; *provided* that if the Federal Funds Effective Rate as so determined would be less than 0%, such rate shall be deemed to be 0% for the purposes of this Agreement.

"**Federal Reserve Board**" means the Board of Governors of the Federal Reserve System of the United States of America.

"**Fee Letter**" means the agency fee letter, dated November 29, 2021, among the Borrower and JPMorgan Chase Bank, N.A.

"**Fiscal Year**" means the fiscal year of the Borrower and its Restricted Subsidiaries ending on September 30 of each calendar year.

"**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 Term SOFR Rate, Adjusted Eurodollar Rate, Adjusted Daily Simple SOFR, the Adjusted Daily Simple RFR or the Central Bank Rate, as applicable. For the avoidance of doubt the initial Floor with respect to the Original Revolving Loans for each of the Adjusted Term SOFR Rate, the Adjusted Eurodollar Rate, Adjusted Daily Simple SOFR, the Adjusted Daily Simple RFR and the Central Bank Rate shall be 0%.

"**Foreign Government Scheme or Arrangement**" has the meaning specified in Section 5.11(c).

"**Foreign Lender**" means a Lender that is not a U.S. Person.

"**Foreign Plan**" has the meaning specified in Section 5.11(c).

"**Foreign Subsidiary**" means any Subsidiary that is not a Domestic Subsidiary.

"**Formation Documents**" means the Employee Matters Agreement, the Legal Engagement Letter, the Master Services Agreement, the Master Transaction Agreement, the Registration Rights Agreement, the Tax Matters Agreement, the Tax Matters Agreement (2019), the Tax Receivable Agreement, the Trademark and Domain Name License Agreement and the Transaction Agreement.

"**FRB**" means the Board of Governors of the Federal Reserve System of the United States.

"**Fronting Exposure**" means, at any time there is a Defaulting Lender, with respect to any L/C Issuer, such Defaulting Lender's Applicable Revolving Credit Percentage of the outstanding L/C Obligations in respect of Letters of Credit issued by such L/C Issuer other than L/C Obligations as to which such Defaulting Lender's participation obligation has been reallocated to other Lenders or Cash Collateralized in accordance with the terms hereof.

"**Fully Funded**" has the meaning specified in Section 5.11(c).

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

"**GAAP**" means generally accepted accounting principles in the United States of America as in effect from time to time.

"**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 the National Association of Insurance Commissioners and any supra-national bodies such as the European Union or the European Central Bank).

"**Guarantee**" means, as to any Person, (a) any obligation, contingent or otherwise, of such Person guaranteeing or having the economic effect of guaranteeing any Indebtedness or other obligation payable or performable by another Person (the "primary obligor") in any manner, whether directly or indirectly, and including any obligation of such Person, direct or indirect, (i) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness or other obligation, (ii) to purchase or lease property, securities or services for the purpose of assuring the obligee in respect of such Indebtedness or other obligation of the payment or performance of such Indebtedness or other obligation, (iii) to maintain working capital, equity capital or any other financial statement condition or liquidity or level of income or cash flow of the primary obligor so as to enable the primary obligor to pay such Indebtedness or other obligation, or (iv) entered into for the purpose of assuring in any other manner the obligee in respect of such Indebtedness or other obligation of the payment or performance thereof or to protect such obligee against loss in respect thereof (in whole or in part), or (b) any Lien on any assets of such Person securing any Indebtedness or other obligation of any other Person, whether or not such Indebtedness or other obligation is assumed by such Person (or any right, contingent or otherwise, of any holder of such Indebtedness to obtain any such Lien); *provided* that the term "Guarantee" shall not include endorsements for collection or deposit, in either case in the ordinary course of business, or customary and reasonable indemnity obligations in effect on the Closing Date or entered into in connection with any acquisition or disposition of assets permitted under this Agreement (other than such obligations with respect to Indebtedness). The amount of any Guarantee shall be deemed to be an amount equal to the stated or determinable amount of the related primary obligation, or portion thereof, in respect of which such Guarantee is made or, if not stated or determinable, the maximum reasonably anticipated liability in respect thereof as determined by the guaranteeing Person in good faith. The term "**Guarantee**" as a verb has a corresponding meaning.

"**Guarantors**" means, collectively, each existing and future direct or indirect Subsidiary of the Borrower (other than any Excluded Subsidiary or any Immaterial Subsidiary) that is a party (whether originally or by the execution of a joinder) to the Collateral Agreement.

"**Hazardous Materials**" means all explosive or radioactive substances or wastes, contaminants, pollutants or any other hazardous or toxic substances, wastes or materials regulated under or defined in any Environmental Law, including petroleum, its derivatives or petroleum distillates, asbestos or asbestos-containing materials, polychlorinated biphenyls, radon gas, and infectious or medical wastes.

"**Hazardous Material Activity**" means any past, current, proposed or threatened activity, event or occurrence involving any Hazardous Material, including the use, manufacture, possession, storage, holding, presence, existence, location, Release, threatened Release, discharge, placement, generation, transportation, processing, construction, treatment, abatement, removal, remediation, disposal, disposition or handling of any Hazardous Material, and any corrective action or response action with respect to any of the foregoing.

"**Hedge Bank**" means any Person that, at the time it enters into a Swap Contract permitted hereunder, is a Lender, the Administrative Agent or an Arranger or an Affiliate of a Lender, the Administrative Agent or an Arranger in its capacity as a party to such Swap Contract.

"**Immaterial Subsidiary**" means, as of any date, any Restricted Subsidiary that, (a) as of the last date of the most recent fiscal quarter of the Borrower for which financial statements have been delivered, accounts for less than 5.00% of the Consolidated Total Assets of the Borrower and its Restricted Subsidiaries and less than 5.00% of the total revenue of the Borrower and its Restricted Subsidiaries on a consolidated basis, in each case, as measured as of the last day of the most recent fiscal quarter of the Borrower for which financial statements have been delivered and (b) does not, directly or indirectly, hold Equity Interests in any Restricted Subsidiary that is not an Immaterial Subsidiary as of such date; *provided* that if, as of the last date of the most recent fiscal quarter of the Borrower for which financial statements have been delivered, the aggregate amount of Consolidated Total Assets or net sales attributable to all Restricted Subsidiaries that are Immaterial Subsidiaries exceeds 7.50% of the Consolidated Total Assets of the Borrower and its Restricted Subsidiaries or 7.50% of the total revenues of the Borrower and its Restricted Subsidiaries on a consolidated basis, then a sufficient number of Restricted Subsidiaries which are not Excluded Subsidiaries shall be designated by the Borrower (or, in the event the Borrower has failed to do so within twenty days, the Administrative Agent) to eliminate such excess, and such designated Restricted Subsidiaries shall no longer constitute Immaterial Subsidiaries under this Agreement.

"**Immediate Family Member**" means with respect to any individual, such individual's child, stepchild, grandchild or more remote descendant, parent, stepparent, grandparent, spouse, former spouse, domestic partner, former domestic partner, sibling, mother-in-law, father-in-law, son-in-law and daughter-in-law (including adoptive relationships), any trust, partnership or other bona fide estate-planning vehicle the only beneficiaries of which are any of the foregoing individuals, such individual's estate (or an executor or administrator, in each case, acting on their behalf) or any private foundation or fund that is controlled by any of the foregoing individuals or any donor-advised fund of which any such individual is the donor.

"**Increased Amount Date**" has the meaning specified in Section 2.14(b).

"**Incremental Available Amount**" means

(a)(i) the greater of (x) $250,000,000 and (y) 100.00% of the Consolidated EBITDA based on the Most Recent Financial Statements less (ii) the aggregate principal amount of Indebtedness incurred pursuant to Section 2.14(a) and Section 7.03(s) in reliance of this clause (a), plus

(b)(i) the amount of any voluntary prepayments or debt buybacks of Term Loans, loans under any Incremental Equivalent Debt and/or loans under other Indebtedness, in each case, secured on a pari passu basis with the Liens securing the Obligations hereunder (which, in the case of any such Indebtedness that constitutes revolving Indebtedness, is accompanied by a permanent reduction in the relevant commitment), (ii) voluntary prepayments of Revolving Credit Loans to the extent accompanied by a permanent reduction in the relevant commitment, and (iii) the amount paid in cash in respect of any reduction in the outstanding principal amount of any Term Loan resulting from any assignment of such Term Loan to the Borrower pursuant to Section 10.06(b)(vii) and/or the application of "yank-a-bank" provisions pursuant to Section 10.13, in each case, made prior to the Increased Amount Date (in the case of each of clauses (b)(i), (ii) and (iii), other than prepayments, repayments or commitment reductions financed with the proceeds of long-term indebtedness (other than revolving indebtedness (except where revolving indebtedness is used to replace revolving indebtedness))) less (iv) the aggregate principal amount of Indebtedness incurred pursuant to Section 2.14(a) and Section 7.03(s) in reliance on this clause (b), plus

(c) an unlimited amount of Indebtedness that is secured by any or all of the Collateral on a basis that is pari passu with or junior to the Liens securing the Obligations or that is unsecured, so long as, after giving effect to the incurrence of such Incremental Equivalent Debt or such Incremental Facility (assuming all commitments under or in respect of the Revolving Credit Facility Increase, Incremental Term Loans or Incremental Equivalent Debt are fully funded and without netting the cash proceeds thereof), (i) in the case of any Indebtedness secured by any or all of the Collateral on a pari passu basis with the Liens securing the Obligations hereunder, the pro forma Secured Net Leverage Ratio would not exceed the greater of 3.50:1.00 and (in the case of Indebtedness incurred in connection with a Permitted Acquisition or other Investment in the nature of an acquisition) the Secured Net Leverage Ratio immediately prior to giving effect to such Permitted Acquisition or other Investment in the nature of an acquisition, (ii) in the case of any Indebtedness secured by any or all of the Collateral on a junior basis to the Liens securing the Obligations hereunder or secured by assets that do not constitute Collateral, the pro forma Secured Net Leverage Ratio would not exceed the greater of 4.25:1.00 and (in the case of Indebtedness incurred in connection with a Permitted Acquisition or other Investment in the nature of an acquisition) the Secured Net Leverage Ratio immediately prior to giving effect to such Permitted Acquisition or other Investment in the nature of an acquisition, and (iii) in the case of any Indebtedness that is unsecured, either (x) the pro forma Total Net Leverage Ratio would not exceed the greater of 6.00:1.00 and (in the case of Indebtedness incurred in connection with a Permitted Acquisition or other Investment in the nature of an acquisition) the Total Net Leverage Ratio immediately prior to giving effect to such Permitted Acquisition or other Investment in the nature of an acquisition or (y) the pro forma Consolidated Interest Coverage Ratio would be greater than or equal to the lesser of 2.00:1.00 and (in the case of Indebtedness incurred in connection with a Permitted Acquisition or other Investment in the nature of an acquisition) the Consolidated Interest Coverage Ratio immediately prior to giving effect to such Permitted Acquisition or other Investment in the nature of an acquisition,

provided, that to the extent the proceeds of any Incremental Term Loans or Incremental Equivalent Debt are intended to be applied to finance a Limited Condition Acquisition, pro forma compliance shall be tested in accordance with Section 1.09(c); and

provided, further that, at the election of the Borrower, (I) the Borrower shall be deemed to have used amounts under clause (c) (to the extent compliant therewith) prior to utilization of amounts under clause (a) or (b), (II) Loans may be incurred simultaneously under clauses (a), (b) and (c), and proceeds from any such incurrence may be utilized in a single transaction, at the election of the Borrower, by first calculating the incurrence under clause (c) above and then calculating the incurrence under clauses (a) and (b) above and (III) any Loans incurred in reliance on clause (a) and/or (b) may be reclassified, as the Borrower may elect from time to time, as incurred under clause (c) to the extent permitted thereunder at such time on a pro forma basis.

"**Incremental Borrowing**" means a borrowing of Incremental Revolving Loans or Incremental Term Loans, as the context requires.

"**Incremental Equivalent Debt**" has the meaning specified in Section 7.03(s).

"**Incremental Facility**" means, at any time, as the context may require, the aggregate amount of the Incremental Revolving Loan Lenders' Incremental Revolving Credit Commitments and/or the Incremental Term Loan Lenders' Incremental Term Loan Commitments of a given Class at such time and, in each case, but without duplication, the Credit Extensions made thereunder.

"**Incremental Revolving Credit Commitments**" has the meaning specified in Section 2.14(a).

"**Incremental Revolving Loan Lender**" has the meaning specified in Section 2.14(b).

"**Incremental Revolving Loans**" has the meaning specified in Section 2.14(e).

"**Incremental Term Loan Commitments**" has the meaning specified in Section 2.14(a).

"**Incremental Term Loan Lender**" has the meaning specified in Section 2.14(b).

"**Incremental Term Loan Maturity Date**" means the date on which Incremental Term Loans of a Class shall become due and payable in full hereunder, as specified in the applicable Joinder Agreement, including by acceleration or otherwise.

"**Incremental Term Loans**" has the meaning specified in Section 2.14(f).

"**Indebtedness**" means, as to any Person at a particular time, without duplication, all of the following, whether or not included as indebtedness or liabilities in accordance with GAAP:

(a) all obligations of such Person for borrowed money and all obligations of such Person evidenced by bonds, debentures, notes, loan agreements or other similar instruments;

(b) the maximum amount of all direct or contingent obligations of such Person arising under letters of credit (including standby and commercial), bankers' acceptances, bank guaranties, surety bonds and similar instruments;

(c) net obligations of such Person under any Swap Contract;

(d) all obligations of such Person to pay the deferred purchase price of property or services (other than (i) trade accounts payable in the ordinary course of business and not past due for more than 60 days after the date on which such trade account is due (unless being contested in good faith and by appropriate proceedings) and (ii) earn-outs, hold-backs and other deferred payment of consideration in Permitted Acquisitions to the extent not required to be reflected as liabilities on the balance sheet of the Borrower and its Restricted Subsidiaries in accordance with GAAP);

(e) indebtedness (excluding prepaid interest thereon) secured by a Lien on property owned or being purchased by such Person (including indebtedness arising under conditional sales or other title retention agreements), whether or not such indebtedness shall have been assumed by such Person or is limited in recourse;

(f) Capital Leases;

(g) all obligations of such Person in respect of Disqualified Equity Interests valued, in the case of a redeemable preferred interest that is a Disqualified Equity Interest, at the greater of its voluntary or involuntary liquidation preference plus accrued and unpaid distributions or dividends; and

(h) all Guarantees of such Person in respect of any of the foregoing.

For all purposes hereof, the Indebtedness of any Person shall include the Indebtedness of any partnership or joint venture (other than a joint venture that is itself a corporation or limited liability company) in which such Person is a general partner or a joint venturer, unless such Indebtedness is expressly made non-recourse to such Person. The amount of any net obligation under any Swap Contract on any date shall be deemed to be the Swap Termination Value thereof as of such date. The amount of any Capital Lease as of any date shall be deemed to be the amount of Attributable Indebtedness in respect thereof as of such date. Notwithstanding the foregoing, in connection with the purchase or sale by the Borrower or its Restricted Subsidiaries of any assets or business, the term "Indebtedness" will exclude amounts owed to dissenting shareholders (including in connection with, or as a result of, exercise of dissenters' or appraisal rights and the settlement of any claims or action (whether actual, contingent or potential)), pursuant to or in connection with a consolidation, amalgamation, merger or transfer of assets not prohibited by the applicable provisions of this Agreement.

"**Indemnified Liabilities**" has the meaning specified in Section 10.04(b).

"**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 Loan Party under any Loan Document and (b) to the extent not otherwise described in clause (a), Other Taxes.

"**Indemnitee**" has the meaning specified in Section 10.04(b).

"**Information**" means all information received from the Borrower or any Subsidiary relating to the Borrower or any Subsidiary or any of their respective businesses other than any such information that is available to the Administrative Agent, any Lender or any L/C Issuer on a non-confidential basis prior to disclosure by the Borrower or any Subsidiary.

"**Interest Election Request**" means a request by the Borrower to convert or continue a Revolving Borrowing in accordance with Section 2.02, which shall be substantially in the form of Exhibit C or any other form approved by the Administrative Agent.

"**Interest Payment Date**" means (a) with respect to any Base Rate Loan, (i) the last day of each March, June, September and December and (ii) the Maturity Date of the Facility under which such Loan was made, (b) with respect to any RFR Loan, (i) each date that is on the numerically corresponding day in each calendar month that is one month after the Borrowing of such Loan (or, if there is no such numerically corresponding day in such month, then the last day of such month) and (ii) the Maturity Date of the Facility under which such Loan was made, and (c) with respect to any Term SOFR Loan or any Eurodollar Rate Loans, (i) the last day of each Interest Period applicable to the Borrowing of which such Loan is a part and, in the case of a Term Benchmark 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 (ii) the Maturity Date of the Facility under which such Loan was made.

"**Interest Period**" means with respect to any Term Benchmark 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 thereafter, as the Borrower may elect; *provided*, that (a) 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, (b) any Interest Period 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, (c) no tenor that has been removed from this definition pursuant to Section 3.08 shall be available for specification in such Request for Credit Extension or Interest Election Request and (d) no Interest Period shall extend beyond the Maturity Date of the Facility under which such Loan was made. 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 Determination Date**" means, with respect to any Interest Period in respect of Eurodollar Rate Loans, the date that is two Business Days prior to the first day of such Interest Period.

"**Investment**" means, as to any Person, any direct or indirect acquisition or investment by such Person, whether by means of (a) the purchase or other acquisition of Equity Interests of another Person, (b) the purchase or other acquisition of assets of another Person if such assets constitute a business, division or operating unit (other than purchases or other acquisitions of inventory, materials, supplies and/or equipment in the ordinary course of business), (c) a loan, advance or capital contribution to, Guarantee or assumption of Indebtedness of, or purchase or other acquisition of any other debt or interest in, another Person, or (d) the purchase or other acquisition (in one transaction or a series of transactions) of assets of another Person that constitute a business unit. For purposes of covenant compliance, the amount of any Investment shall be the amount actually invested, without adjustment for subsequent increases or decreases in the value of such Investment.

"**IP Rights**" has the meaning specified in Section 5.16.

"**IRS**" means the United States Internal Revenue Service.

"**ISP**" means, with respect to any Letter of Credit, the International Standby Practices, International Chamber of Commerce Publication No. 590.

"**Issuer Documents**" means with respect to any Letter of Credit, the Letter of Credit Application and any other document, agreement or instrument entered into by the applicable L/C Issuer and the Borrower (or any Restricted Subsidiary) or in favor of such L/C Issuer relating to such Letter of Credit.

"**Joinder Agreement**" means an agreement substantially in the form of Exhibit F.

"**Judgment Currency**" has the meaning specified in Section 10.20.

"**Junior Lien Intercreditor Agreement**" means an intercreditor agreement among the Administrative Agent and the other parties from time to time party thereto, substantially in the form of Exhibit J.

"**L/C Advance**" means, with respect to each Revolving Credit Lender, such Lender's funding of its participation in any L/C Borrowing in accordance with its Applicable Revolving Credit Percentage.

"**L/C Borrowing**" means an extension of credit resulting from a drawing under any Letter of Credit which has not been reimbursed on the date when made or refinanced as a Revolving Credit Borrowing.

"**L/C Credit Extension**" means, with respect to any Letter of Credit, the issuance thereof or extension of the expiry date thereof, or the increase of the amount thereof.

"**L/C Issuer**" means (a) with respect to Letters of Credit (other than any Bank Guarantee) issued hereunder on or after the Closing Date, (i) JPMorgan Chase Bank, N.A., (ii) any other Revolving Credit Lender that may become and agrees to become an L/C Issuer pursuant to Section 2.03(l), (iii) any successor issuer of Letters of Credit hereunder or (iv) collectively, all of the foregoing, in each case, in their respective capacities as an issuer thereof and (b) with respect to

Bank Guarantees, any Bank Guarantee Issuer. It is understood and agreed that each L/C Issuer's and its respective Affiliates' share of the Letter of Credit Sublimit shall not exceed the amount set forth opposite such L/C Issuer's name on Schedule 2.01 (as such Schedule may be amended with the consent of each affected L/C Issuer and the Borrower from time to time) under the caption "Letter of Credit Commitments" and no L/C Issuer shall be required to issue Letters of Credit in excess of its applicable amount so set forth; *provided* that it is understood and agreed that each L/C Issuer may, in its sole discretion, make L/C Credit Extensions in an aggregate amount above its respective share of the Letter of Credit Sublimit.

"**L/C Obligations**" means, as at any date of determination, (i) the aggregate amount available to be drawn under all outstanding Letters of Credit plus (ii) the aggregate of all Unreimbursed Amounts, including all L/C Borrowings, in each case, using the U.S. Dollar Equivalent of amounts denominated in an Alternative Currency. 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 Rule 3.14 of the ISP, such Letter of Credit shall be deemed to be "outstanding" in the amount so remaining available to be drawn.

"**Latest Maturity Date**" means, at any date of determination, the latest Maturity Date applicable to any Loan or Commitment hereunder at such time, including the latest maturity date of any Refinancing Term Loan, any Refinancing Term Commitment, any Incremental Term Loans, any Incremental Revolving Credit Commitments or any Other Revolving Commitments, in each case as extended in accordance with this Agreement from time to time.

"**Laws**" means, collectively, all international, foreign, Federal, state and local statutes, treaties, rules, guidelines, regulations, ordinances, codes and administrative or judicial precedents or authorities, including the interpretation or administration thereof by any Governmental Authority charged with the enforcement, interpretation or administration thereof, and all applicable administrative orders, directed duties, requests, licenses, authorizations and permits of, and agreements with, any Governmental Authority, in each case whether or not having the force of law.

"**LCA Election**" means the Borrower's election to treat a specified Investment that is an acquisition or in the nature of an acquisition (including a Permitted Acquisition) as a Limited Condition Acquisition by giving written notice of such election to the Administrative Agent at any time prior to the closing of such Limited Condition Acquisition.

"**LCA Test Date**" has the meaning specified in Section 1.09(c).

"**Legal Engagement Letter**" means that certain legal engagement letter dated as of March 10, 2022 by and between Post and the Borrower, as amended, modified, supplemented, restated or replaced from time to time.

"**Lender**" has the meaning specified in the introductory paragraph hereto.

"**Lending Office**" means, as to any Lender, the office or offices of such Lender described as such in such Lender's Administrative Questionnaire, or such other office or offices as a Lender may from time to time notify the Borrower and the Administrative Agent, which office may include any Affiliate of such Lender or any domestic or foreign branch of such Lender or such Affiliate.

"**Letter of Credit**" means any standby letter of credit or any Bank Guarantee issued hereunder.

"**Letter of Credit Application**" means an application and agreement for the issuance or amendment of a Letter of Credit in the form from time to time in use by the applicable L/C Issuer.

"**Letter of Credit Expiration Date**" means the day that is seven days prior to the Maturity Date then in effect for the applicable Revolving Credit Facility (or, if such day is not a Business Day, the next preceding Business Day).

"**Letter of Credit Fee**" has the meaning specified in Section 2.03(h).

"**Letter of Credit Sublimit**" means an amount equal to $20,000,000. The Letter of Credit Sublimit is part of, and not in addition to, the Revolving Credit Facilities.

"**Lien**" means any mortgage, pledge, hypothecation, assignment, deposit arrangement, encumbrance, lien (statutory or other), charge, or preference, priority or other security interest or preferential arrangement in the nature of a security interest of any kind or nature whatsoever (including any conditional sale or other title retention agreement, any easement, right of way or other encumbrance on title to real property, and any financing lease having substantially the same economic effect as any of the foregoing).

"**Limited Condition Acquisition**" means any Permitted Acquisition, or other Investment in the nature of an acquisition, by the Borrower or one or more of its Restricted Subsidiaries whose consummation is not, by the terms of the applicable purchase, sale, joint venture, merger or any other definitive agreement with respect to such Permitted Acquisition or other Investment, conditioned on the availability of, or on obtaining, third party financing.

"**Loan**" means an extension of credit by a Lender to the Borrower hereunder in the form of a Term Loan or a Revolving Credit Loan.

"**Loan Documents**" means this Agreement, each Note, each Issuer Document, the Collateral Documents, the Pari Passu Intercreditor Agreement, the Junior Lien Intercreditor Agreement, the Fee Letter, each agreement creating or perfecting rights in Cash Collateral pursuant to the provisions of Section 2.15 of this Agreement, any Refinancing Amendment, any Joinder Agreement and any other agreement or instrument designated as a "Loan Document" by its terms.

"**Loan Parties**" means, collectively, the Borrower and each Guarantor.

"**Market Capitalization**" means an amount equal to (a) the total number of issued and outstanding shares of the Borrower's Common Stock that are issued and outstanding on the date of the relevant Restricted Payment and listed on The New York Stock Exchange (or, if the primary listing of such Common Stock is on another exchange, on such other exchange) multiplied by (b) the arithmetic mean of the closing price per share of such Common Stock as reported by The New York Stock Exchange (or, if the primary listing of such Common Stock is on another exchange, on such other exchange) for each of the 30 consecutive trading days immediately preceding the date of such Restricted Payment.

"**Master Services Agreement**" means that certain Amended and Restated Master Services Agreement dated as of March 10, 2022 by and among Post, Borrower and certain Subsidiaries of the Borrower, as amended, modified, supplemented, restated or replaced from time to time.

"**Master Transaction Agreement**" means that certain Master Transaction Agreement dated as of October 7, 2019 by and among Post, BellRing Brands, LLC and Old BRBR, as amended, modified, supplemented, restated or replaced from time to time.

"**Material Adverse Effect**" means (a) a material adverse change in, or a material adverse effect upon, the results of operations, business, properties, liabilities (actual or contingent) or financial condition of the Borrower and its Restricted Subsidiaries taken as a whole; (b) a material impairment of the rights and remedies of the Administrative Agent or any Lender under any Loan Document; or (c) a material adverse effect upon the legality, validity, binding effect or enforceability against any Loan Party of any Loan Document to which it is a party.

"**Maturity Date**" means, (i) with respect to the Original Revolving Credit Commitments and any subsequent additions thereto, March 10, 2027 (ii) with respect to any Refinancing Term Loans or Other Revolving Commitments, the final maturity date applicable thereto as specified in the applicable Refinancing Amendment and (iii) with respect to any Incremental Term Loans, the final maturity date applicable thereto as specified in the applicable Joinder Agreement; *provided*, in each case, that if such date is not a Business Day, then the applicable Maturity Date shall be the next preceding Business Day.

"**Maximum Rate**" has the meaning specified in Section 10.09.

"**Measurement Period**" means, at any date of determination, the most recently completed four fiscal quarters of the Borrower for which financial statements are available (other than for purposes of calculating ratios pursuant to Section 7.11, which shall look to the most recently completed four fiscal quarters of the Borrower).

"**Merger Sub**" means BellRing Merger Sub Corporation, a Delaware corporation.

"**MNPI**" has the meaning specified in Section 6.02.

"**Moody's**" means Moody's Investors Service, Inc. and any successor thereto.

"**Most Recent Financial Statements**" means the most recently delivered financial statements required to be delivered pursuant to Section 6.01(a) or Section 6.01(b) of this Agreement (or, until such time as such financial statements are so required to be delivered, the financial statements for the period ended December 31, 2021).

"**Multiemployer Plan**" means an employee benefit plan defined in Section 4001(a)(3) of ERISA to which the Borrower or any ERISA Affiliate makes or is obligated to make contributions, or during the preceding five plan years has made or been obligated to make contributions.

"**Multiple Employer Plan**" means a plan which has two or more contributing sponsors (including the Borrower or any ERISA Affiliate) at least two of whom are not under common control, as such a plan is described in Section 4064 of ERISA.

"**Non-Guarantor Debt**" means Indebtedness incurred, created or assumed by Restricted Subsidiaries that are not Loan Parties.

"**Non-Guarantor Debt Cap**" means an amount equal to the greater of (x) $150,000,000 and (y) 60% of Consolidated EBITDA based on the Most Recent Financial Statements.

"**Non-Recourse Debt**" means Indebtedness:

(a) as to which neither the Borrower nor any of its Restricted Subsidiaries (a) provides credit support of any kind (including any undertaking, agreement or instrument that would constitute Indebtedness), or (b) is directly or indirectly liable as a guarantor or otherwise;

(b) default with respect to which (including any rights that the holders thereof may have to take enforcement action against an Unrestricted Subsidiary) would not permit upon notice, lapse of time or both any holder of any other Indebtedness (other than the Obligations) of the Borrower or any of its Restricted Subsidiaries to declare a default on such other Indebtedness or cause the payment thereof to be accelerated or payable prior to its stated maturity; and

(c) as to which the lenders have been notified in writing that they will not have any recourse to the stock or assets of the Borrower or any of its Restricted Subsidiaries.

"**Note**" means a promissory note made by the Borrower (x) in favor of a Revolving Credit Lender evidencing Revolving Credit Loans made by such Revolving Credit Lender, substantially in the form of Exhibit C-1 or (y) in favor of an Incremental Term Loan Lender evidencing Incremental Term Loans made by such Incremental Term Loan Lender, substantially in the form of Exhibit C-2.

"**NYFRB**" means the Federal Reserve Bank of New York.

"**NYFRB's Website**" means the website of the NYFRB at http://www.newyorkfed.org, or any successor source.

"**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" means the rate for a federal funds transaction quoted at 11:00 a.m. 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 as so determined is less than 0%, such rate shall be deemed to be 0% for purposes of this Agreement.

"**Obligations**" means all advances to, and debts, liabilities, obligations, covenants and duties of, any Loan Party arising under any Loan Document or otherwise with respect to any Loan, Letter of Credit, Secured Cash Management Agreement or Secured Hedge Agreement, in each case, whether direct or indirect (including those acquired by assumption), absolute or contingent, due or to become due, now existing or hereafter arising and including interest and fees that accrue after the commencement by or against any Loan Party or any Affiliate thereof of any proceeding under any Debtor Relief Laws naming such Person as the debtor in such proceeding, regardless of whether such interest and fees are allowed claims in such proceeding. Notwithstanding the foregoing, Obligations of any Guarantor shall in no event include any Excluded Swap Obligations (as defined in the Collateral Agreement) of such Guarantor.

"**OFAC**" means the U.S. Department of the Treasury's Office of Foreign Assets Control.

"**Offer Loans**" has the meaning specified in Section 10.06(b)(vii)(A).

"**Old BRBR**" means, prior to the Old BRBR Merger, BellRing Brands, Inc., a Delaware corporation and, upon the Old BRBR Merger, BellRing Intermediate Holdings, Inc., a Delaware corporation, formerly known as BellRing Brands, Inc., a Delaware corporation.

"**Old BRBR Merger**" means, in accordance with the terms set forth in the Transaction Agreement, the merger of Old BRBR with and into Merger Sub with Old BRBR as the surviving corporation.

"**Organization Documents**" means, (a) with respect to any corporation, the certificate or articles of incorporation and the bylaws (or equivalent or comparable constitutive documents with respect to any non-U.S. jurisdiction); (b) with respect to any limited liability company, the certificate or articles of formation or organization and operating agreement; and (c) with respect to any partnership, joint venture, trust or other form of business entity, the partnership, joint venture or other applicable agreement of formation or organization and any agreement, instrument, filing or notice with respect thereto filed in connection with its formation or organization with the applicable Governmental Authority in the jurisdiction of its formation or organization and, if applicable, any certificate or articles of formation or organization of such entity.

"**Original Revolving Credit Commitment**" means, as to each Revolving Credit Lender, its commitment in effect as of the Closing Date to make Original Revolving Credit Loans to the Borrower pursuant to Section 2.01 in an aggregate principal amount at any one time outstanding not to exceed the amount set forth opposite such Lender's name on Schedule 2.01 under the caption "Original Revolving Credit Commitment" or opposite such caption in the Assignment and Assumption pursuant to which such Lender becomes a party hereto, as applicable, as such amount may be adjusted from time to time in accordance with this Agreement. As of the Closing Date, the aggregate amount of the Original Revolving Credit Commitments of all Revolving Credit Lenders is $250,000,000.

"**Original Revolving Credit Facility**" means, at any time, the aggregate amount of the Revolving Credit Lenders' Original Revolving Credit Commitments at such time and the Credit Extensions made thereunder.

"**Original Revolving Credit Loan**" means the Revolving Credit Loans made by the Revolving Credit Lenders to the Borrower under the Original Revolving Credit Commitments pursuant to Section 2.01.

"**Other Connection Taxes**" means, with respect to any Recipient, Taxes imposed as a result of a present or former connection between such Recipient and the jurisdiction imposing such Tax (other than connections arising solely from one or more of the following: 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, Letter of Credit or Loan Document).

"**Other Revolving Commitments**" means one or more Classes of revolving commitments hereunder that result from a Refinancing Amendment.

"**Other Revolving Loans**" means one or more Classes of revolving credit loans made pursuant to Other Revolving Commitments that result from a Refinancing Amendment.

"**Other Taxes**" means all present or future stamp, court or documentary, intangible, recording, filing, mortgage or mortgage recording Taxes, any other excise or property Taxes, or similar Taxes arising from any payment made hereunder or under any other Loan Document or from the execution, delivery, performance, or enforcement or registration of, from the receipt or perfection of a security interest under, or otherwise with respect to, this Agreement or any other Loan Document.

"**Outstanding Amount**" means (a) with respect to Term Loans and Revolving Credit Loans on any date, the aggregate outstanding principal amount thereof after giving effect to any borrowings and prepayments or repayments of Term Loans and Revolving Credit Loans, as the case may be, occurring on such date and (b) with respect to any L/C Obligations on any date, the amount of such L/C Obligations on such date after giving effect to any L/C Credit Extension occurring on such date and any other changes in the aggregate amount of the L/C Obligations as of such date, including as a result of any reimbursements by the Borrower of Unreimbursed Amounts, in each case, using the U.S. Dollar Equivalent of obligations denominated in an Alternative Currency.

"**Overnight Bank Funding Rate**" means, for any day, the rate comprised of both overnight federal funds and overnight eurodollar transactions denominated in U.S. Dollars by U.S.-managed banking offices of depository institutions, as such composite rate shall be determined by the NYFRB as set forth on the NYFRB's Website from time to time, and published on the next succeeding Business Day by the NYFRB as an overnight bank funding rate.

"**Parent Company**" means any Person of which the Borrower is a direct or indirect wholly-owned Subsidiary.

"**Pari Passu Intercreditor Agreement**" means an intercreditor agreement among the Administrative Agent and the other parties from time to time party thereto, substantially in the form of Exhibit I.

"**Participant**" has the meaning specified in Section 10.06(d).

"**Participant Register**" has the meaning specified in Section 10.06(d).

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

"**Payment**" has the meaning specified in Section 9.13(a).

"**Payment Notice**" has the meaning specified in Section 9.13(b).

"**PBGC**" means the Pension Benefit Guaranty Corporation.

"**Pension Act**" means the Pension Protection Act of 2006.

"**Pension Funding Rules**" means the rules of the Code and ERISA regarding minimum funding standards and required contributions (including any installment payment thereof) to Pension Plans and set forth in, with respect to plan years ending prior to the effective date of the Pension Act, Section 412 of the Code and Section 302 of ERISA, each as in effect prior to the Pension Act and, thereafter, Sections 412, 430, 431, 432 and 436 of the Code and Sections 302, 303, 304 and 305 of ERISA.

"**Pension Plan**" means any employee pension benefit plan (including, but not limited to, Multiple Employer Plans, Multiemployer Plans, defined benefit plans or defined contribution plans) that is maintained or is contributed to, or during the preceding five plan years has been maintained or contributed to, by the Borrower and any ERISA Affiliate and is either covered by Title IV of ERISA or is subject to the Pension Funding Rules.

"**Periodic Term SOFR Determination Day**" has the meaning assigned to such term in the definition of "Term SOFR".

"**Permitted Acquisition**" means any investment by the Borrower or any Restricted Subsidiary in the form of acquisitions of all or substantially all of the business or a line of business or a separate operation (whether by the acquisition of capital stock, assets or any combination thereof) of any other Person if:

(a) the acquired entity, assets or operations shall be in the Permitted Business;

(b) the aggregate amount of acquisitions made by the Borrower and its Restricted Subsidiaries in Persons that do not become Loan Parties as a result of any such acquisition and all other Permitted Acquisitions closed on or after the Closing Date shall not exceed the greater of (i) $100,000,000 and (ii) 40% of the Consolidated EBITDA based on the Most Recent Financial Statements after giving effect to all acquisitions whether closed prior to, on or after the Closing Date, but prior to giving effect to the proposed acquisition; and

(c) no Event of Default under Sections 8.01(a), 8.01(f) or 8.01(g) shall have occurred and be continuing.

"**Permitted Business**" means the growing, packaging, manufacturing, processing, licensing, distribution and/or sale of any product that is ingestible by a natural person or the provision of any service with respect thereto or a line of business reasonably related, complementary, synergistic or ancillary thereto or reasonable extensions thereof.

"**Permitted Liens**" means those Liens permitted pursuant to Section 7.01.

"**Permitted Prior Liens**" has the meaning specified in Section 5.18.

"**Permitted Refinancing**" means, with respect to any Person, any modification, refinancing, refunding, renewal or extension of any Indebtedness of such Person; *provided* that (a) the principal amount (or accreted value, if applicable) thereof does not exceed the principal amount (or accreted value, if applicable) of the Indebtedness so modified, refinanced, refunded, renewed or extended except by an amount equal to unpaid accrued interest and premium thereon plus other reasonable amounts paid, and fees and expenses reasonably incurred, in connection with such modification, refinancing, refunding, renewal or extension and by an amount equal to any existing commitments unutilized thereunder (and, for the avoidance of doubt, if such principal amount (or accreted value, if applicable) is exceeded, such excess amount is otherwise permitted to be incurred hereunder), (b) such modification, refinancing, refunding, renewal or extension has a final maturity date equal to or later than the final maturity date of, and has a Weighted Average Life to Maturity equal to or greater than the remaining Weighted Average Life to Maturity of, the Indebtedness being modified, refinanced, refunded, renewed or extended, (c) at the time thereof, no Event of Default under Sections 8.01(a), 8.01(f) or 8.01(g) shall have occurred and be continuing, (d) if such Indebtedness being modified, refinanced, refunded, renewed or extended is subordinated in right of payment to the Obligations, such modification, refinancing, refunding, renewal or extension is subordinated in right of payment to the Obligations on terms at least as favorable to the Lenders as those contained in the documentation governing the Indebtedness being modified, refinanced, refunded, renewed or extended, (e) if such Indebtedness being modified, refinanced, refunded, renewed or extended is secured, the terms and conditions relating to collateral of any such modified, refinanced, refunded, renewed or extended indebtedness, taken as a whole, are not materially less favorable to the Loan Parties or the Lenders than the terms and conditions with respect to the collateral for the Indebtedness being modified, refinanced, refunded, renewed or extended, taken as a whole, and the Liens on any Collateral securing any such modified, refinanced, refunded, renewed or extended Indebtedness shall have the same (or lesser) priority relative to the Liens on the Collateral securing the Obligations and, if secured by the Collateral, the holders of such Indebtedness or a representative thereof shall be or become a party to a Pari Passu Intercreditor Agreement and the Junior Lien Intercreditor Agreement (if such Indebtedness is secured by any or all of the Collateral on a pari passu basis (without regard to control of remedies) with the Obligations) or to the Junior Lien Intercreditor Agreement (if such Indebtedness is secured by any or all of the Collateral on a junior basis (without regard to the control of remedies) with the Obligations), (f) the terms and conditions (excluding as to collateral, subordination, interest rate and redemption premium) of any such modified, refinanced, refunded, renewed or extended Indebtedness, taken as a whole, shall not be materially less favorable to the Loan Parties than the Indebtedness being modified, refinanced, refunded, renewed or extended, taken as a

whole, (g) if such Indebtedness being modified, refinanced, refunded, renewed or extended was unsecured, such modification, refinancing, refunding, renewal or extension shall also be unsecured and (h) such modification, refinancing, refunding, renewal or extension is incurred by one or more Persons who is an obligor of the Indebtedness being modified, refinanced, refunded, renewed or extended.

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

"**Platform**" has the meaning specified in Section 6.02.

"**Post**" means Post Holdings, Inc., a Missouri corporation, and its successors and assigns.

"**Prepayment Notice**" means a notice of the optional prepayment of Revolving Credit Loans or Term Loans pursuant to Section 2.05(a), which shall be substantially in the form of Exhibit A-3.

"**Prime Rate**" means the rate last quoted by The Wall Street Journal as the "Prime Rate" in the United States or, if The Wall Street Journal ceases to quote such rate, the highest per annum interest rate published by the Federal Reserve 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 reasonably determined by the Administrative Agent) or any similar release by the Federal Reserve Board (as reasonably determined by the Administrative Agent).

"**Pro Rata Obligations**" means the Loans and the Letters of Credit.

"**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 specified in Section 6.02.

"**Qualified Equity Interests**" means any Equity Interests that are not Disqualified Equity Interests.

"Qualified Proceeds" means assets that are used or useful in, or Equity Interests of any Person engaged in, a Permitted Business.

"**Qualified Receivables Transaction**" means any transaction or series of transactions that may be entered into by the Borrower or any Restricted Subsidiary pursuant to which the Borrower or any such Restricted Subsidiary may sell, convey or otherwise transfer to a Receivables Subsidiary (in the case of a transfer by the Borrower or any Restricted Subsidiary) or to any Special Purpose Vehicle (in the case of a transfer by a Receivables Subsidiary), or may grant a security interest in, any Receivables Program Assets (whether existing on the Closing Date or arising thereafter); *provided* that: (1) no portion of the Indebtedness or any other obligations (contingent or otherwise) of a Receivables Subsidiary or Special Purpose Vehicle (a) is Guaranteed by the Borrower or any Restricted Subsidiary (other than a Receivables Subsidiary), excluding Guarantees of obligations pursuant to Standard Securitization Undertakings, (b) is recourse to or

obligates the Borrower or any Restricted Subsidiary (other than a Receivables Subsidiary) in any way other than pursuant to Standard Securitization Undertakings, or (c) subjects any property or asset of the Borrower or any Restricted Subsidiary (other than a Receivables Subsidiary), directly or indirectly, contingently or otherwise, to the satisfaction of obligations incurred in such transactions, other than pursuant to Standard Securitization Undertakings; (2) neither the Borrower nor any Restricted Subsidiary (other than a Receivables Subsidiary) has any material contract, agreement, arrangement or understanding with a Receivables Subsidiary or a Special Purpose Vehicle other than on terms no less favorable to the Borrower or such Restricted Subsidiary than those that might be obtained at the time from Persons that are not Affiliates of the Borrower, other than fees payable in the ordinary course of business in connection with servicing accounts receivable and Standard Securitization Undertakings; and (3) the Borrower and its Restricted Subsidiaries (other than a Receivables Subsidiary) do not have any obligation to maintain or preserve the financial condition of a Receivables Subsidiary or a Special Purpose Vehicle or cause such entity to achieve certain levels of operating results other than Standard Securitization Undertakings.

"**Quarterly Financial Statements**" has the meaning specified in Section 6.01(b).

"**Ratio Calculation Date**" has the meaning specified in Section 1.09(b)(i).

"**Receivables**" means all rights of the Borrower or any of its Restricted Subsidiaries (other than a Receivables Subsidiary) to payments (whether constituting accounts, chattel paper, instruments, general intangibles or otherwise, and including the right to payment of any interest or finance charges), which rights are identified in the accounting records of the Borrower or such Restricted Subsidiary as accounts receivable.

"**Receivables Documents**" means: (1) one or more receivables purchase agreements, pooling and servicing agreements, credit agreements, agreements to acquire undivided interests or other agreements to transfer or obtain loans or advances against, or create a security interest in, Receivables Program Assets, in each case as amended, modified, supplemented, restated or replaced from time to time and entered into by the Borrower, a Restricted Subsidiary and/or a Receivables Subsidiary, and (2) each other instrument, agreement and other document entered into by the Borrower, a Restricted Subsidiary or a Receivables Subsidiary relating to the transactions contemplated by the agreements referred to in clause (1) above.

"**Receivables Fees**" means distributions or payments made directly or by means of discounts with respect to any accounts receivable or participation interest therein issued or sold in connection with, and other fees paid to a Person that is not a Restricted Subsidiary in connection with, any Qualified Receivables Transaction.

"**Receivables Program Assets**" means: (1) all Receivables which are described as being transferred by the Borrower, a Restricted Subsidiary or a Receivables Subsidiary pursuant to the Receivables Documents; (2) all Receivables Related Assets in respect of Receivables described in clause (1); and (3) all collections (including recoveries) and other proceeds of the assets described in the foregoing clauses.

"**Receivables Program Obligations**" means Indebtedness and other obligations owing in respect of notes, trust certificates, undivided interests, partnership interests or other interests sold, issued and/or pledged, or otherwise incurred, in connection with a Qualified Receivables Transaction, and related obligations of the Borrower, a Restricted Subsidiary or a Special Purpose Vehicle (including, without limitation, Standard Securitization Undertakings).

"**Receivables Related Assets**" means: (1) any rights arising under the documentation governing or relating to Receivables (including rights in respect of Liens securing such Receivables and other credit support in respect of such Receivables); (2) any proceeds of such Receivables and any lockboxes or accounts in which such proceeds are deposited; (3) spread accounts and other similar accounts (and any amounts on deposit therein) established in connection with a Qualified Receivables Transaction; (4) any warranty, indemnity, dilution and other intercompany claim arising out of Receivables Documents; and (5) other assets which are customarily transferred or in respect of which security interests are customarily granted in connection with asset securitization transactions involving accounts receivable.

"**Receivables Repurchase Obligation**" means any obligation of the Borrower or a Restricted Subsidiary (other than a Receivables Subsidiary) in a Qualified Receivables Transaction to repurchase receivables arising as a result of a breach of a representation, warranty or covenant or otherwise, including as a result of a Receivable or portion thereof becoming subject to any asserted defense, dispute, off-set or counterclaim of any kind as a result of any action taken by, any failure to take action by or any other event relating to the Borrower or a Restricted Subsidiary (other than a Receivables Subsidiary).

"**Receivables Subsidiary**" means a special purpose wholly-owned Subsidiary created by the Borrower or any Restricted Subsidiary in connection with the transactions contemplated by a Qualified Receivables Transaction, which Subsidiary engages in no activities other than those incidental to such Qualified Receivables Transaction and which is designated as a Receivables Subsidiary by the Borrower's Board of Directors. Any such designation by the Board of Directors shall be evidenced by filing with the Administrative Agent of a board resolution of the Borrower giving effect to such designation and an officers' certificate certifying, to the best of such officers' knowledge and belief after consulting with counsel, that such designation, and the transactions in which the Receivables Subsidiary will engage, comply with the requirements of the definition of Qualified Receivables Transaction.

"**Recipient**" means the Administrative Agent, any Lender or any L/C Issuer, as applicable.

"**Reference Time**" with respect to any setting of the then-current Benchmark means (a) if the RFR for such Benchmark is SONIA, then 5.00 p.m. (London, England time) on a day that is four (4) Business Days prior to such setting, (b) if the Benchmark is determined by reference to Daily Simple SOFR, then 5.00 p.m. on a day that is four (4) Business Days prior to such setting or (c) if such Benchmark is neither Daily Simple SOFR nor SONIA, the time determined by the Administrative Agent in its reasonable discretion.

"**Refinanced Debt**" has the meaning specified in the definition of "Credit Agreement Refinancing Indebtedness".

"**Refinancing**" has the meaning specified in Section 4.01(c).

"**Refinancing Amendment**" means an amendment, supplement, or joinder to this Agreement executed by the Borrower, the Administrative Agent, each Additional Refinancing Lender and each Lender that agrees to provide any portion of Refinancing Term Commitments, Refinancing Term Loans, Other Revolving Commitments or Other Revolving Loans, in each case in accordance with Section 2.17.

"**Refinancing Facility**" means, at any time, as the context may require, the aggregate amount of Refinancing Term Commitments and/or Other Revolving Commitments of a given Refinancing Series at such time and, in each case, but without duplication, the Credit Extensions made thereunder.

"**Refinancing Series**" means all Refinancing Term Loans, Refinancing Term Commitments, Other Revolving Commitments or Other Revolving Loans that are established pursuant to the same Refinancing Amendment (or any subsequent Refinancing Amendment to the extent such Refinancing Amendment expressly provides that the Refinancing Term Loans, Refinancing Term Commitments, Other Revolving Commitments or Other Revolving Credit Loans provided for therein are intended to be a part of any previously established Refinancing Series) and that provide for the same Effective Yield and, in the case of Refinancing Term Loans or Refinancing Term Commitments, amortization schedule.

"**Refinancing Term Commitments**" means one or more Classes of Term Commitments that are established to fund Refinancing Term Loans hereunder pursuant to a Refinancing Amendment.

"**Refinancing Term Loan Borrowing**" means a borrowing consisting of one or more simultaneous Refinancing Term Loans of the same Type under a Refinancing Facility and, in the case of Eurodollar Rate Loans or Term SOFR Loans, having the same Interest Period made pursuant to Section 2.17.

"**Refinancing Term Loans**" means one or more Classes of Term Loans that result from a Refinancing Amendment.

"**Register**" has the meaning specified in Section 10.06(c).

"**Registration Rights Agreement**" means that certain Registration Rights Agreement by and between Post and the Borrower, dated as of March 10, 2022, as amended, modified, supplemented, restated or replaced from time to time.

"**Related Parties**" means, with respect to any Person, such Person's Affiliates and the partners, directors, officers, employees, agents, trustees and advisors of such Person and of such Person's Affiliates.

"**Relevant Governmental Body**" means (a) with respect to a Benchmark Replacement in respect of Loans denominated in U.S. Dollars, the Federal Reserve Board, the NYFRB and/or the CME Term SOFR Administrator, as applicable, or a committee officially endorsed or convened by the Federal Reserve Board, the NYFRB or the CME Term SOFR Administrator or, in each case, any successor thereto, (b) with respect to a Benchmark Replacement in respect of Loans denominated in Sterling, the Bank of England, or a committee officially endorsed or convened by the Bank of England or, in each case, any successor thereto and (c) with respect to a Benchmark Replacement in respect of Loans denominated in Euros, the European Central Bank, or a committee officially endorsed or convened by the European Central Bank or, in each case, any successor thereto.

"**Relevant Rate**" means (a) with respect to any Term SOFR Borrowing denominated in U.S. Dollars, the Adjusted Term SOFR Rate, (b) with respect to any Term Benchmark Borrowing denominated in Euros, the Adjusted Eurodollar Rate, or (c) with respect to any Borrowing denominated in Sterling, the applicable Adjusted Daily Simple RFR.

"**Release**" means any release, spill, emission, leaking, pumping, pouring, injection, escaping, deposit, disposal, discharge, dispersal, dumping or leaching of any Hazardous Material into the environment (including the abandonment or disposal of any barrels, containers or other closed receptacles containing any Hazardous Material).

"**Reportable Event**" means any of the events set forth in Section 4043(c) of ERISA, other than events for which the 30 day notice period has been waived.

"**Request for Credit Extension**" means (a) with respect to a Borrowing, conversion or continuation of Term Loans or Revolving Credit Loans, a Committed Loan Notice or Conversion/Continuation Notice, as applicable and (b) with respect to an L/C Credit Extension, a Letter of Credit Application.

"**Required Facility Lenders**" means, as of any date of determination, with respect to any Facility, Lenders having more than 50% of the sum of (a) the Total Outstandings under such Facility (with the aggregate amount of each Lender's risk participation and funded participation in L/C Obligations under such Facility being deemed "held" by such Lender for purposes of this definition) and (b) the aggregate unused Commitments under such Facility; *provided* that the unused Commitments of, and the portion of the Total Outstandings under such Facility held or deemed held by, any Defaulting Lender shall be excluded for purposes of making a determination of the Required Facility Lenders.

"**Required Lenders**" means, as of any date of determination, Lenders holding more than 50% of the sum of the (a) Total Outstandings (with the aggregate amount of each Revolving Credit Lender's risk participation and funded participation in L/C Obligations being deemed "held" by such Revolving Credit Lender for purposes of this definition) and (b) aggregate unused Commitments; *provided* that the unused Commitment of, and the portion of the Total Outstandings held or deemed held by, any Defaulting Lender shall be excluded for purposes of making a determination of Required Lenders.

"**Required Revolving Credit Lenders**" means, as of any date of determination, Revolving Credit Lenders holding more than 50% of the sum of the (a) Total Revolving Credit Outstandings (with the aggregate amount of each Revolving Credit Lender's risk participation and funded participation in L/C Obligations being deemed "held" by such Revolving Credit Lender for purposes of this definition) and (b) aggregate unused Revolving Credit Commitments; *provided* that the unused Revolving Credit Commitment of, and the portion of the Total Revolving Credit Outstandings held or deemed held by, any Defaulting Lender shall be excluded for purposes of making a determination of Required Revolving Credit Lenders.

"**Resolution Authority**" means an EEA Resolution Authority or, with respect to any UK Financial Institution, a UK Resolution Authority.

"**Responsible Officer**" means the chief executive officer, president, chief financial officer, executive vice president, senior vice president, chief accounting officer, director of corporate finance, treasurer, assistant treasurer or controller of a Loan Party, and including solely for purposes of Section 4.01(a), the secretary or assistant secretary of a Loan Party. Any document delivered hereunder that is signed by a Responsible Officer of a 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 Indebtedness**" has the meaning specified in Section 7.14.

"**Restricted Payment**" means any dividend, other distribution or other payment (whether in cash, securities or other property) with respect to any capital stock or other Equity Interest of any Person or any of its Subsidiaries, or any payment (whether in cash, securities or other property), including any sinking fund or similar deposit, on account of the purchase, redemption, retirement, defeasance, acquisition, cancellation or termination of any such capital stock or other Equity Interest, or on account of any return of capital to any Person's shareholders, partners or members (or the equivalent of any thereof) or any option, warrant or other right to acquire any such dividend or other distribution or payment.

"**Restricted Subsidiary**" means any Subsidiary other than an Unrestricted Subsidiary.

"**Revolving Credit Borrowing**" means a borrowing consisting of one or more simultaneous Revolving Credit Loans of the same Class and Type and, in the case of Eurodollar Rate Loans or Term SOFR Loans, having the same Interest Period made pursuant to Section 2.01.

"**Revolving Credit Commitment**" means, as to each Revolving Credit Lender, its Original Revolving Credit Commitment and shall include, as the context may require, any Incremental Revolving Credit Commitments and Other Revolving Commitments of such Revolving Credit Lender.

"**Revolving Credit Facility**" means the collective reference to the Original Revolving Credit Facility and any additional revolving credit facilities resulting from Incremental Revolving Credit Commitments and Other Revolving Commitments and the Credit Extensions made thereunder, or, as the context may require, to any of such revolving credit facilities individually.

"**Revolving Credit Lender**" means, at any time, any Lender that has a Revolving Credit Commitment at such time or that has Revolving Credit Loans or risk participations in L/C Obligations outstanding at such time.

"**Revolving Credit Loan**" has the meaning specified in Section 2.01 and shall include, as the context may require, any Incremental Revolving Loans or Other Revolving Loans.

"**RFR**" means, for any RFR Loan denominated in Sterling, SONIA.

"**RFR Borrowing**" means, as to any Borrowing, the RFR Loans comprising such Borrowing.

"**RFR Business Day**" means, for any Loan denominated in Sterling, any day except for (i) a Saturday, (ii) a Sunday or (iii) a day on which banks are closed for general business in London, England.

"**RFR Interest Day**" has the meaning specified in the definition of "Daily Simple RFR".

"**RFR Loan**" means a Loan that bears interest at a rate based on the Adjusted Daily Simple RFR.

"**Sanctions**" means all economic or financial sanctions or trade embargoes imposed, administered or enforced from time to time by the U.S. government, including those administered by the Office of Foreign Assets Control of the U.S. Department of the Treasury or the U.S. Department of State, the United Nations Security Council, the European Union, any European Union member state, or Her Majesty's Treasury of the United Kingdom.

"**Sanctioned Country**" means a country, territory or a government of a country or territory that is subject to Sanctions.

"**Sanctioned Person**" means (a) any Person listed in any Sanctions-related list of designated Persons maintained by OFAC, the U.S. Department of State, the United Nations Security Council, the European Union, any European Union member state, or Her Majesty's Treasury of the United Kingdom, (b) any Person operating, organized or resident in a Sanctioned Country or (c) any Person owned or controlled by any such Person or Persons described in the foregoing clauses (a) or (b).

"**S&P**" means S&P Global Inc., through its S&P Global Ratings division or any successor thereto.

"**Same Day Funds**" means (a) with respect to disbursements and payments in U.S. Dollars, immediately available funds and (b) with respect to disbursements and payments in an Alternative Currency, same day or other funds as may be reasonably determined by the Administrative Agent or the applicable L/C Issuer, as the case may be, to be customary in the place of disbursement or payment for the settlements of international banking transactions in the relevant Alternative Currency.

"**SEC**" means the Securities and Exchange Commission, or any Governmental Authority succeeding to any of its principal functions.

"Secured Cash Management Agreement" means any Cash Management Agreement that is entered into by and between any Loan Party and any Cash Management Bank.

"**Secured Hedge Agreement**" means any interest rate, currency or commodity Swap Contract permitted under this Agreement that is entered into by and between a Loan Party and any Hedge Bank.

"**Secured Net Leverage Ratio**" means, with respect to any Measurement Period, the ratio of (i) Consolidated Senior Secured Debt (which shall be calculated net of the Unrestricted Cash Amount) as of the last day of such Measurement Period to (ii) Consolidated EBITDA for such Measurement Period, in each case for the Borrower and its Restricted Subsidiaries.

"**Secured Parties**" means, collectively, the Administrative Agent, the Lenders, the L/C Issuers, with respect to any Secured Cash Management Agreement, the Cash Management Banks, with respect to any Secured Hedge Agreement, the Hedge Banks, each co-agent or sub-agent appointed by the Administrative Agent from time to time pursuant to Section 9.05, and the other Persons the Obligations owing to which are or are purported to be secured by the Collateral under the terms of the Collateral Documents.

"**Senior Notes**" mean Borrower's 7.00%Senior Notes due 2030 issued pursuant to that certain Indenture, dated as of March 10, 2022, between the Borrower and Computershare Trust Company, National Association, as trustee.

"**Shareholders' Equity**" means, as of any date of determination, consolidated shareholders', partners' or members' equity of the Borrower and its Restricted Subsidiaries as of that date determined in accordance with GAAP.

"**SOFR**" means a rate equal to the secured overnight financing rate as administered by the SOFR Administrator.

"**SOFR Administrator**" means the NYFRB (or a successor administrator of the secured overnight financing rate).

"**SOFR Administrator's Website**" means the NYFRB's website, currently at http://www.newyorkfed.org, or any successor source for the secured overnight financing rate identified as such by the SOFR Administrator from time to time.

"**SOFR Rate Day**" has the meaning specified in the definition of "Daily Simple SOFR".

"**Solvent**" and "**Solvency**" mean, with respect to any Person on any date of determination, that on such date (a) the fair value of the property of such Person is greater than the total amount of liabilities, including contingent liabilities, of such Person, (b) the present fair salable value of the assets of such Person is not less than the amount that will be required to pay the probable liability of such Person on its debts as they become absolute and matured, (c) such Person does not intend to, and does not believe that it will, incur debts or liabilities beyond such Person's ability to pay such debts and liabilities as they mature, (d) such Person is not engaged in business or a transaction, and is not about to engage in business or a transaction, for which such Person's property would constitute an unreasonably small capital, and (e) such Person is able to pay its debts and liabilities, contingent obligations and other commitments as they mature in the ordinary course of business. The amount of contingent liabilities at any time shall be computed as the amount that, in light of all the facts and circumstances existing at such time, represents the amount that can reasonably be expected to become an actual or matured liability.

"**SONIA**" means, with respect to any Business Day, a rate per annum equal to the Sterling Overnight Index Average for such Business Day published by the SONIA Administrator on the SONIA Administrator's Website on the immediately succeeding Business Day.

"**SONIA Administrator**" means the Bank of England (or any successor administrator of the Sterling Overnight Index Average).

"**SONIA Administrator's Website**" means the Bank of England's website, currently at http://www.bankofengland.co.uk, or any successor source for the Sterling Overnight Index Average identified as such by the SONIA Administrator from time to time.

"**Special Purpose Vehicle**" means a trust, partnership or other special purpose Person established by the Borrower and/or any of its Restricted Subsidiaries to implement a Qualified Receivables Transaction.

"**Spot Rate**" for a currency means the rate determined by the Administrative Agent or the applicable L/C Issuer, as applicable, to be the rate quoted by the Person acting in such capacity as the spot rate for the purchase by such Person of such currency with another currency through its principal foreign exchange trading office at approximately 11:00 a.m. on the date two Business Days prior to the date as of which the foreign exchange computation is made; *provided* that the Administrative Agent or the applicable L/C Issuer may obtain such spot rate from another financial institution designated by the Administrative Agent or the applicable L/C Issuer if the Person acting in such capacity does not have as of the date of determination a spot buying rate for any such currency; *provided further* that the applicable L/C Issuer may use such spot rate quoted on the date as of which any foreign exchange computation is to be made in the case of any Letter of Credit denominated in an Alternative Currency.

"**Standard Securitization Undertakings**" means representations, warranties, covenants, performance guarantees and indemnities entered into by the Borrower or any Restricted Subsidiary of the Borrower which, in the good faith judgment of the board of directors of the appropriate company, are reasonably customary in an accounts receivable transaction, including any Receivables Repurchase Obligation.

"**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 arithmetic mean, taken over each day in such Interest Period, of the aggregate of the maximum reserve percentages (including any marginal, special, emergency or supplemental reserves) expressed as a decimal established by the FRB to which the Administrative Agent is subject with respect to the Eurodollar Rate, for eurocurrency funding (currently referred to as "Eurocurrency Liabilities" (as such term is defined in Regulation D of the FRB)). Such reserve percentages shall include those imposed pursuant to such Regulation D. Without limiting the effect of the foregoing, the Statutory Reserve Rate shall reflect any other reserves required to be maintained by such member banks with respect to (a) any category of liabilities which includes deposits by reference to which the applicable Eurodollar Rate or any other interest rate of a Loan is to be determined or (b) any

category of extensions of credit or other assets which include Eurodollar Rate Loans. Eurodollar 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 such 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.

"**Sterling**" or "**£**" mean the lawful currency of the United Kingdom.

"**Subsidiary**" of a Person means a corporation, partnership, joint venture, limited liability company or other business entity of which a majority of the shares of securities or other interests having ordinary voting power for the election of directors or other governing body (other than securities or interests having such power only by reason of the happening of a contingency) are at the time beneficially owned, or the management of which is otherwise controlled, directly or indirectly through one or more intermediaries, or both, by such Person. Unless otherwise specified, all references herein to a "**Subsidiary**" or to "**Subsidiaries**" shall refer to a Subsidiary or Subsidiaries of the Borrower.

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

"**Swap Termination Value**" means, in respect of any one or more Swap Contracts, after taking into account the effect of any legally enforceable netting agreement relating to such Swap Contracts, (a) for any date on or after the date such Swap Contracts have been closed out and termination value(s) determined in accordance therewith, such termination value(s), and (b) for any date prior to the date referenced in clause (a), the amount(s) determined as the mark-to-market value(s) for such Swap Contracts, as determined based upon one or more mid-market or other readily available quotations provided by any recognized dealer in such Swap Contracts (which may include a Lender or any Affiliate of a Lender).

"**TARGET2**" means the Trans-European Automated Real-time Gross Settlement Express Transfer payment system which utilizes a single shared platform and which was launched on November 19, 2007.

"**TARGET Day**" means any day on which TARGET2 (or, if such payment system ceases to be operative, such other payment system, if any, determined by the Administrative Agent to be a suitable replacement) is open for the settlement of payments in Euro.

"**Tax and Related Distributions**" means, without duplication,

(a) for any taxable period for which the Borrower is a member of a consolidated, combined, unitary or similar tax group for U.S. federal and/or applicable state or local tax purposes, payments to discharge the consolidated, combined, unitary or similar Tax liabilities of such tax group when and as due, to the extent such liabilities are attributable to the income of the Borrower and/or any Restricted Subsidiary of the Borrower (or any Unrestricted Subsidiary of the Borrower to the extent such Unrestricted Subsidiary has distributed a corresponding amount to the Borrower or a Restricted Subsidiary), taking into account any carryovers of losses, excess interest deductions, and any available credits, in each case incurred on or following the Closing Date; *provided* that for each taxable period the amount of any such payment shall not be greater than the amount of such taxes that are reasonably expected to be due and payable by the Borrower and such Subsidiaries if the Borrower and such Subsidiaries filed a consolidated, combined, unitary or similar type tax return with the Borrower as the consolidated parent, and

(b) any payment made by the Borrower (including, without limitation, any amounts treated as being paid on behalf of Old BRBR or any of its or Borrower's Subsidiaries) pursuant to the Tax Matters Agreement, the Tax Matters Agreement (2019), or the Tax Receivable Agreement (in each case as in effect on the date of this Agreement, or as amended, modified, supplemented, restated or replaced from time to time in a manner not materially adverse to the interests of the Lenders), other than any payments described in Article IV of the Tax Receivable Agreement.

"**Tax Matters Agreement**" means that certain Tax Matters Agreement by and among Post, the Borrower, and Old BRBR, dated as of March 10, 2022, as amended, modified, supplemented, restated or replaced from time to time and the tax receivable agreement, if any, entered into in accordance with Section 2.09 thereof, as amended, modified, supplemented, restated or replaced from time to time.

"**Tax Matters Agreement (2019)**" means that certain Tax Matters Agreement by and among Post, the Borrower, and Old BRBR, dated as of October 21, 2019, as amended, modified, supplemented, restated or replaced from time to time.

"**Tax Receivable Agreement**" means that certain Tax Receivable Agreement by and among Post, BellRing Brands, LLC and Old BRBR, dated as of October 21, 2019, as amended, modified, supplemented, restated or replaced from time to time.

"**Taxes**" means all present or future taxes, levies, imposts, duties, deductions, withholdings (including backup withholding), assessments, fees or other charges imposed by any Governmental Authority, including any interest, additions to tax or penalties applicable thereto.

"**Term Benchmark**" when used in reference to any Loan or Borrowing, refers to whether such Loan, or the Loans comprising such Borrowing, are bearing interest at a rate determined by reference to the Adjusted Term SOFR Rate or the Adjusted Eurodollar Rate.

"**Term Borrowing**" means a borrowing consisting of simultaneous Term Loans of the same Class and Type and, in the case of Eurodollar Rate Loans or Term SOFR Loans, having the same Interest Period made by each of the applicable Term Lenders.

"**Term Commitment**" means, as to each Term Lender, if the context so requires, its commitment to make Term Loans pursuant to a Joinder Agreement or a Refinancing Amendment, as applicable.

"**Term Lender**" means, at any time, any Lender that has a Term Commitment or a Term Loan at such time.

"**Term Loan**" means an Incremental Term Loan or Refinancing Term Loan, individually or collectively as the context may require.

"**Term SOFR**" means,

(a) for any calculation with respect to a Term SOFR Loan, the Term SOFR Reference Rate for a tenor comparable to the applicable Interest Period on the day (such day, the "**Periodic Term SOFR Determination Day**") that is two (2) U.S. Government Securities Business Days prior to the first day of such Interest Period, as such rate is published by the CME Term SOFR Administrator; provided, however, that if as of 5:00 p.m. on any Periodic Term SOFR Determination Day the Term SOFR Reference Rate for the applicable tenor has not been published by the CME Term SOFR Administrator and a Benchmark Replacement Date with respect to the Term SOFR Reference Rate has not occurred, then Term SOFR will be the Term SOFR Reference Rate for such tenor as published by the CME Term SOFR Administrator on the first preceding U.S. Government Securities Business Day for which such Term SOFR Reference Rate for such tenor was published by the CME Term SOFR Administrator so long as such first preceding U.S. Government Securities Business Day is not more than three (3) U.S. Government Securities Business Days prior to such Periodic Term SOFR Determination Day, and

(b) for any calculation with respect to a Base Rate Loan on any day, the Term SOFR Reference Rate for a tenor of one month on the day (such day, the "**Base Rate Term SOFR Determination Day**") that is two (2) U.S. Government Securities Business Days prior to such day, as such rate is published by the CME Term SOFR Administrator; provided, however, that if as of 5:00 p.m. on any Base Rate Term SOFR Determination Day the Term SOFR Reference Rate for the applicable tenor has not been published by the CME Term SOFR Administrator and a Benchmark Replacement Date with respect to the Term SOFR Reference Rate has not occurred, then Term SOFR will be the Term SOFR Reference Rate for such tenor as published by the CME Term SOFR Administrator on the first preceding U.S. Government Securities Business Day for which such Term SOFR Reference Rate for such tenor was published by the CME Term SOFR Administrator so long as such first preceding U.S. Government Securities Business Day is not more than three (3) U.S. Government Securities Business Days prior to such Base Rate SOFR Determination Day;

provided, further, that if Term SOFR determined as provided above (including pursuant to the proviso under clause (a) or clause (b) above) shall ever be less than zero, then Term SOFR shall be deemed to be zero.

"**Term SOFR Loan**" means a Loan that bears interest at a rate based on Term SOFR.

"**Term SOFR Reference Rate**" means the rate per annum determined by the Administrative Agent as the forward looking term rate based on SOFR.

"**Threshold Amount**" means $65,000,000.

"**Total Net Leverage Ratio**" means, with respect to any Measurement Period, the ratio of (a) Consolidated Funded Indebtedness (which shall be calculated net of the Unrestricted Cash Amount) as of the last day of such Measurement Period to (b) Consolidated EBITDA for the most recently completed Measurement Period, in each case, for the Borrower and its Restricted Subsidiaries.

"**Total Outstandings**" means the aggregate Outstanding Amount of all Loans and all L/C Obligations.

"**Total Revolving Credit Outstandings**" means the aggregate Outstanding Amount of all Revolving Credit Loans and L/C Obligations.

"**Trade Date**" has the meaning specified in Section 10.06(h).

"**Trademark and Domain Name License Agreement**" means that certain Amended and Restated Trademark and Domain Name License Agreement, dated as of March 10, 2022, by and among Post, certain Subsidiaries of Post, Borrower, and certain Subsidiaries of the Borrower as amended, modified, supplemented, restated or replaced from time to time.

"**Transaction Agreement**" means the Transaction Agreement and Plan of Merger, dated as of October 26, 2021, by and among the Borrower, Post, Old BRBR and BellRing Merger Sub Corporation, as amended, modified, supplemented, restated or replaced from time to time.

"**Transaction Merger Consideration**" has the meaning specified in Section 6.10.

"**Transactions**" means, collectively, (a) the entering into by the Borrower and the other Loan Parties of the Loan Documents to which they are or are intended to be a party, (b) the Refinancing, (c) any initial Credit Extensions on the Closing Date, (d) each step and/or transaction contemplated by, or to effectuate, the Transaction Agreement (as in effect on the date of this Agreement, or as amended, modified or restated from time to time in a manner not materially adverse to the interests of the Lenders) and entering into any agreements with respect to the consummation of any debt exchange and/or debt for equity exchange in connection with or contemplated by the Transaction Agreement (as in effect on the date of this Agreement, or as amended, modified or restated from time to time in a manner not materially adverse to the interests of the Lenders) and (e) the payment of any fees, costs and expenses incurred in connection with the consummation of any of the foregoing.

"**Type**" means, with respect to a Loan, its character as a Base Rate Loan, a Eurodollar Rate Loan, a Term SOFR Loan or an RFR Loan.

"**UCC**" means the Uniform Commercial Code as in effect from time to time in the State of New York; *provided* that if perfection or the effect of perfection or non-perfection or the priority of any security interest in any Collateral is governed by the Uniform Commercial Code as in effect in a jurisdiction other than the State of New York, "UCC" means the Uniform Commercial Code as in effect from time to time in such other jurisdiction for purposes of the provisions hereof relating to such perfection, effect of perfection or non-perfection or priority.

"**UK Financial Institution**" means any BRRD Undertaking (as such term is defined under the PRA Rulebook (as amended from time to time) promulgated by the United Kingdom Prudential Regulation Authority) or any person 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.

"**United States**" and "**U.S.**" mean the United States of America.

"**Unreimbursed Amount**" has the meaning specified in Section 2.03(c)(i).

"**Unrestricted Cash Amount**" means, as of any date of determination, the aggregate amount of (i) unrestricted cash and Cash Equivalents of the Borrower and its Restricted Subsidiaries and (ii) cash and Cash Equivalents of the Borrower and its Restricted Subsidiaries restricted in favor of, or pledged to, the Administrative Agent, any Lender or any L/C Issuer (in each case, in its capacity as such) whether or not held in an account pledged to the Administrative Agent, any Lender or any L/C Issuer.

"**Unrestricted Subsidiary**" means any Subsidiary of the Borrower that is designated by the Borrower as an Unrestricted Subsidiary in accordance with Section 6.17, but only to the extent that such Subsidiary:

(a) has no Indebtedness other than Non-Recourse Debt; and

(b) is not party to any agreement, contract, arrangement or understanding with the Borrower or any Restricted Subsidiary of the Borrower unless the terms of any such agreement, contract, arrangement or understanding are no less favorable to the Borrower or such Restricted Subsidiary than those that might be obtained at the time from Persons who are not Affiliates of the Borrower.

"**U.S. Dollar**" and "**$**" mean lawful money of the United States.

"**U.S. Dollar Equivalent**" means, at any time, (a) with respect to any amount denominated in U.S. Dollars, such amount, and (b) with respect to any amount denominated in any Alternative Currency, the equivalent amount thereof in U.S. Dollars as determined by the Administrative Agent at such time on the basis of the Spot Rate (determined in respect of the most recent Valuation Date) for the purchase of U.S. Dollars with such Alternative Currency.

"**U.S. Government Securities Business Day**" means any day except for (i) a Saturday, (ii) a Sunday or (iii) a day on which the Securities Industry and Financial Markets Association recommends that the fixed income departments of its members be closed for the entire day for purposes of trading in United States government securities.

"**U.S. Person**" means any Person that is a "United States person" as defined in Section 7701(a)(30) of the Code.

"**U.S. Tax Compliance Certificate**" means a certificate substantially in the form of any of Exhibits H-1 through H-4, as the context requires.

"**Valuation Date**" means (i) the date two Business Days prior to the making, continuing or converting of any Revolving Credit Loan or the date of issuance, amendment or continuation of any Letter of Credit, (ii) the first Business Day of each calendar month, (iii) any other date reasonably designated by the Administrative Agent or an L/C Issuer in order to reasonably assure a correct exchange rate or (iv) any date that is otherwise expressly provided for herein.

"**Voting Stock**" means, with respect to any Person, the Equity Interests of such Person that is at the time entitled to vote in the election of the board of directors of such Person.

"**Weighted Average Life to Maturity**" means, when applied to any Indebtedness at any date, the number of years obtained by dividing: (i) the sum of the products obtained by multiplying (a) the amount of each then remaining installment, sinking fund, serial maturity or other required payments of principal, including payment at final maturity, in respect thereof, by (b) the number of years (calculated to the nearest one-twelfth) that will elapse between such date and the making of such payment by (ii) the then outstanding principal amount of such Indebtedness; *provided* that for purposes of determining the Weighted Average Life to Maturity of any Indebtedness that is being modified, refinanced, refunded, renewed, replaced or extended (the "**Applicable Indebtedness**"), the effect of any prepayments made on such Applicable Indebtedness prior to the date of the applicable modification, refinancing, refunding, renewal, replacement or extension shall be disregarded.

"**Write-Down and Conversion Powers**" means (a) with respect to any EEA Resolution Authority, the write down and conversion powers of such EEA Resolution Authority from time to time under the Bail-in Legislation for the applicable EEA Member Country, which write down and conversion powers are described in the EU Bail-in Legislation Schedule and (b) with respect to the United Kingdom, any powers of the applicable Resolution Authority under the Bail-In Legislation to cancel, reduce, modify or change the form of a liability of any UK Financial Institution or any contract or instrument under which that liability arises, to convert all or part of that liability into shares, securities or obligations of that person or any other person, to provide that any such contract or instrument is to have effect as if a right had been exercised under it or to suspend any obligation in respect of that liability or any of the powers under that Bail-In Legislation that are related to or ancillary to any of those powers.

"**Withholding Agent**" means any Loan Party and the Administrative Agent.

Section 1.02 *Other Interpretive Provisions*. With reference to this Agreement and each other Loan Document, unless otherwise specified herein or in such other Loan Document:

(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, (i) any definition of or reference to any agreement, instrument or other document (including any Organization Document) shall be construed as referring to such agreement, instrument or other document as from time to time as amended, modified, supplemented, restated or replaced (subject to any restrictions on such amendments, restatements, supplements or modifications set forth herein or in any other Loan Document), (ii) any reference herein to any Person shall be construed to include such Person's successors and permitted assigns, (iii) 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 thereof, (iv) all references in a Loan Document to Articles, Sections, Exhibits and Schedules shall be construed to refer to Articles and Sections of, and Exhibits and Schedules to, the Loan Document in which such references appear, (v) any reference to any law shall include all statutory and regulatory provisions consolidating, amending, replacing or interpreting such law and any reference to any law or regulation shall, unless otherwise specified, refer to such law or regulation as amended, modified, supplemented, restated or replaced from time to time, and (vi) 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) In the computation of periods of time from a specified date to a later specified date, the word "from" means "from and including;" the words "to" and "until" each mean "to but excluding" and the word "through" means "to and including."

(c) Section headings herein and in the other Loan Documents are included for convenience of reference only and shall not affect the interpretation of this Agreement or any other Loan Document.

Section 1.03 *Accounting Terms*. (a) *Generally*. Subject to Section 1.03(b), all accounting terms not specifically or completely defined herein shall be construed in conformity with GAAP, and all financial data (including financial ratios and other financial calculations) required to be submitted pursuant to this Agreement shall be prepared in conformity with GAAP, applied on a consistent basis, as in effect from time to time and applied in a manner consistent with that used in preparing the audited annual financial statements of Old BRBR for the period ended September 30, 2021, except as otherwise specifically prescribed herein and except for any differences arising because such annual financial statements of Old BRBR do not take into account the change of the reporting entity from Old BRBR to the Borrower and any or all of the Transactions; *provided* that if at any time a change in GAAP occurs that would result in a change to the method of accounting for obligations relating to a lease that was accounted for by a Person as an operating lease as of September 30, 2019 (or any similar lease entered into after September 30, 2019 by such Person), such obligations shall be accounted for as obligations relating to an operating lease and not as a Capital Lease.

(b) *Changes in GAAP*. If at any time any change in GAAP would affect the computation of any financial ratio or requirement set forth in any Loan Document, and either the Borrower or the Required Lenders shall so request, the Administrative Agent, the Lenders and the Borrower shall negotiate in good faith to amend such ratio or requirement to preserve the original intent thereof in light of such change in GAAP (subject to the approval of the Required Lenders); *provided* that, until so amended, such ratio or requirement shall continue to be computed in accordance with GAAP prior to such change therein.

(c) *Indebtedness.* Notwithstanding any other provision contained herein, 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 (i) without giving effect to any election under Accounting Standards Codification 825-10-25 (or any other Accounting Standards Codification or Financial Accounting Standard having a similar result or effect) to value any Indebtedness or other liabilities of the Borrower or any Subsidiary at "fair value", as defined therein and (ii) without giving effect to any treatment of Indebtedness in respect of convertible debt instruments under Accounting Standards Codification 470-20 (or any other Accounting Standards Codification 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.

(d) *Old BRBR*. For the avoidance of doubt, with respect to this Agreement and each other Loan Document, with respect to any historical financial statements financial ratios, financial calculations and/or financial performance of the Borrower for any period or partial period prior to the Closing Date, such financial statements financial ratios, financial calculations and/or financial performance shall be deemed to be references to financial statements financial ratios, financial calculations and/or financial performance, as applicable, of Old BRBR.

Section 1.04 *Rounding*. Any financial ratios required to be maintained or complied with by the Borrower 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 *Times of Day*. Unless otherwise specified, all references herein to times of day shall be references to Eastern time (daylight or standard, as applicable).

Section 1.06 *Letter of Credit Amounts*. With respect to any Letter of Credit that, by its terms or the terms of any Issuer Document related thereto, provides for one or more automatic increases in the amount available to be drawn thereunder, the amount of such Letter of Credit shall be deemed to be the maximum amount that may be drawn under such Letter of Credit during the remaining life thereof.

Section 1.07 *Currency Equivalents Generally; Change of Currency*. For purposes of this Agreement and the other Loan Documents (other than Article 2, Article 9 and Article 10 hereof), where the permissibility of a transaction or determinations of required actions or circumstances depend upon compliance with, or are determined by reference to, amounts stated in U.S. Dollars, such amounts shall be deemed to refer to U.S. Dollars or U.S. Dollar Equivalents and any requisite currency translation shall be based on the Spot Rate in effect on the Business Day of such transaction or determination. Notwithstanding the foregoing, for purposes of determining compliance with Sections 7.01, 7.02, and 7.03 with respect to any amount of Liens, Investment or Indebtedness in currencies other than U.S. Dollars, no Default shall be deemed to have occurred solely as a result of changes in rates of exchange occurring after the time such Lien is created, Indebtedness is incurred or Investment is made. 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 Borrower's consent (not to be unreasonably withheld) to appropriately reflect a change in currency of any country and any relevant market conventions or practices relating to such change in currency.

Section 1.08 *Timing of Payment and Performance*. When the payment of any obligation or the performance of any covenant, duty or obligation is stated to be due or performance 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.

Section 1.09 *Certain Calculations*.

(a) All pro forma calculations permitted or required to be made by the Borrower or any Restricted Subsidiary pursuant to this Agreement shall include only those adjustments that have been certified by a Responsible Officer of the Borrower as having been prepared in good faith based upon reasonably detailed written assumptions believed by the Borrower at the time of preparation to be reasonable and which are reasonably foreseeable. Any ratio calculated hereunder that includes Consolidated EBITDA shall look to Consolidated EBITDA for the most recently completed Measurement Period.

(b) The pro forma Secured Net Leverage Ratio, Total Net Leverage Ratio and Consolidated Interest Coverage Ratio shall be calculated as follows:

(i) in the event that the Borrower or any Restricted Subsidiary incurs, assumes, guarantees, redeems, retires or extinguishes any Indebtedness subsequent to the last day of the Measurement Period for which such pro forma ratio is being calculated but on or prior to the date of the event for which the calculation of such pro forma ratio is being made (a "**Ratio Calculation Date**"), then such pro forma ratio shall be calculated as if such incurrence, assumption, guarantee, redemption, retirement or extinguishment of Indebtedness (and all other incurrences, assumptions, guarantees, redemptions, retirements or extinguishments of Indebtedness consummated since the last day of the applicable Measurement Period but on or prior to the Ratio Calculation Date) had occurred at the last day of the applicable Measurement Period; *provided* that (i) in the case of any incurrence of Indebtedness or establishment of any revolving credit or delayed draw commitments, (x) a borrowing of the maximum amount of Indebtedness available under such revolving

credit or delayed draw commitments shall be assumed and (y) the cash proceeds of such incurred Indebtedness shall be excluded from amounts that may be netted in the calculation of the pro forma Secured Net Leverage Ratio or the pro forma Total Net Leverage Ratio, as applicable and (ii) the pro forma Consolidated Interest Charges for the applicable Measurement Period shall be calculated assuming such Indebtedness had been outstanding or repaid, as the case may be, since the first day and through the end of the applicable Measurement Period (taking into account any interest rate Swap Contracts applicable to such Indebtedness);

(ii) in the event that any Permitted Acquisitions or other permitted Investments in the nature of an acquisition are made subsequent to the last day of the applicable Measurement Period for which such pro forma ratio is being calculated but on or prior to the Ratio Calculation Date, then Consolidated EBITDA shall be (x) increased by an amount equal to the Consolidated EBITDA attributable to the property or Investment that is the subject of such Permitted Acquisition or other permitted Investment in the nature of an acquisition, in each case assuming such Permitted Acquisition or other permitted Investment in the nature of an acquisition had been made on the first day of the applicable Measurement Period and (y) otherwise calculated as set forth in the third paragraph of the definition of "Consolidated EBITDA" on a Pro Forma Basis;

(iii) in the event that Dispositions are made subsequent to the last day of the applicable Measurement Period for which such pro forma ratio is being calculated but on or prior to the relevant Ratio Calculation Date, then Consolidated EBITDA shall be reduced by an amount equal to the Consolidated EBITDA (if positive) attributable to the property that is the subject of such Disposition or increased by an amount equal to the Consolidated EBITDA (if negative) attributable thereto, in each case assuming such Disposition had been made on the first day of the applicable Measurement Period; and

(iv) for the avoidance of doubt, the cash used in connection with any transaction specified above shall be excluded from amounts that may be netted in the calculation of pro forma Secured Net Leverage Ratio or the pro forma Total Net Leverage Ratio, as applicable.

(c) Notwithstanding anything to the contrary in this Agreement, solely for the purpose of (A) measuring the relevant financial ratios and basket availability or pro forma compliance with any covenant with respect to the incurrence of any Indebtedness (including any Incremental Term Loans, Incremental Revolving Loans, Incremental Term Loan Commitments or Incremental Revolving Credit Commitments) or Liens or the making of any Investments (including the determination of whether an acquisition is a Permitted Acquisition) or Dispositions or the designation of any Subsidiary as a Restricted Subsidiary or an Unrestricted Subsidiary or (B) other than in connection with the incurrence of any Incremental Revolving Credit Commitments, any Other Revolving Commitments or any Revolving Credit Loans, determining compliance with representations and warranties or the occurrence of any Default or Event of Default, in each case, in connection with a Limited Condition Acquisition or the incurrence or payment of Indebtedness or incurrence of Liens in connection therewith, if the Borrower has made an LCA Election with respect to such Limited Condition Acquisition, the date of determination of whether any such action is permitted hereunder shall be deemed to be the date on which the

definitive agreements for such Limited Condition Acquisition are entered into (the "**LCA Test Date**"), and if, after giving effect on a Pro Forma Basis to the Limited Condition Acquisition and the other transactions to be entered into in connection therewith as if they had occurred at the beginning of the most recently completed Measurement Period ending prior to the LCA Test Date, the Borrower could have taken such action on the relevant LCA Test Date in compliance with such financial ratio or basket, such financial ratio or basket shall be deemed to have been complied with. If the Borrower has made an LCA Election for any Limited Condition Acquisition, then in connection with any subsequent calculation of any financial ratio or basket availability on or following the relevant LCA Test Date and prior to the earlier of (x) the date on which such Limited Condition Acquisition is consummated or (y) the date that the definitive agreement for such Limited Condition Acquisition is terminated or expires without consummation of such Limited Condition Acquisition, any such financial ratio or basket availability shall be calculated (and tested) on (A) a Pro Forma Basis assuming such Limited Condition Acquisition and other transactions in connection therewith (including any incurrence or payment of Indebtedness (and the use of proceeds of such Indebtedness) or the incurrence of any Liens in connection therewith) have been consummated until such time as the applicable Limited Condition Acquisition has actually closed or the definitive agreement with respect thereto has been terminated and (B) solely with respect to the making of any Restricted Payments, on a standalone basis without giving effect to such Limited Condition Acquisition and the other transactions in connection therewith.

(d) For purposes of determining compliance with Sections 7.01, 7.02, 7.03, 7.06 and 7.14, with respect to any grant of any Lien, the making of any Investment, the incurrence of any Indebtedness, the making of any Restricted Payment, or the prepayment, redemption, purchase, defeasement or satisfaction of Restricted Indebtedness (each, a "**Covenant Transaction**") in reliance on a "basket" that makes reference to a percentage of Consolidated EBITDA, no Default or Event of Default shall be deemed to have occurred solely as a result of changes in the amount of Consolidated EBITDA occurring after the time such Covenant Transaction is incurred, granted or made in reliance on such provision.

(e) For purposes of calculating any "net" ratio test utilized in any debt incurrence test (including any amounts permitted to be incurred pursuant to Section 2.14 and Section 7.03(ş)), such ratio shall be calculated after giving effect to any such incurrence on a pro forma basis, and, in each case, with respect to any revolving credit or delayed draw commitments being established utilizing a debt incurrence test (including any Incremental Revolving Commitment), assuming a borrowing of the maximum amount of such revolving credit or delayed draw commitment (but for the avoidance of doubt, no other previously established revolving commitment), and such calculation shall be made excluding the cash proceeds from such incurrence from the amount of cash and Cash Equivalents that may be netted in the calculation of the pro forma Secured Net Leverage Ratio or the pro forma Total Net Leverage Ratio, as applicable.

(f) For purposes of determining compliance at any time with Section 7.01, Section 7.02, Section 7.03, Section 7.06 and Section 7.14, in the event that any Lien, Investment, Indebtedness, Restricted Payment or payment of Restricted Indebtedness, as applicable, meets the criteria of more than one of the categories of transactions within such covenant or items permitted pursuant to any clause of such Sections 7.01, 7.02, 7.03, 7.06 and 7.14, the Borrower, in its sole discretion, from time to time, may classify or reclassify such transaction or item (or portion

thereof) within the applicable covenant and will only be required to include the amount and type of such transaction (or portion thereof) in any one category within the applicable covenant; *provided* that, notwithstanding the foregoing, Liens of the nature described in Sections 7.01(a) and (y) may only be incurred and exist under such respective sections, Indebtedness of the nature described in Section 7.03(a)(A) may only be incurred and exist under such Section, any of the Senior Notes described in Section 7.03(a)(B) may only be incurred and exist under such Section, Indebtedness of the nature described in Section 7.03(d) may only be incurred and exist under such Section and Incremental Equivalent Debt may only be incurred and exist under Section 7.03(s).

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 on the first date of its existence by the holders of its Equity Interests at such time.

Section 1.11 *Interest Rates; Benchmark Notification*. The interest rate on a Loan denominated in U.S. Dollars or an Alternative Currency may be derived from an interest rate benchmark that may be discontinued or that is, or may in the future become, the subject of regulatory reform. Upon the occurrence of a Benchmark Transition Event, Section 3.08(a) provides a mechanism for determining an alternative rate of interest. 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 any interest rate used in this Agreement, or with respect to any alternative or successor rate thereto, or replacement rate thereof, 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 existing interest rate being replaced or have the same volume or liquidity as did any existing interest rate prior to its discontinuance or unavailability. The Administrative Agent and its affiliates and/or other related entities may engage in transactions that affect the calculation of any interest rate used in this Agreement or any alternative, successor or alternative rate (including any Benchmark Replacement) and/or any relevant adjustments thereto, in each case, in a manner adverse to the Borrower. The Administrative Agent may select information sources or services in its reasonable discretion to ascertain any interest rate used in this Agreement, any component thereof, or rates referenced in the definition thereof, in each case pursuant to the terms of this Agreement, and shall have no liability to the Borrower, any Lender or any other person or entity for damages of any kind, including direct or indirect, special, punitive, incidental or consequential damages, costs, losses or expenses (whether in tort, contract or otherwise and whether at law or in equity), for any error or calculation of any such rate (or component thereof) provided by any such information source or service. Wherever in this Agreement in connection with a Borrowing, conversion, continuation or prepayment of a Loan or the issuance, amendment or extension of a Letter of Credit, an amount, such as a required minimum or multiple amount, is expressed in U.S. Dollars, but such Borrowing, Loan or Letter of Credit is denominated in an Alternative Currency, such amount shall be the U.S. Dollar Equivalent of such amount (rounded to the nearest unit of such Alternative Currency, with 0.5 of a unit being rounded upward), as reasonably determined by the Administrative Agent or L/C Issuer, as the case may be.

Section 1.12 *The Transactions*. Notwithstanding anything to the contrary set forth herein or in any other Loan Document, no provision of this Agreement or any other Loan Document shall prevent the consummation of any of the Transactions, the consummation of the Transactions shall not give rise to any Default or Event of Default and the consummation of any of the Transactions shall not constitute usage of any baskets hereunder or under any of the other Loan Documents.

ARTICLE 2.
THE COMMITMENTS AND CREDIT EXTENSIONS

Section 2.01 *The Revolving Credit Borrowings*.

Subject to the terms and conditions set forth herein, each Revolving Credit Lender severally agrees to make loans (each such loan, a "**Revolving Credit Loan**") to the Borrower in U.S. Dollars or an Alternative Currency, in each case, from time to time, on any Business Day during the applicable Availability Period for the Revolving Credit Facility under which such Revolving Credit Lender has a Revolving Credit Commitment, in an aggregate amount not to exceed at any time outstanding the amount of such Revolving Credit Lender's Revolving Credit Commitment; *provided, however,* that after giving effect to any Revolving Credit Borrowing, (i) the Total Revolving Credit Outstandings shall not exceed the aggregate amount of the Revolving Credit Lenders' Revolving Credit Commitments at such time and (ii) the aggregate Outstanding Amount of the Revolving Credit Loans of any Revolving Credit Lender plus such Revolving Credit Lender's Applicable Revolving Credit Percentage of the Outstanding Amount of all L/C Obligations shall not exceed such Revolving Credit Lender's Revolving Credit Commitment. Within the limits of each Revolving Credit Lender's Revolving Credit Commitment, and subject to the other terms and conditions hereof, the Borrower may borrow under this Section 2.01, prepay under Section 2.05, and reborrow under this Section 2.01. Revolving Credit Loans (x) denominated in U.S. Dollars may be Base Rate Loans or Term SOFR Loans, (y) denominated in Euros, shall be Eurodollar Rate Loans and (z) denominated in Sterling shall be RFR Loans, in each case, as further provided herein.

Section 2.02 *Borrowings, Conversions and Continuations of Loans*.

(a) Each Borrowing, each conversion of Term Loans or Revolving Credit Loans from one Type to the other, and each continuation of Term SOFR Loans, Eurodollar Rate Loans or RFR Loans shall be made upon the Borrower's irrevocable notice to the Administrative Agent, which may be given by "pdf" or similar electronic format, in the form of a Committed Loan Notice or a Conversion/Continuation Notice, as applicable (each, a "**Notice**"). Each such Notice must be received by the Administrative Agent not later than (i) 11:00 a.m. three Business Days prior to the requested date of any Borrowing or continuation of Term SOFR Loans, Eurodollar Rate Loans or of any conversion of or conversion to Term SOFR Loans or Eurodollar Rate Loans, (ii) 11:00 a.m. five Business Days prior to the requested date of any Borrowing or continuation of RFR Loans, and (iii) 11:00 a.m. on the requested date of any Borrowing of Base Rate Loans. Each Borrowing of, conversion to or continuation of, as applicable, Term SOFR Loans, Eurodollar Rate Loans or RFR Loans shall be in a minimum principal amount of $5,000,000 and whole multiples of $1,000,000 in excess thereof. Except as provided in Section 2.03(c), each Borrowing of or conversion to Base Rate Loans shall be in a minimum principal amount of $1,000,000 or a whole multiple of $500,000 in excess thereof. Each Notice shall specify, as applicable, (1) whether the

Borrower is requesting a Term Borrowing, a Revolving Credit Borrowing, a conversion of Term Loans or Revolving Credit Loans from one Type to the other, or a continuation of Term SOFR Loans or Eurodollar Rate Loans, and in each case, the Class of the relevant Loans and Borrowings, (2) the requested date of the Borrowing, conversion or continuation, as the case may be (which shall be a Business Day), (3) the principal amount of Loans to be borrowed, converted or continued, (4) the Type of Loans to be borrowed or to which existing Term Loans or Revolving Credit Loans are to be converted, (5) if applicable, the duration of the applicable Interest Period with respect thereto and (6) in the case of Revolving Credit Borrowings or Revolving Credit Loans, the currency of the Loans to be borrowed, continued or converted (*provided*, that if the Borrower shall fail to so specify, the applicable Revolving Credit Borrowing shall be denominated in U.S. Dollars). With respect to Loans denominated in U.S. Dollars, if the Borrower fails to specify a Type of Loan in a Committed Loan Notice or if the Borrower fails to give a timely notice requesting a conversion or continuation, then the applicable Loans shall be made as, or converted to, Base Rate Loans. Any such automatic conversion to Base Rate Loans shall be effective as of the last day of the Interest Period then in effect with respect to the applicable Term SOFR Loans. If the Borrower requests a Borrowing of, conversion to, or continuation of Eurodollar Rate Loans or Term SOFR Loans in any such Committed Loan Notice or Conversion/Continuation Notice, as applicable, but fails to specify an Interest Period, it will be deemed to have specified an Interest Period of one month. If the Borrower fails to give a timely notice requesting a continuation of Term SOFR Loans or Eurodollar Rate Loans, then the Interest Period applicable to the Loans will be deemed to be an Interest Period of one month. No Loan may be converted into or continued as a Loan denominated in a different currency, but instead must be repaid or prepaid in the original currency of such Loan and reborrowed in such other currency.

(b) Following receipt of a Committed Loan Notice, the Administrative Agent shall promptly notify each Appropriate Lender of the amount of its Applicable Percentage under the applicable Facility of the applicable Term Loans or Revolving Credit Loans, and if no timely notice of a conversion or continuation is provided by the Borrower, the Administrative Agent shall notify each Lender of the details of any automatic conversion to Base Rate Loans described in Section 2.02(a). In the case of a Borrowing, each Appropriate Lender shall make the amount of its Loan available to the Administrative Agent in Same Day Funds at the Administrative Agent's Office not later than 12:00 p.m., in the case of any Term SOFR Loan, Eurodollar Rate Loan, RFR Loan or Base Rate Loan on the Business Day specified in the applicable Committed Loan Notice. Upon satisfaction of the applicable conditions set forth in Section 4.02 (or, if such Borrowing is to be made on the Closing Date, Section 4.01), the Administrative Agent shall make all funds so received available to the Borrower in like funds as received by the Administrative Agent by wire transfer of such funds in accordance with instructions provided to (and reasonably acceptable to) the Administrative Agent by the Borrower; *provided*, *however*, that if, on the date a Committed Loan Notice with respect to a Revolving Credit Borrowing is given by the Borrower, there are L/C Borrowings outstanding, then the proceeds of such Revolving Credit Borrowing, first, shall be applied to the payment in full of any such L/C Borrowings, and second, shall be made available to the Borrower as provided above.

(c) Except as otherwise provided herein, a Eurodollar Rate Loan may be continued or converted or a Term SOFR Loan may be continued or converted, in each case, only on the last day of an Interest Period for such Eurodollar Rate Loan or such Term SOFR Loan, as applicable. During the existence of an Event of Default, no Loans may be requested as, converted to or continued as Term SOFR Loans or Eurodollar Rate Loans without the consent of the Required Facility Lenders with respect to the relevant Facility.

(d) The Administrative Agent shall promptly notify the Borrower and the Lenders of the interest rate applicable to any Interest Period for Term SOFR Loans or Eurodollar Rate Loans upon determination of such interest rate. At any time that Base Rate Loans are outstanding, the Administrative Agent shall notify the Borrower and the Lenders of any change in the Prime Rate used in determining the Base Rate promptly following the public announcement of such change.

(e) After giving effect to all Borrowings, all conversions of Loans from one Type to the other, and all continuations of Loans as the same Type, there shall not be more than ten (10) Interest Periods in effect at any one time.

Section 2.03 *Letters of Credit.*

(a) *The Letter of Credit Commitment.*

(i) Subject to the terms and conditions set forth herein, (A) each L/C Issuer agrees, in reliance upon (among other things) the agreements of the Revolving Credit Lenders set forth in this Section 2.03, (1) from time to time on any Business Day during the period from the Closing Date until the Letter of Credit Expiration Date, to issue Letters of Credit denominated in U.S. Dollars or, if the applicable L/C Issuer shall agree, in one or more Alternative Currencies for the account of the Borrower (or any of its Restricted Subsidiaries (i) so long as (x) the Borrower is a joint and several co-applicant and (y) the applicable L/C Issuer shall have received all documentation and other information with respect to such Restricted Subsidiary that such L/C Issuer reasonably determines is necessary in order to allow such L/C Issuer to comply with applicable "know your customer" and anti-money laundering rules and regulations, including the Act and (ii) references to the "Borrower" in this Section 2.03 and elsewhere in this Agreement with respect to requests for Letters of Credit (including extensions or continuations thereof) shall be deemed to include any such Restricted Subsidiary), and to amend or extend Letters of Credit previously issued by it, in accordance with Section 2.03(b), and (2) to honor drawings under the Letters of Credit issued by it; and (B) the Revolving Credit Lenders severally agree to participate in Letters of Credit issued for the account of the Borrower and any drawings thereunder; *provided* that after giving effect to any L/C Credit Extension with respect to any Letter of Credit, (w) the Total Revolving Credit Outstandings shall not exceed the aggregate amount of the Revolving Credit Lenders' Revolving Credit Commitments at such time, (x) the aggregate Outstanding Amount of the Revolving Credit Loans of any Revolving Credit Lender, plus such Revolving Credit Lender's Applicable Revolving Credit Percentage of the Outstanding Amount of all L/C Obligations shall not exceed such Revolving Credit Lender's Revolving Credit Commitment, (y) the Outstanding Amount of the L/C Obligations shall not exceed the Letter of Credit Sublimit and (z) the aggregate amount of L/C Obligations owing to an L/C Issuer shall not exceed the amount set forth opposite such L/C Issuer's name on Schedule 2.01 (as such Schedule may be amended with the consent of each affected L/C Issuer and the Borrower from time to time) under the caption "Letter of Credit Commitments" and no L/C Issuer shall be

required to issue Letters of Credit in excess of its applicable amount so set forth; *provided* that it is understood and agreed that each L/C Issuer may, in its sole discretion, make L/C Credit Extensions in an aggregate amount above its respective share of the Letter of Credit Sublimit; and *provided further* that the issuance of any Bank Guarantee hereunder shall be in the sole discretion of each Bank Guarantee Issuer. Each request by the Borrower for the issuance or amendment of a Letter of Credit shall be deemed to be a representation by the Borrower that the L/C Credit Extension so requested complies with the conditions set forth in the proviso to the preceding sentence. Within the foregoing limits, and subject to the terms and conditions hereof, the Borrower's ability to obtain Letters of Credit shall be fully revolving, and accordingly the Borrower may, during the foregoing period, obtain Letters of Credit to replace Letters of Credit that have expired or that have been drawn upon and reimbursed.

(ii) No L/C Issuer shall issue any Letter of Credit if:

(A) subject to Section 2.03(b)(iii), the expiry date of such requested Letter of Credit would occur more than twelve months after the date of issuance or last extension thereof, unless the Required Revolving Credit Lenders have approved such expiry date; or

(B) the expiry date of such requested Letter of Credit would occur after the Letter of Credit Expiration Date, unless such Letter of Credit is Cash Collateralized no less than fifteen (15) days prior to the Letter of Credit Expiration Date at 105% of the face amount thereof.

(iii) No L/C Issuer shall be under any obligation to issue any Letter of Credit if:

(A) any order, judgment or decree of any Governmental Authority or arbitrator shall by its terms purport to enjoin or restrain such L/C Issuer from issuing such Letter of Credit, or any Law applicable to such L/C Issuer or any request or directive (whether or not having the force of law) from any Governmental Authority with jurisdiction over such L/C Issuer shall prohibit, or request that such L/C Issuer refrain from, the issuance of letters of credit generally or such Letter of Credit in particular or shall impose upon such L/C Issuer with respect to such Letter of Credit any restriction, reserve or capital requirement (for which such L/C Issuer is not otherwise compensated hereunder) not in effect on the Closing Date, or shall impose upon such L/C Issuer any unreimbursed loss, cost or expense which was not applicable on the Closing Date and which such L/C Issuer in good faith deems material to it;

(B) the issuance of such Letter of Credit would violate one or more policies of such L/C Issuer applicable to letters of credit generally;

(C) except as otherwise agreed by the Administrative Agent and such L/C Issuer, such Letter of Credit is in an initial amount less than $100,000;

(D) except as otherwise agreed by such L/C Issuer, such Letter of Credit is to be denominated in a currency other than U.S. Dollars or an Alternative Currency; or

(E) any Revolving Credit Lender is at that time a Defaulting Lender, unless such L/C Issuer has entered into arrangements, including the delivery of Cash Collateral, satisfactory to such L/C Issuer (in its sole discretion) with the Borrower or such Revolving Credit Lender to eliminate such L/C Issuer's actual or potential Fronting Exposure (after giving effect to any required adjustment pursuant to Section 2.16(a)(iv)) with respect to the Defaulting Lender arising from the Letter of Credit then proposed to be issued and all other L/C Obligations as to which such L/C Issuer has actual or potential Fronting Exposure, as it may elect in its sole discretion.

(iv) No L/C Issuer shall amend any Letter of Credit if such L/C Issuer would not be permitted at such time to issue such Letter of Credit in its amended form under the terms hereof.

(v) No L/C Issuer shall be under any obligation to amend any Letter of Credit if (A) such L/C Issuer would have no obligation at such time to issue such Letter of Credit in its amended form under the terms hereof, or (B) the beneficiary of such Letter of Credit does not accept the proposed amendment to such Letter of Credit.

(vi) Each L/C Issuer shall act on behalf of the Revolving Credit Lenders with respect to any Letters of Credit issued by it and the documents associated therewith, and each L/C Issuer shall have all of the benefits and immunities (A) provided to the Administrative Agent in Article 9 and Section 10.4(c) hereof with respect to any acts taken or omissions suffered by such L/C Issuer in connection with Letters of Credit issued by it or proposed to be issued by it and the Issuer Documents pertaining to such Letters of Credit as fully as if the term "**Administrative Agent**" as used in Article 9 and Section 10.4(c) hereof included such L/C Issuer with respect to such acts or omissions, and (B) as additionally provided herein with respect to the L/C Issuers; *provided* that to the extent an L/C Issuer is entitled to indemnification under Section 10.4(c) solely in connection with its role as an L/C Issuer, only the Revolving Credit Lenders shall be required to indemnify such L/C Issuer in accordance with Section 10.4(c).

(b) *Procedures for Issuance and Amendment of Letters of Credit*; *Auto-Extension Letters of Credit*. (i) Each Letter of Credit shall be issued or amended, as the case may be, upon the request of the Borrower delivered to the applicable L/C Issuer (with a copy to the Administrative Agent) in the form of a Letter of Credit Application, appropriately completed and signed by a Responsible Officer of the Borrower. Such Letter of Credit Application must be received by the applicable L/C Issuer and the Administrative Agent not later than (x) in the case of Letters of Credit denominated in U.S. Dollars, 12:00 p.m. at least three Business Days (or such other date and time as the Administrative Agent and the applicable L/C Issuer may agree in a particular instance in their sole discretion) prior to the proposed issuance date or date of amendment, as the case may be and (y) in the case of Letters of Credit denominated in an Alternative Currency, 12:00 p.m. at least five Business Days (or such other date and time as the

Administrative Agent and the applicable L/C Issuer may agree in a particular instance in their sole discretion) prior to the proposed issuance date or date of amendment, as the case may be. In the case of a request for the issuance of a Letter of Credit, such Letter of Credit Application shall specify in form and detail reasonably satisfactory to the applicable L/C Issuer: (A) the proposed issuance date of the requested Letter of Credit (which shall be a Business Day); (B) the amount thereof; (C) the expiry date thereof; (D) the name and address of the beneficiary thereof; (E) the documents to be presented by such beneficiary in case of any drawing thereunder; (F) the full text of any certificate to be presented by such beneficiary in case of any drawing thereunder; (G) the purpose and nature of the requested Letter of Credit; (H) the requested currency of the requested Letter of Credit (which shall be U.S. Dollars or an Alternative Currency); *provided* that if the currency is not specified, the requested currency of the requested Letter of Credit shall be deemed to be U.S. Dollars; and (I) such other matters as the applicable L/C Issuer may reasonably require. In the case of a request for an amendment of any outstanding Letter of Credit, such Letter of Credit Application shall specify in form and detail reasonably satisfactory to the applicable L/C Issuer: (A) the Letter of Credit to be amended; (B) the proposed date of issuance of the amendment (which shall be a Business Day); (C) the nature of the proposed amendment; and (D) such other matters as the applicable L/C Issuer may reasonably require. Additionally, the Borrower shall furnish to the applicable L/C Issuer and the Administrative Agent such other documents and information pertaining to such requested Letter of Credit issuance or amendment, including any Issuer Documents, as the applicable L/C Issuer or the Administrative Agent may reasonably require.

(ii) Promptly after receipt of any Letter of Credit Application, the applicable L/C Issuer will confirm with the Administrative Agent (in writing) that the Administrative Agent has received a copy of such Letter of Credit Application from the Borrower and, if not, the applicable L/C Issuer will provide the Administrative Agent with a copy thereof. Unless the applicable L/C Issuer has received written notice from any Revolving Credit Lender, the Administrative Agent or any Loan Party, at least one Business Day prior to the requested date of issuance or amendment of the applicable Letter of Credit, that one or more applicable conditions contained in Article 4 hereof shall not then be satisfied, then, subject to the terms and conditions hereof, the applicable L/C Issuer shall, on the requested date, issue a Letter of Credit for the account of the Borrower or enter into the applicable amendment, as the case may be, in each case in accordance with the applicable L/C Issuer's usual and customary business practices. Immediately upon the issuance of each Letter of Credit and each amendment increasing the amount of a Letter of Credit, each Revolving Credit Lender shall be deemed to, and hereby irrevocably and unconditionally agrees to, purchase from the applicable L/C Issuer a risk participation in such Letter of Credit in an amount equal to the product of such Revolving Credit Lender's Applicable Revolving Credit Percentage *times* the amount of such Letter of Credit.

(iii) If the Borrower so requests in any applicable Letter of Credit Application, the applicable L/C Issuer may, in its sole and absolute discretion, agree to issue a Letter of Credit that has automatic extension provisions (each, an "**Auto-Extension Letter of Credit**"); *provided* that, unless otherwise agreed to by the applicable L/C Issuer, any such Auto-Extension Letter of Credit must permit the applicable L/C Issuer to prevent any such extension at least once in each twelve-month period (commencing with the date of issuance of such Letter of Credit) by giving prior notice to the beneficiary thereof not later than a day (the "**Non-Extension Notice Date**") in each such twelve-month period to

be agreed upon at the time such Letter of Credit is issued. Unless otherwise directed by the applicable L/C Issuer, the Borrower shall not be required to make a specific request to the applicable L/C Issuer for any such extension. Once an Auto-Extension Letter of Credit has been issued, the Revolving Credit Lenders shall be deemed to have authorized (but may not require) the applicable L/C Issuer to permit the extension of such Letter of Credit at any time to an expiry date not later than the Letter of Credit Expiration Date unless such Letter of Credit is Cash Collateralized at 105% of the face amount thereof in accordance with this Agreement; *provided*, *however*, that the applicable L/C Issuer shall not permit any such extension if (A) the applicable L/C Issuer has determined that it would not be permitted, or would have no obligation at such time to issue such Letter of Credit in its revised form (as extended) under the terms hereof (by reason of the provisions of clause (i) or (ii) of Section 2.03(a) or otherwise), or (B) it has received notice (in writing) on or before the day that is seven days before the Non-Extension Notice Date (1) from the Administrative Agent that the Required Revolving Credit Lenders have elected not to permit such extension or (2) from the Administrative Agent, any Revolving Credit Lender or the Borrower that one or more of the applicable conditions specified in Section 4.02 is not then satisfied, and in each such case directing the applicable L/C Issuer not to permit such extension.

(iv) Promptly after its delivery of any Letter of Credit or any amendment to a Letter of Credit to an advising bank with respect thereto or to the beneficiary thereof, the applicable L/C Issuer will also deliver to the Borrower and the Administrative Agent a true and complete copy of such Letter of Credit or amendment.

(c) *Drawings and Reimbursements*; *Funding of Participations*.

(i) Upon receipt from the beneficiary of any Letter of Credit of a drawing made under, and in compliance with, such Letter of Credit, the applicable L/C Issuer shall notify the Borrower and the Administrative Agent thereof. In the case of a Letter of Credit denominated in an Alternative Currency, the Borrower shall reimburse the applicable L/C Issuer in U.S. Dollars. In the case of any such reimbursement in U.S. Dollars of a drawing as of the applicable Valuation Date under a Letter of Credit denominated in an Alternative Currency, the applicable L/C Issuer shall notify the Borrower of the U.S. Dollar Equivalent of the amount of the drawing promptly following the determination thereof. Not later than 11:00 a.m. on the next Business Day following any payment by the applicable L/C Issuer under a Letter of Credit (or on the second Business Day following any payment by the applicable L/C Issuer if such notice is delivered to the Borrower after 11:00 a.m. on the date of any such payment) (each such applicable date, an "**Honor Date**"), the Borrower shall reimburse the applicable L/C Issuer through the Administrative Agent in an amount equal to the amount of such drawing as provided in this Section 2.03(c). If the Borrower fails to so reimburse the applicable L/C Issuer by such time, the Administrative Agent shall promptly notify each Revolving Credit Lender of the Honor Date, the amount of the unreimbursed drawing (in U.S. Dollars in the case of a Letter of Credit denominated in U.S. Dollars, and expressed, in the case of a Letter of Credit denominated in an Alternative Currency, in U.S. Dollars in the amount of the U.S. Dollar Equivalent thereof (the "**Unreimbursed Amount**")), and the amount of such Revolving Credit Lender's Applicable Revolving Credit Percentage thereof. In such event,

the Borrower shall be deemed to have requested a Revolving Credit Borrowing of Base Rate Loans to be disbursed on the Honor Date in an amount equal to the Unreimbursed Amount, without regard to the minimum and multiples specified in Section 2.02 for the principal amount of Base Rate Loans, but subject to the amount of the unutilized portion of the Revolving Credit Commitments and the conditions set forth in Section 4.02 (other than the delivery of a Committed Loan Notice).

(ii) Each Revolving Credit Lender shall upon any notice pursuant to Section 2.03(c)(i) make funds available (and the Administrative Agent may apply Cash Collateral provided for this purpose) for the account of the applicable L/C Issuer at the Administrative Agent's Office in an amount equal to its Applicable Revolving Credit Percentage of the Unreimbursed Amount not later than 12:00 p.m. on the Business Day specified in such notice by the Administrative Agent, whereupon, subject to the provisions of Section 2.03(c)(iii), each Revolving Credit Lender that so makes funds available shall be deemed to have made a Base Rate Loan to the Borrower in such amount. The Administrative Agent shall remit the funds so received to the applicable L/C Issuer in U.S. Dollars.

(iii) With respect to any Unreimbursed Amount that is not fully refinanced by a Revolving Credit Borrowing of Base Rate Loans because the conditions set forth in Section 4.02 (other than the delivery of a Committed Loan Notice) cannot be satisfied or for any other reason, the Borrower shall be deemed to have incurred from the applicable L/C Issuer an L/C Borrowing in the amount of the Unreimbursed Amount that is not so refinanced, which L/C Borrowing shall be due and payable on demand (together with interest) and shall bear interest at the Default Rate. In such event, each Revolving Credit Lender's payment to the Administrative Agent for the account of the applicable L/C Issuer pursuant to Section 2.03(c)(ii) shall be deemed payment in respect of its participation in such L/C Borrowing and shall constitute an L/C Advance from such Revolving Credit Lender in satisfaction of its participation obligation under this Section 2.03.

(iv) Until each Revolving Credit Lender funds its Revolving Credit Loan or L/C Advance pursuant to this Section 2.03(c) to reimburse the applicable L/C Issuer for any amount drawn under any Letter of Credit, interest in respect of such Revolving Credit Lender's Applicable Revolving Credit Percentage of such amount shall be solely for the account of the applicable L/C Issuer.

(v) Each Revolving Credit Lender's obligation to make Revolving Credit Loans or L/C Advances to reimburse the applicable L/C Issuer for amounts drawn under Letters of Credit issued by it, as contemplated by this Section 2.03(c), shall be absolute and unconditional and shall not be affected by any circumstance, including (A) any setoff, counterclaim, recoupment, defense or other right which such Lender may have against the applicable L/C Issuer, the Borrower or any other Person for any reason whatsoever; (B) the occurrence or continuance of a Default; or (C) any other occurrence, event or condition, whether or not similar to any of the foregoing; *provided, however,* that each Revolving Credit Lender's obligation to make Revolving Credit Loans pursuant to this Section 2.03(c) is subject to the conditions set forth in Section 4.02 (other than delivery by the Borrower of a Committed Loan Notice). No such making of an L/C Advance shall relieve or otherwise impair the obligation of the Borrower to reimburse the applicable L/C Issuer for the amount of any payment made by the applicable L/C Issuer under any Letter of Credit, together with interest as provided herein.

(vi) If any Revolving Credit Lender fails to make available to the Administrative Agent for the account of the applicable L/C Issuer any amount required to be paid by such Revolving Credit Lender pursuant to the foregoing provisions of this Section 2.03(c) by the time specified in Section 2.03(c)(ii), the applicable L/C Issuer shall be entitled to recover from such Revolving Credit Lender (acting through the Administrative Agent), on demand, such amount with interest thereon for the period from the date such payment is required to the date on which such payment is immediately available to the applicable L/C Issuer at a rate per annum equal to the greater of the Federal Funds Effective Rate and a rate determined by the applicable L/C Issuer in accordance with banking industry rules on interbank compensation, plus any administrative, processing or similar fees customarily charged by the applicable L/C Issuer in connection with the foregoing. If such Revolving Credit Lender pays such amount (with interest and fees as aforesaid), the amount so paid shall constitute such Revolving Credit Lender's Revolving Credit Loan included in the relevant Revolving Credit Borrowing or L/C Advance in respect of the relevant L/C Borrowing, as the case may be. A certificate of the applicable L/C Issuer submitted to any Revolving Credit Lender (through the Administrative Agent) with respect to any amounts owing under this Section 2.03(c)(vi) shall be conclusive absent manifest error.

(d) *Repayment of Participations*.

(i) At any time after the applicable L/C Issuer has made a payment under any Letter of Credit and has received from any Revolving Credit Lender such Revolving Credit Lender's L/C Advance in respect of such payment in accordance with Section 2.03(c), if the Administrative Agent receives for the account of the applicable L/C Issuer any payment in respect of the related Unreimbursed Amount or interest thereon (whether directly from the Borrower or otherwise, including proceeds of Cash Collateral applied thereto by the Administrative Agent), the Administrative Agent will promptly distribute to such Revolving Credit Lender its Applicable Revolving Credit Percentage thereof in the same funds as those received by the Administrative Agent.

(ii) If any payment received by the Administrative Agent for the account of the applicable L/C Issuer pursuant to Section 2.03(c)(i) is required to be returned under any of the circumstances described in Section 10.05 (including pursuant to any settlement entered into by the applicable L/C Issuer in its discretion), each Revolving Credit Lender shall pay to the Administrative Agent for the account of the applicable L/C Issuer its Applicable Revolving Credit Percentage thereof on demand of the Administrative Agent, plus interest thereon from the date of such demand to the date such amount is returned by such Revolving Credit Lender, at a rate per annum equal to the Federal Funds Effective Rate from time to time in effect. The obligations of the Revolving Credit Lenders under this clause shall survive the payment in full of the Obligations, the termination of the Commitments and the termination of this Agreement.

(e) *Obligations Absolute*. The obligation of the Borrower to reimburse the applicable L/C Issuer for each drawing under each Letter of Credit and to repay each L/C Borrowing shall be absolute, unconditional and irrevocable, and shall be paid strictly in accordance with the terms of this Agreement under all circumstances, including the following:

(i) any lack of validity or enforceability of such Letter of Credit, this Agreement, or any other Loan Document;

(ii) the existence of any claim, counterclaim, setoff, defense or other right that the Borrower or any Subsidiary may have at any time against any beneficiary or any transferee of such Letter of Credit (or any Person for whom any such beneficiary or any such transferee may be acting), the applicable L/C Issuer or any other Person, whether in connection with this Agreement, the transactions contemplated hereby or by such Letter of Credit or any agreement or instrument relating thereto, or any unrelated transaction;

(iii) any draft, demand, certificate or other document presented under such Letter of Credit proving to be forged, fraudulent, invalid or insufficient in any respect or any statement therein being untrue or inaccurate in any respect; or any loss or delay in the transmission or otherwise of any document required in order to make a drawing under such Letter of Credit;

(iv) any payment by the applicable L/C Issuer under such Letter of Credit against presentation of a draft or certificate that does not strictly comply with the terms of such Letter of Credit; or any payment made by the applicable L/C Issuer under such Letter of Credit to any Person purporting to be a trustee in bankruptcy, debtor-in-possession, assignee for the benefit of creditors, liquidator, receiver or other representative of or successor to any beneficiary or any transferee of such Letter of Credit, including any arising in connection with any proceeding under any Debtor Relief Law;

(v) any adverse change in the relevant exchange rates or in the availability of the relevant Alternative Currency to the Borrower or any Subsidiary or in the relevant currency markets generally; or

(vi) any other circumstance or happening whatsoever, whether or not similar to any of the foregoing, including any other circumstance that might otherwise constitute a defense available to, or a discharge of, the Borrower or any of its Subsidiaries.

The Borrower shall promptly examine a copy of each Letter of Credit and each amendment thereto that is delivered to it and, in the event of any claim of noncompliance with the Borrower's instructions or other irregularity, the Borrower will promptly notify the applicable L/C Issuer. The Borrower shall be conclusively deemed to have waived any such claim against the applicable L/C Issuer and its correspondents unless such notice is given as aforesaid or such claim arises from the applicable L/C Issuer's gross negligence or willful misconduct (as determined by a final non-appealable order of a court of competent jurisdiction).

(f) *Role of L/C Issuer*. Each Lender and the Borrower agree that, in paying any drawing under a Letter of Credit, the applicable L/C Issuer shall not have any responsibility to obtain any document (other than any sight draft, certificates and documents expressly required by the Letter of Credit) or to ascertain or inquire as to the validity or accuracy of any such document or the authority of the Person executing or delivering any such document. None of the L/C Issuers, the Administrative Agent, any of their respective Related Parties nor any correspondent, participant or assignee of any L/C Issuer shall be liable to any Lender for (i) any action taken or omitted in connection herewith at the request or with the approval of the Revolving Credit Lenders or the Required Revolving Credit Lenders, as applicable; (ii) any action taken or omitted in the absence of gross negligence or willful misconduct (as determined by a final non-appealable order of a court of competent jurisdiction); or (iii) the due execution, effectiveness, validity or enforceability of any document or instrument related to any Letter of Credit or Issuer Document. The Borrower hereby assumes all risks of the acts or omissions of any beneficiary or transferee with respect to its use of any Letter of Credit; *provided, however,* that this assumption is not intended to, and shall not, preclude the Borrower's pursuing such rights and remedies as it may have against the beneficiary or transferee at law or under any other agreement. None of the L/C Issuers, the Administrative Agent, any of their respective Related Parties nor any correspondent, participant or assignee of any L/C Issuer shall be liable or responsible for any of the matters described in clauses (i) through (vi) of Section 2.03(e); *provided, however,* that anything in such clauses to the contrary notwithstanding, the Borrower may have a claim against an L/C Issuer, and an L/C Issuer may be liable to the Borrower, to the extent, but only to the extent, of any direct, as opposed to consequential or exemplary, damages suffered by the Borrower which are determined by a final non-appealable order of a court of competent jurisdiction to have been caused by such L/C Issuer's willful misconduct or gross negligence or such L/C Issuer's willful failure to pay under any Letter of Credit after the presentation to it by the beneficiary of a sight draft and certificate(s) strictly complying with the terms and conditions of a Letter of Credit. In furtherance and not in limitation of the foregoing, any L/C Issuer may accept documents that appear on their face to be in order, without responsibility for further investigation, regardless of any notice or information to the contrary, and the L/C Issuers shall not be responsible for the validity or sufficiency of any instrument transferring or assigning or purporting to transfer or assign a Letter of Credit or the rights or benefits thereunder or proceeds thereof, in whole or in part, which may prove to be invalid or ineffective for any reason.

(g) *Applicability of ISP/URDG 758*. Unless otherwise expressly agreed by the applicable L/C Issuer and the Borrower, (i) when a Letter of Credit (other than a Bank Guarantee) is issued, the rules of the ISP shall apply to each Letter of Credit and (ii) when a Bank Guarantee is issued, the rules of the Uniform Rules for Demand Guarantees (URDG) 2010 Revision, ICC Publication No. 758 ("**URDG 758**") shall apply to each Bank Guarantee.

(h) *Letter of Credit Fees*. The Borrower shall pay to the Administrative Agent for the account of each Revolving Credit Lender in accordance with its Applicable Revolving Credit Percentage of the applicable Revolving Credit Facility, in U.S. Dollars, a Letter of Credit fee (the "**Letter of Credit Fee**") for each Letter of Credit equal to the Applicable Rate of the applicable Revolving Credit Facility times the U.S. Dollar Equivalent determined as of the last Business Day of each March, June, September and December of the daily amount available to be drawn under such Letter of Credit; *provided* that any Letter of Credit Fees otherwise payable for the account of a Defaulting Lender with respect to any Letter of Credit as to which such Defaulting Lender has not provided Cash Collateral satisfactory to the applicable L/C Issuer shall be payable, to the maximum extent permitted by applicable Law, to the other Revolving Credit Lenders in accordance with the upward adjustments in their respective Applicable Percentages allocable to

such Letter of Credit pursuant to Section 2.16(a)(iv), with the balance of such fee, if any, payable to the applicable L/C Issuer for its own account. For purposes of computing the daily 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. Letter of Credit Fees shall be (i) due and payable on the last Business Day of each March, June, September and December, commencing with the first such date to occur after the issuance of such Letter of Credit, on the Letter of Credit Expiration Date and thereafter on demand and (ii) computed on a quarterly basis in arrears. If there is any change in the Applicable Rate during any quarter, the daily amount available to be drawn under each Letter of Credit shall be computed and multiplied by the Applicable Rate separately for each period during such quarter that such Applicable Rate was in effect.

(i) *Fronting Fee and Documentary and Processing Charges Payable to L/C Issuer*. The Borrower shall pay directly to the applicable L/C Issuer for its own account, in U.S. Dollars, a fronting fee with respect to each Letter of Credit issued by such L/C Issuer, at a rate per annum of 0.125%, computed on the U.S. Dollar Equivalent determined as of the last Business Day of each March, June, September and December of the daily amount available to be drawn under such Letter of Credit on a quarterly basis in arrears. Such fronting fee shall be due and payable on the last Business Day of each March, June, September and December in respect of the most recently-ended quarterly period (or portion thereof, in the case of the first payment), commencing with the first such date to occur after the issuance of such Letter of Credit, on the Letter of Credit Expiration Date and thereafter on demand. For purposes of computing the daily 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. In addition, the Borrower shall pay directly to the applicable L/C Issuer for its own account the customary issuance, presentation, amendment and other processing fees, and other standard costs and charges, of such L/C Issuer relating to letters of credit as from time to time in effect. Such customary fees and standard costs and charges are due and payable on demand and are nonrefundable.

(j) *Conflict with Issuer Documents*. In the event of any conflict or inconsistency between the terms hereof and the terms of any Issuer Document, the terms hereof shall control. To the extent any defaults, representations, or covenants contained in any Issuer Documents are more restrictive than the Events of Default, representations, or covenants contained herein, the Events of Default, representations and covenants herein shall control.

(k) *Provisions Related to Letters of Credit in respect of Other Revolving Commitments*. If the Letter of Credit Expiration Date in respect of any Class of Revolving Credit Commitments occurs prior to the expiry date of any Letter of Credit, then (i) if consented to by the L/C Issuer which issued such Letter of Credit, if one or more other Classes of Revolving Credit Commitments in respect of which the Letter of Credit Expiration Date shall not have so occurred are then in effect, such Letters of Credit for which the applicable L/C Issuer has consented shall automatically be deemed to have been issued (including for purposes of the obligations of the Revolving Credit Lenders to purchase participations therein and to make Revolving Credit Loans and payments in respect thereof pursuant to Sections 2.03(c) and 2.03(d)) under (and ratably participated in by Lenders pursuant to) the Revolving Credit Commitments in respect of such non-terminating Classes up to an aggregate amount not to exceed the aggregate amount of the unutilized Revolving Credit Commitments thereunder at such time and (ii) to the extent not reallocated pursuant to the immediately preceding clause (i), the Borrower shall Cash Collateralize any such Letter of Credit in accordance with the terms hereof. Upon the maturity date of any Class of Revolving Credit Commitments, the Letter of Credit Sublimit may be reduced as agreed between the L/C Issuers and the Borrower, without the consent of any other Person.

(l) *Additional L/C Issuers*. The Borrower may, at any time and from time to time, designate one or more additional Revolving Credit Lenders or Affiliates of Revolving Credit Lenders to act as an L/C Issuer under the terms of this Agreement, with the consent of each of the Administrative Agent (which consent shall not be unreasonably withheld) and such Revolving Credit Lender(s) or Affiliate thereof. Any Revolving Credit Lender or Affiliate thereof designated as an L/C Issuer pursuant to this Section 2.03(l) shall be deemed to be the L/C Issuer with respect to Letters of Credit issued or to be issued by such Revolving Credit Lender or Affiliate thereof, and all references herein and in the other Loan Documents to the term "L/C Issuer" shall, with respect to such Letters of Credit, be deemed to refer to such Revolving Credit Lender or Affiliate thereof in its capacity as L/C Issuer thereof, as the context shall require.

(m) *Reporting*. Not later than the third Business Day following the last day of each calendar month (or at such other intervals as the Administrative Agent and the applicable L/C Issuer shall agree), each L/C Issuer shall provide to the Administrative Agent a schedule of the Letters of Credit issued by it, in form and substance reasonably satisfactory to the Administrative Agent, showing the date of issuance of each Letter of Credit, the account party, the original face amount (if any), the expiration date, and the reference number of any Letter of Credit outstanding at any time during such month, and showing the aggregate amount (if any) paid or payable by the Borrower to such L/C Issuer during such month.

Section 2.04 *[Reserved]*.

Section 2.05 *Prepayments*.

(a) *Optional*. The Borrower may, upon notice in the form of a Prepayment Notice delivered to the Administrative Agent, at any time or from time to time voluntarily prepay Term Loans or Revolving Credit Loans in whole or in part without premium or penalty (other than, (x) in the case of any Term SOFR Loan or Eurodollar Rate Loan, any amounts required pursuant to Section 3.05 and (y) in the case of any Term Loans, any premium contained in the applicable Joinder Agreement or Refinancing Amendment); provided that (A) such notice must be received by the Administrative Agent not later than (1) 12:00 p.m three Business Days prior to any date of prepayment of Term SOFR Loans or Eurodollar Rate Loans , (2) 12:00 p.m five Business Days prior to any date of prepayment of RFR Loans and (3) 11:00 a.m. on the date of any prepayment of Base Rate Loans; (B) any prepayment of Term SOFR Loans, Eurodollar Rate Loans and RFR Loans shall be in a principal amount of $5,000,000 or a whole multiple of $1,000,000 in excess thereof; and (C) any prepayment of Base Rate Loans shall be in a principal amount of $1,000,000 or a whole multiple of $500,000 in excess thereof or, in each case, if less, the entire principal amount thereof then outstanding. Each such notice shall specify (i) the date and amount of such prepayment and (ii) the Type(s) of Loans to be prepaid and, if Term SOFR Loans or Eurodollar Rate Loans are to be prepaid, the Interest Period(s) of such Loans, and may be conditioned upon the effectiveness of other credit facilities, indentures or similar agreements or other transactions of any kind, and may be revoked and/or rescinded by the Borrower (by notice to the Administrative Agent on or prior to the specified effective date) if such condition is not satisfied or if the Borrower determines in its reasonable discretion that any of such conditions will not be satisfied.

The Administrative Agent will promptly notify each Lender of its receipt of each such notice, and of the amount of such Lender's ratable portion of such prepayment (based on such Lender's Applicable Percentage in respect of the relevant Facility). If such notice is given by the Borrower, the Borrower shall make such prepayment and the payment amount specified in such notice shall be due and payable on the date specified therein. Any voluntary prepayment of a Loan pursuant to this Section 2.05(a)(i) shall be accompanied by all accrued interest on the amount prepaid, together with any additional amounts if required pursuant to Section 3.05. Each such prepayment of any outstanding Term Loans pursuant to this Section 2.05(a)(i) shall be applied as between Facilities as directed by the Borrower and, within any given Facility, shall be applied as directed by the Borrower to the installments thereof (or, if no such direction is provided, in direct order of maturity). Subject to Section 2.16, all payments made pursuant to this Section 2.05(a)(i) shall be applied on a pro rata basis to each Lender holding Loans of the applicable Facility being prepaid in accordance with the principal amount of the applicable Term Loans held thereby.

(b) *Mandatory*.

(i) Upon the incurrence or issuance by the Borrower or any of its Restricted Subsidiaries of any Indebtedness (other than Indebtedness expressly permitted to be incurred or issued pursuant to Section 7.03 (except Credit Agreement Refinancing Indebtedness)), the Borrower shall prepay (or Cash Collateralize, as applicable) an aggregate principal amount of Pro Rata Obligations equal to 100% of the gross cash proceeds received by the Borrower or any of its Restricted Subsidiaries from any such Indebtedness less all reasonable and customary out-of-pocket legal, underwriting and other fees, costs and expenses incurred or reasonably anticipated to be incurred within 90 days thereof in connection therewith, within one Business Day following receipt thereof by the Borrower or such Restricted Subsidiary (such prepayments (or Cash Collateralization) to be applied as set forth in clauses (iii) and (v) below).

(ii) [Reserved].

(iii) Subject to the next sentence, each prepayment (or Cash Collateralization, as applicable) of Pro Rata Obligations pursuant to this Section 2.05(b) shall be applied, *first*, to the Term Loans held by all Term Lenders in accordance with their Applicable Percentages (allocated pro rata as among the Term Loans and to each Term Lender on a pro rata basis in accordance with the principal amount of the applicable Term Loans held thereby and to scheduled amortization payments in direct order of maturity), *second*, any excess after the application of such proceeds in accordance with clause *first* above, to the Revolving Credit Facility in the manner set forth in clause (vi) of this Section 2.05(b) and *third*, any excess after the application of such proceeds in accordance with clauses *first* and *second* above may be retained by the Borrower. Except with respect to Term Loans incurred in connection with any Refinancing Amendment or any Joinder Agreement (which, in each case, may be prepaid on a less than pro rata basis if expressly provided for in such Refinancing Amendment or Joinder Agreement), each prepayment pursuant to this Section 2.05(b) shall be applied ratably to each Class of Loans then

outstanding entitled to payment pursuant to the prior sentence (*provided* that any prepayment of Loans with the Net Proceeds of Credit Agreement Refinancing Indebtedness shall be applied solely to each applicable Class of Refinanced Debt). Any prepayment of a Loan pursuant to this Section 2.05(b) shall be accompanied by all accrued interest on the amount prepaid, together with any additional amounts required pursuant to Section 3.05.

(iv) If for any reason the Total Revolving Credit Outstandings at any time exceed the Revolving Credit Commitments at such time (including, for the avoidance of doubt, as a result of the termination of any Class of Commitments on the Maturity Date with respect thereto), the Borrower shall immediately prepay Revolving Credit Loans and L/C Borrowings and/or Cash Collateralize the L/C Obligations (other than the L/C Borrowings) (in an aggregate amount equal to 105% of the face amount thereof) in an aggregate amount sufficient to reduce the Total Revolving Credit Outstandings to the aggregate Revolving Credit Commitments. If for any reason the Outstanding Amount of L/C Obligations at any time exceeds the Letter of Credit Sublimit at such time, the Borrower shall immediately prepay L/C Borrowings and/or Cash Collateralize the L/C Obligations in an aggregate amount sufficient to reduce the Outstanding Amount of L/C Obligations to the Letter of Credit Sublimit.

(v) If the Old BRBR Merger has not become effective under the relevant provisions of the General Corporation Law of the State of Delaware on or before 5:00 p.m. on March 14, 2022, the Borrower shall prepay the aggregate principal amount of the Revolving Credit Loans in full.

(vi) Prepayments of the Revolving Credit Facilities made pursuant to this Section 2.05(b), *first*, shall be applied ratably to the L/C Borrowings, *second*, shall be applied ratably to the outstanding Revolving Credit Loans held by all Revolving Credit Lenders in accordance with their Applicable Revolving Credit Percentages, and, *third*, shall be used to Cash Collateralize the remaining L/C Obligations. Upon the drawing of any Letter of Credit that has been Cash Collateralized, the funds held as Cash Collateral shall be applied (without any further action by or notice to or from the Borrower or any other Loan Party) to reimburse the applicable L/C Issuer or the Revolving Credit Lenders, as applicable. Prepayments of the Revolving Credit Facilities made pursuant to this Section 2.05(b) shall be applied ratably to the outstanding Revolving Credit Loans. Amounts to be applied pursuant to this Section 2.05(b) to the mandatory prepayment of Term Loans and Revolving Credit Loans shall be applied, as applicable, first to reduce outstanding Base Rate Loans and any amounts remaining after such application shall be applied as directed by the Borrower to prepay Term SOFR Loans, Eurodollar Rate Loans or RFR Loans.

(vii) In the event that there are any Term Loans outstanding, each Term 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 Term Loans required to be made by the Borrower pursuant to any mandatory prepayment provisions relating to asset sale proceeds, excess cash flow, insurance proceeds or condemnation proceeds set forth in any Joinder Agreement pursuant to which any Incremental Term Loan Commitments are established or any Incremental Term Loans are made), to decline all (but

not a portion) of its Applicable Percentage of such prepayment (such declined amounts, the "**Declined Proceeds**"). Any Term Lender declining such prepayment shall give written notice thereof to the Administrative Agent by 11:00 a.m. no later than one (1) Business Day after the date of such notice from the Administrative Agent. If a Lender fails to deliver a notice of election declining receipt of its Applicable Percentage of such mandatory prepayment to the Administrative Agent within the time frame specified above, any such failure will be deemed to constitute an acceptance of such Lender's Applicable Percentage of the total amount of such mandatory prepayment of Term Loans.

Section 2.06 *Termination or Reduction of Commitments*. (a) *Optional*. The Borrower may, upon notice to the Administrative Agent, terminate the Revolving Credit Facilities (subject to the terms of Section 2.17) or the Letter of Credit Sublimit, or from time to time permanently reduce the Revolving Credit Commitments of any Class (subject to the terms of Section 2.17) or the Letter of Credit Sublimit; *provided* that (i) any such notice shall be received by the Administrative Agent not later than 11:00 a.m. five Business Days prior to the date of reduction or not later than 11:00 a.m. three Business Days prior to the date of termination, (ii) any such partial reduction shall be in an aggregate amount of $5,000,000 or any whole multiple of $1,000,000 in excess thereof and (iii) the Borrower shall not reduce or terminate (A) the Revolving Credit Facilities if, after giving effect thereto and to any concurrent prepayments of the Revolving Credit Facilities hereunder, the Total Revolving Credit Outstandings would exceed the Revolving Credit Facilities, (B) any Revolving Credit Facility if, after giving effect thereto and to any concurrent prepayments of such Revolving Credit Facility hereunder, the Total Revolving Credit Outstandings in respect of such Revolving Credit Facility would exceed such Revolving Credit Facility or (C) the Letter of Credit Sublimit if, after giving effect thereto, the Outstanding Amount of L/C Obligations would exceed the Letter of Credit Sublimit.

(b) *Mandatory*. If after giving effect to any reduction or termination of Revolving Credit Commitments under this Section 2.06, the Letter of Credit Sublimit exceeds the Revolving Credit Facility at such time, the Letter of Credit Sublimit shall be automatically reduced by the amount of such excess.

(c) *Application of Commitment Reductions*; *Payment of Fees*. The Administrative Agent will promptly notify the Lenders of any reduction or termination of the Letter of Credit Sublimit or the Revolving Credit Commitments under this Section 2.06. Upon any reduction of any Revolving Credit Commitments, the Revolving Credit Commitments of each applicable Revolving Credit Lender shall be reduced by such Revolving Credit Lender's Applicable Revolving Credit Percentage of such reduction amount. All fees in respect of any Revolving Credit Facility accrued until the effective date of any termination of such Revolving Credit Commitments shall be paid on the effective date of such termination.

Section 2.07 *Repayment of Loans*.

(a) *Incremental Term Loans*. In the event any Incremental Term Loans or Refinancing Term Loans are made, such Incremental Term Loans or Refinancing Term Loans shall be repaid in the amounts and dates set forth in the applicable Joinder Agreement or Refinancing Amendment with respect thereto and on the applicable Maturity Date thereof. All payments made pursuant to this Section 2.07(a) shall be applied on a pro rata basis to each Term Lender holding Term Loans of the applicable Facility or Class being repaid.

(b) *Revolving Credit Loans*. The Borrower shall repay to the Administrative Agent for the ratable account of the Appropriate Lenders on the applicable Maturity Date for the Revolving Credit Facilities of a given Class the aggregate principal amount of all of its Revolving Credit Loans of such Class outstanding on such date.

Section 2.08 *Interest*.

(a) Subject to the provisions of Section 2.08(b), (i) each Eurodollar Rate Loan under a Facility shall bear interest on the outstanding principal amount thereof for each Interest Period at a rate per annum equal to the Adjusted Eurodollar Rate for such Interest Period plus the Applicable Rate for Eurodollar Rate Loans under such Facility, (ii) each Base Rate Loan under a Facility shall bear interest on the outstanding principal amount thereof from the applicable borrowing date at a rate per annum equal to the Base Rate plus the Applicable Rate for Base Rate Loans under such Facility, (iii) each RFR Loan under a Facility shall bear interest on the outstanding principal amount thereof from the applicable borrowing date at a rate *per annum* equal to the Adjusted Daily Simple RFR plus the Applicable Rate for RFR Loans under such Facility and (iv) each Term SOFR Loan under a Facility shall bear interest on the outstanding principal amount thereof for each Interest Period at a rate per annum equal to the Adjusted Term SOFR Rate for such Interest Period plus the Applicable Rate for Term SOFR Loans under such Facility.

(b) (i) Automatically, upon the occurrence and while any Event of Default as described in Section 8.01(a), 8.01(f) or 8.01(g) exists, the Borrower shall pay interest on all overdue amounts then outstanding hereunder at a fluctuating interest rate per annum at all times equal to the Default Rate to the fullest extent permitted by applicable Laws.

(ii) Accrued and unpaid interest on past due amounts (including interest on past due interest) shall be due and payable upon demand.

(c) Interest on each Loan shall be due and payable in arrears on each Interest Payment Date applicable thereto and at such other times as may be specified herein. Interest hereunder shall be due and payable in accordance with the terms hereof before and after judgment, and before and after the commencement of any proceeding under any Debtor Relief Law.

Section 2.09 *Fees*. In addition to certain fees described in Sections 2.03(h) and (i):

(a) *Commitment Fee*. The Borrower shall pay to the Administrative Agent for the account of each Revolving Credit Lender in accordance with its Applicable Percentage of the applicable Revolving Credit Facility, a commitment fee in U.S. Dollars equal to the Commitment Fee Rate with respect to the applicable Revolving Credit Facility under which such Revolving Credit Lender has a Revolving Credit Commitment *times* the actual daily amount by which the aggregate amount of the Revolving Credit Lenders' Revolving Credit Commitments exceeds the sum of (i) the Outstanding Amount of Revolving Credit Loans and (ii) the Outstanding Amount of L/C Obligations, subject to adjustment as provided in Section 2.16. The commitment fee shall accrue at all times from the Closing Date until the applicable Maturity Date for the applicable Revolving Credit Commitments, including at any time during which one or more of the conditions in Section 4.02 is not met, and shall be due and payable quarterly in arrears on the last Business Day of each March, June, September and December, commencing with the first such date to occur following the Closing Date and on the applicable Maturity Date for the applicable Revolving Credit Commitments. The commitment fee shall be calculated quarterly in arrears.

(b) *Administrative Agent Fee*. The Borrower agrees to pay to the Administrative Agent, for its own account, the fees set forth in the Fee Letter and such other fees payable in the amounts and at the times separately agreed upon between the Borrower and the Administrative Agent.

(c) *Other Fees*. The Borrower agrees to pay on the Closing Date to each Lender party to this Agreement as a Lender on the Closing Date, as fee compensation for the funding of such Lender's funded and unfunded Revolving Credit Commitments, a closing fee in an amount separately agreed to by the Borrower and the Arrangers for the benefit of such Lenders on the Closing Date, payable to such Lender from the proceeds of the Revolving Credit Loans as and when funded on the Closing Date. Such closing fee shall be in all respects fully earned, due and payable on the Closing Date and non-refundable and non-creditable thereafter.

Section 2.10 *Computation of Interest and Fees; Retroactive Adjustments of Applicable Rate*.

(a) All computations of interest for Base Rate Loans based on the Prime Rate shall be made on the basis of a year of 365 or 366 days, as the case may be, and actual days elapsed. All other computations of fees and interest shall be made on the basis of a 360-day year and actual days elapsed (which results in more fees or interest, as applicable, being paid than if computed on the basis of a 365-day year) or, in the case of interest in respect of Revolving Credit Loans denominated in Alternative Currencies, the applicable market practice for such Alternative Currency, which shall be either on the basis of a year of a 365 or 366 days or a 360-day year (it being understood that, in the case of interest computed by reference to the Daily Simple RFR, such interest shall be computed on the basis of a year of 365 days (or 366 days in a leap year)). Interest shall accrue on each Loan for the day on which the Loan is made, and shall not accrue on a Loan, or any portion thereof, for the day on which the Loan or such portion is paid, *provided* that any Loan that is repaid on the same day on which it is made shall, notwithstanding Section 2.12(a), bear interest for one day. Each determination by the Administrative Agent of an interest rate or fee hereunder shall be conclusive and binding for all purposes, absent manifest error.

(b) If, as a result of any restatement of or other adjustment to the financial statements of the Borrower or for any other reason, the Borrower, the Administrative Agent or the Required Lenders determine that (i) the Secured Net Leverage Ratio as calculated by the Borrower as of any applicable date was inaccurate and (ii) a proper calculation of the Secured Net Leverage Ratio would have resulted in higher pricing for such period, the Borrower shall immediately and retroactively be obligated to pay to the Administrative Agent for the account of the applicable Lenders or the applicable L/C Issuer, as the case may be, promptly on demand by the Administrative Agent (or, after the occurrence of an actual or deemed entry of an order for relief with respect to the Borrower under the Bankruptcy Code of the United States, automatically and without further action by the Administrative Agent, any Lender or any L/C Issuer), an amount equal to the excess of the amount of interest and fees that should have been paid for such period

over the amount of interest and fees actually paid for such period. This paragraph shall not limit the rights of the Administrative Agent, any Lender or any L/C Issuer, as the case may be, under Sections 2.03(h), 2.08(b), 2.09(a) or under Article 8. The Borrower's obligations under this Section 2.10(b) shall survive the termination of the Aggregate Commitments and the repayment of all other Obligations hereunder for 90 days after such termination and repayment.

Section 2.11 *Evidence of Debt*. (a) The Credit Extensions made by each Lender shall be evidenced by one or more accounts or records maintained by such Lender and by the Administrative Agent in the ordinary course of business. The accounts or records maintained by the Administrative Agent and each Lender shall be conclusive absent manifest error of the amount of the Credit Extensions made by the Lenders to the Borrower and the interest and payments thereon. Any failure to so record or any error in doing so shall not, however, limit or otherwise affect the obligation of the Borrower hereunder to pay any amount owing with respect to the Obligations. In the event of any conflict between the accounts and records maintained by any Lender and the accounts and records of the Administrative Agent in respect of such matters, the accounts and records of the Administrative Agent shall control in the absence of manifest error. Upon the request of any Lender made through the Administrative Agent, the Borrower shall execute and deliver to such Lender (through the Administrative Agent) a Note, which shall evidence such Lender's Loans in addition to such accounts or records. Each Lender may attach schedules to its Note and endorse thereon the date, Type (if applicable), amount and maturity of its Loans and payments with respect thereto.

(b) In addition to the accounts and records referred to in Section 2.11(a), each Revolving Credit Lender and the Administrative Agent shall maintain in accordance with its usual practice accounts or records evidencing the purchases and sales by such Revolving Credit Lender of participations in Letters of Credit. In the event of any conflict between the accounts and records maintained by the Administrative Agent and the accounts and records of any Revolving Credit Lender in respect of such matters, the accounts and records of the Administrative Agent shall control in the absence of manifest error.

Section 2.12 *Payments Generally; Administrative Agent's Clawback*.

(a) *General*. All payments to be made by the Borrower shall be made without condition or deduction for any counterclaim, defense, recoupment or setoff. Except as otherwise expressly provided herein and except with respect to principal and interest on Loans and L/C Obligations denominated in an Alternative Currency, all payments by the Borrower hereunder shall be made to the Administrative Agent, for the account of the respective Lenders to which such payment is owed, at the Administrative Agent's Office in U.S. Dollars and in Same Day Funds not later than 12:00 p.m. on the date specified herein. Except as otherwise expressly provided herein, all payments by the Borrower hereunder with respect to principal and interest on Loans and L/C Obligations denominated in an Alternative Currency shall be made to the Administrative Agent, for the account of the respective Lenders to which such payment is owed, at the Administrative Agent's Office in such Alternative Currency and in Same Day Funds not later than the Applicable Time specified by the Administrative Agent on the dates specified herein. If, for any reason, the Borrower is prohibited by any Law from making any required payment hereunder in an Alternative Currency, the Borrower shall make such payment in U.S. Dollars in an amount equal to the U.S. Dollar Equivalent of the amount due in such Alternative Currency as of the date of payment. The

Administrative Agent will promptly distribute to each Lender its Applicable Percentage (or other applicable share as provided herein) of all payments and prepayments of principal and interest due hereunder, together with all other amounts due thereto, including all fees payable with respect thereto, in like funds as received by wire transfer to such Lender's Lending Office. All payments received by the Administrative Agent after 2:00 p.m., in the case of payments in U.S. Dollars, or after the Applicable Time specified by the Administrative Agent, in the case of payments in an Alternative Currency, shall in each case be deemed received on the next succeeding Business Day and any applicable interest or fee shall continue to accrue. If any payment to be made by the Borrower shall come due on a day other than a Business Day, payment shall be made on the next following Business Day, and such extension of time shall be reflected in computing interest or fees, as the case may be.

(b) *Funding by Lenders*; *Presumption by Administrative Agent*. Unless the Administrative Agent shall have received notice from a Lender prior to the proposed date of any Borrowing of Term SOFR Loans, Eurodollar Rate Loans or RFR Loans (or, in the case of any Borrowing of Base Rate Loans, prior to 12:00 p.m. on the date of such Borrowing) that such Lender will not make available to the Administrative Agent such Lender's share of such Borrowing, the Administrative Agent may assume that such Lender has made such share available on such date in accordance with Section 2.02 (or, in the case of a Borrowing of Base Rate Loans, that such Lender has made such share available in accordance with and at the time required by Section 2.02) and may, in reliance upon such assumption, make available to the Borrower a corresponding amount. In such event, if a Lender has not in fact made its share of the applicable Borrowing available to the Administrative Agent, then the applicable Lender and the Borrower severally agree to pay to the Administrative Agent forthwith on demand such corresponding amount in Same Day Funds with interest thereon, for each day from and including the date such amount is made available to the Borrower to but excluding the date of payment to the Administrative Agent, at (A) in the case of a payment to be made by such Lender, the greater of the Federal Funds Effective Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation, plus any administrative, processing or similar fees customarily charged by the Administrative Agent in connection with the foregoing, and (B) in the case of a payment to be made by the Borrower, the interest rate applicable to Base Rate Loans. If the Borrower and such Lender shall pay such interest to the Administrative Agent for the same or an overlapping period, the Administrative Agent shall promptly remit to the Borrower the amount of such interest paid by the Borrower for such period. If such Lender pays its share of the applicable Borrowing to the Administrative Agent, then the amount so paid shall constitute such Lender's Loan included in such Borrowing. Any payment by the Borrower shall be without prejudice to any claim the Borrower may have against a Lender that shall have failed to make such payment to the Administrative Agent.

(c) *Payments by Borrower*; *Presumptions by Administrative Agent*. Unless the Administrative Agent shall have received notice from the Borrower prior to the time at which any payment is due to the Administrative Agent for the account of the Lenders or the applicable L/C Issuer hereunder that the Borrower will not make such payment, the Administrative Agent may assume that the Borrower has made such payment on such date in accordance herewith and may, in reliance upon such assumption, distribute to the Appropriate Lenders the amount due. In such event, if the Borrower has not in fact made such payment, then each of the Appropriate Lenders severally agrees to repay to the Administrative Agent forthwith on demand the amount so

distributed to such Appropriate Lender, in Same Day Funds with interest thereon, for each day from and including the date such amount is distributed to it to but excluding the date of payment to the Administrative Agent, at the greater of the Federal Funds Effective Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation.

A notice of the Administrative Agent to any Lender, any L/C Issuer or the Borrower with respect to any amount owing under this subsection (c) shall be conclusive, absent manifest error.

(d) *Failure to Satisfy Conditions Precedent*. If any Lender makes available to the Administrative Agent funds for any Loan to be made by such Lender as provided in this Article 2, and such funds are not made available to the Borrower by the Administrative Agent because the conditions to the applicable Credit Extension set forth in Article 4 or in the applicable Joinder Agreement or Refinancing Amendment are not satisfied or waived in accordance with the terms hereof, the Administrative Agent shall promptly return such funds (in like funds as received from such Lender) to such Lender, without interest.

(e) *Obligations of Lenders Several*. The obligations of the Lenders hereunder to make Term Loans and Revolving Credit Loans, to fund participations in Letters of Credit and to make payments pursuant to Section 10.04(c) are several and not joint. The failure of any Lender to make any Loan, to fund any such participation or to make any payment under Section 10.04(c) on any date required hereunder shall not relieve any other Lender of its corresponding obligation to do so on such date, and no Lender shall be responsible for the failure of any other Lender to so make its Loan, to purchase its participation or to make its payment under Section 10.04(c).

(f) *Funding Source*. Nothing herein shall be deemed to obligate any Lender to obtain the funds for any Loan in any particular place or manner or to constitute a representation by any Lender that it has obtained or will obtain the funds for any Loan in any particular place or manner.

(g) *Insufficient Funds*. If at any time insufficient funds are received by and available to the Administrative Agent to pay fully all amounts of principal, L/C Borrowings, interest and fees then due hereunder, such funds shall be applied (i) *first*, toward payment of interest and fees then due hereunder, ratably among the parties entitled thereto in accordance with the amounts of interest and fees then due to such parties, and (ii) *second*, toward payment of principal and L/C Borrowings then due hereunder, ratably among the parties entitled thereto in accordance with the amounts of principal and L/C Borrowings then due to such parties.

Section 2.13 *Sharing of Payments by Lenders*. If any Lender shall, by exercising any right of setoff or counterclaim or otherwise, obtain payment in respect of (a) Obligations in respect of any of the Facilities due and payable to such Lender hereunder and under the other Loan Documents at such time in excess of its ratable share (according to the proportion of (i) the amount of such Obligations due and payable to such Lender at such time to (ii) the aggregate amount of the Obligations in respect of the Facilities due and payable to all Lenders hereunder and under the other Loan Documents at such time) of payments on account of the Obligations in respect of the Facilities due and payable to all Lenders hereunder and under the other Loan Documents at such time obtained by all the Lenders at such time or (b) Obligations in respect of any of the Facilities

owing (but not due and payable) to such Lender hereunder and under the other Loan Documents at such time in excess of its ratable share (according to the proportion of (i) the amount of such Obligations owing (but not due and payable) to such Lender at such time to (ii) the aggregate amount of the Obligations in respect of the Facilities owing (but not due and payable) to all Lenders hereunder and under the other Loan Documents at such time) of payment on account of the Obligations in respect of the Facilities owing (but not due and payable) to all Lenders hereunder and under the other Loan Documents at such time obtained by all of the Lenders at such time, then the Lender receiving such greater proportion shall (a) notify the Administrative Agent of such fact, and (b) purchase (for cash at face value) participations in the Loans and subparticipations in L/C Obligations of the other Lenders, or make such other adjustments as shall be equitable, so that the benefit of all such payments shall be shared by the Lenders ratably in accordance with the aggregate amount of Obligations in respect of the Facilities then due and payable to the Lenders or owing (but not due and payable) to the Lenders, as the case may be, *provided* that:

(i) if any such participations or subparticipations are purchased and all or any portion of the payment giving rise thereto is recovered, such participations or subparticipations shall be rescinded and the purchase price restored to the extent of such recovery, without interest; and

(ii) the provisions of this Section shall not be construed to apply to (A) any payment made by or on behalf of the Borrower pursuant to and in accordance with the express terms of this Agreement (including the application of funds arising from the existence of a Defaulting Lender), (B) the application of Cash Collateral provided for in Section 2.15, or (C) any payment obtained by a Lender as consideration for the assignment of or sale of a participation in any of its Loans or subparticipations in L/C Obligations to any assignee or participant, other than to the Borrower or any Restricted Subsidiary or Affiliate thereof (as to which the provisions of this Section shall apply unless such purchase is made by the Borrower pursuant to Section 10.06(b)(vii)).

The Borrower consents to the foregoing and agrees, to the extent it may effectively do so under applicable Law, that any Lender acquiring a participation pursuant to the foregoing arrangements may exercise against the Borrower rights of setoff and counterclaim with respect to such participation as fully as if such Lender were a direct creditor of the Borrower in the amount of such participation.

Section 2.14 *Incremental Facilities*.

(a) The Borrower may by written notice to the Administrative Agent elect to increase the existing Revolving Credit Commitments of any Class (any such increase, the "**Incremental Revolving Credit Commitments**") and/or incur one or more new term loan commitments and/or increase the commitments of any Class of Term Loans (the "**Incremental Term Loan Commitments**") by an amount (1) not to exceed in the aggregate, at the time of incurrence, the Incremental Available Amount referred to in clauses (a), (b) and (c)(i) of the definition thereof and (2) not less than, individually, $25,000,000.

(b) Each such notice shall specify (i) the date (each, an "**Increased Amount Date**") on which the Borrower proposes that the Incremental Revolving Credit Commitments or Incremental Term Loan Commitments, as applicable, 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 (or such shorter period of time as may be agreed to by the Administrative Agent in its sole discretion); and (ii) the identity of each Lender or other Person, which must be an Eligible Assignee (each, an "**Incremental Revolving Loan Lender**" or "**Incremental Term Loan Lender**," as applicable) to whom the Borrower proposes any portion of such Incremental Revolving Credit Commitments or Incremental Term Loan Commitments, as applicable, be allocated and the amounts of such allocations. Any Lender approached to provide all or a portion of the Incremental Revolving Credit Commitments or Incremental Term Loan Commitments, as applicable, may elect or decline, in its sole discretion, to provide an Incremental Revolving Credit Commitment or Incremental Term Loan Commitment. Any Incremental Term Loan Commitments effected through the establishment of one or more term loan commitments made on an Increased Amount Date that are not fungible for United States federal income tax purposes with an existing Class of Term Loans shall be designated a separate Class of Incremental Term Loan Commitments for all purposes of this Agreement. Notwithstanding the foregoing, any Incremental Term Loans may be treated as part of the same Class as any other Incremental Term Loans if such Incremental Term Loans have identical terms (other than effective yield) and are fungible for United States federal income tax purposes with such other Incremental Term Loans.

(c) The Administrative Agent shall notify the Lenders promptly upon receipt of the Borrower's notice of each Increased Amount Date and in respect thereof (i) the Incremental Revolving Credit Commitments and the Incremental Revolving Loan Lenders or Incremental Term Loan Commitments and the Incremental Term Loan Lenders, as applicable and (ii) in the case of each notice to any applicable Revolving Credit Lender of any such given Class, the respective interests in such Revolving Credit Lender's Revolving Credit Loans of such Class, in each case subject to the assignments contemplated by this Section.

(d) Such Incremental Revolving Credit Commitments or Incremental Term Loan Commitments shall become effective as of such Increased Amount Date; *provided* that:

(i) (x) subject, solely in the case of Incremental Term Loans, to Section 1.09(c), no Event of Default shall exist on such Increased Amount Date before or after giving effect to such Incremental Revolving Credit Commitments or Incremental Term Loan Commitments, as applicable and the extensions of credit to be made thereunder on such date; *provided* that this clause (i)(x) may be waived or limited as agreed in the Joinder Agreement between the Borrower and the applicable Incremental Term Loan Lenders; and (y) the representations and warranties of the Borrower and each other Loan Party contained in Article 5 hereof shall be true and correct in all material respects (except that any representation and warranty that is qualified as to "materiality," "Material Adverse Effect" or similar language shall be true and correct (after giving effect to any qualification therein) on and as of such date, except in each case to the extent that such representations and warranties specifically refer to an earlier date, in which case they shall be true and correct in all material respects as of such earlier date except that any representation and warranty that is qualified as to "materiality," "Material Adverse Effect" or similar language shall be true and correct (after giving effect to any qualification therein) on and as of such date); *provided* that, in the case of Incremental Term Loans incurred to finance a Permitted Acquisition or other Investment in the nature of an acquisition, this clause (i)(y) shall be limited to Sections 5.01(a), 5.01(b), 5.02(a), 5.13, 5.17, 5.18, 5.19 (other than the first or second sentence thereof) and 5.20;

(ii) the Incremental Revolving Credit Commitments or Incremental Term Loan Commitments, as applicable, shall be effected pursuant to one or more Joinder Agreements executed and delivered by the Borrower, the Incremental Revolving Loan Lender(s) or Incremental Term Loan Lender(s), as applicable, and the Administrative Agent, each of which shall be recorded in the Register (and each Incremental Revolving Loan Lender and Incremental Term Loan Lender shall be subject to the requirements set forth in Section 3.01);

(iii) the Incremental Facilities shall be Guaranteed by the Guarantors, rank *pari passu* in right of security with the other Facilities and shall not be secured by any property or assets other than the Collateral;

(iv) all fees and reasonable out-of-pocket expenses owing to the Administrative Agent and the Lenders (other than a Defaulting Lender) in respect of the Incremental Revolving Credit Commitments and Incremental Term Loan Commitments shall have been paid; and

(v) the Borrower shall deliver or cause to be delivered legal opinions, officer's certificates and such other documents reasonably requested by the Administrative Agent in connection with any such transaction.

(e) On any Increased Amount Date on which Incremental Revolving Credit Commitments are effected, subject to the satisfaction of the foregoing terms and conditions, (i) each of the existing Revolving Credit Lenders of the Class being so increased shall assign to each of the Incremental Revolving Loan Lenders, and each of the Incremental Revolving Loan Lenders shall purchase from each of the existing Revolving Credit Lenders of the Class being so increased, at the principal amount thereof (together with accrued interest), such interests in the Revolving Credit Loans of the Class being so increased and participations in Letters of Credit outstanding on such Increased Amount Date as shall be necessary in order that, after giving effect to all such assignments and purchases, such Revolving Credit Loans and participations in Letters of Credit will be held by existing Revolving Credit Lenders of such Class and Incremental Revolving Loan Lenders ratably in accordance with their Revolving Credit Commitments of the Class being so increased after giving effect to the addition of such Incremental Revolving Credit Commitments to the Revolving Credit Commitments of such Class, (ii) each Incremental Revolving Credit Commitment shall be deemed for all purposes a Revolving Credit Commitment of the Class being so increased and each Loan made thereunder (an "**Incremental Revolving Loan**") shall be deemed, for all purposes, a Revolving Credit Loan of the Class being so increased and (iii) each Incremental Revolving Loan Lender shall become a Lender with respect to the Incremental Revolving Credit Commitment and all matters relating thereto.

(f) On any Increased Amount Date on which any Incremental Term Loan Commitments of any Class (or any Incremental Term Loan Commitments increasing any existing Term Loans) are effective, subject to the satisfaction of the foregoing terms and conditions, (i) each Incremental Term Loan Lender of such Class or increase shall make a Loan to the Borrower (an "**Incremental Term Loan**") in an amount equal to its Incremental Term Loan Commitment of such Class or increase and (ii) each Incremental Term Loan Lender of such Class or increase shall become a Lender hereunder with respect to the Incremental Term Loan Commitment of such Class or increase and the Incremental Term Loans of such Class or increase made pursuant thereto.

(g) The terms (including pricing, "most favored nations" provisions, premiums, fees, rate floors, optional prepayment provisions, and/or mandatory prepayment provisions relating to excess cash flow, asset sale proceeds and condemnation proceeds) and conditions of the Incremental Term Loans and Incremental Term Loan Commitments shall be, except as otherwise explicitly set forth herein, as agreed in the Joinder Agreement between the Borrower, the applicable Incremental Term Loan Lenders providing such Incremental Term Loan Commitments and the Administrative Agent; *provided* that (i) other than in the case of customary bridge loans, the terms of such Indebtedness shall not be more restrictive, taken as a whole, to the Borrower and the other Loan Parties than those set forth in this Agreement prior to the execution of such Joinder Agreement unless (x) such terms apply only after the Latest Maturity Date at the time such Indebtedness is established or (y) this Agreement is amended so that such terms are also applicable for the benefit of any Lenders under any then-existing Facilities, (ii) other than in the case of customary bridge loans, the Weighted Average Life to Maturity of all Incremental Term Loans of any such Class shall be no shorter than (x) if there are no Term Loans outstanding at such time, 36 months and (y) if there are Term Loans outstanding at such time, the Weighted Average Life to Maturity of any other Term Loans at the time of the incurrence of such Incremental Term Loans, (iii) other than in the case of customary bridge loans, the applicable Incremental Term Loan Maturity Date of each Class shall be no earlier than the Latest Maturity Date at the time of the incurrence of such Incremental Term Loans, (iv) the pricing of each Class of Incremental Term Loans may be subject to "most favored nations" provisions if and to the extent set forth in the Joinder Agreement for such Class and (v) such Indebtedness may contain mandatory prepayment or exchange provisions and may participate on a pro rata basis or less than pro rata basis (but not on a greater than pro rata basis) in any mandatory prepayments of Term Loans hereunder, as specified in the applicable Joinder Agreement.

(h) The terms and provisions of the Incremental Revolving Loans and Incremental Revolving Credit Commitments shall be identical to the other Revolving Credit Loans of the Class being so increased and the Revolving Credit Commitments of the Class being so increased; *provided* that if the Incremental Revolving Loan Lenders require an interest rate in excess of the interest rate then applicable to the Revolving Credit Facility of the Class being so increased, the interest rate on the Revolving Credit Facility of such Class shall be increased to equal such required rate without further consent of the affected Lenders; *provided, further*, that if the Incremental Revolving Loan Lenders require a commitment fee on the undrawn portion of such Incremental Revolving Loans and Incremental Revolving Commitments in excess of the commitment fee then applicable to the Revolving Credit Facility of the Class being so increased, the commitment fee on the Revolving Credit Facility of such Class shall be increased to equal such commitment fee without further consent of the affected Lenders.

(i) Each Joinder Agreement may, without the consent of any other Lenders, 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 effect the provisions of this Section 2.14 (including any amendments that are not adverse to the interests of any Lender that are made to effectuate changes necessary or appropriate to enable any Incremental Term Loans that are intended to be fungible with any other Term Loans to be fungible with such other Term Loans, which shall include any amendments that modify the aggregate principal amount of scheduled installment payments to the extent such amendment does not decrease the installment payment an existing Term Lender would have received prior to giving effect to any such amendment).

(j) This Section 2.14 shall supersede any provisions in Section 2.13 or Section 10.01 to the contrary.

Section 2.15 *Cash Collateral*.

(a) *Certain Credit Support Events*. Upon the request of the Administrative Agent or any L/C Issuer if, as of the Letter of Credit Expiration Date, any L/C Obligation for any reason remains outstanding, the Borrower shall, in each case, immediately Cash Collateralize all L/C Obligations in an amount equal to 105% of the then Outstanding Amount of all L/C Obligations. At any time that there shall exist a Defaulting Lender, immediately upon the request of the Administrative Agent or any L/C Issuer, the Borrower shall deliver to the Administrative Agent Cash Collateral in an amount sufficient to cover all Fronting Exposure (after giving effect to Section 2.16(a)(iv) and any Cash Collateral provided by the Defaulting Lender).

(b) *Grant of Security Interest*. All Cash Collateral (other than credit support not constituting funds subject to deposit) shall be maintained in blocked, non-interest bearing deposit accounts at a bank selected by the Borrower and reasonably acceptable to the Administrative Agent. The Borrower, and to the extent provided by any Lender, such Lender, hereby grants to (and subjects to the control of) the Administrative Agent, for the benefit of the Administrative Agent, the L/C Issuers and the Revolving Credit Lenders, and agrees to maintain, a first priority security interest in all such cash, deposit accounts and all balances therein, and all other property so provided as Cash Collateral pursuant hereto, and in all proceeds of the foregoing, all as security for the obligations to which such Cash Collateral may be applied pursuant to Section 2.15(c). If at any time the Administrative Agent determines that Cash Collateral is subject to any right or claim of any Person other than the Administrative Agent as herein provided, or that the total amount of such Cash Collateral is less than the applicable Fronting Exposure and other obligations secured thereby, the Borrower or the relevant Defaulting Lender will, promptly upon demand by the Administrative Agent, pay or provide to the Administrative Agent additional Cash Collateral in an amount sufficient to eliminate such deficiency.

(c) *Application*. Notwithstanding anything to the contrary contained in this Agreement, Cash Collateral provided under any of this Section 2.15 or Sections 2.03, 2.05, 2.16 or Section 8.02 in respect of Letters of Credit shall be held and applied to the satisfaction of the specific L/C Obligations, obligations to fund participations therein (including, as to Cash Collateral provided by a Defaulting Lender, any interest accrued on such obligation) and other obligations for which the Cash Collateral was so provided, prior to any other application of such property as may be provided for herein.

(d) *Release*. Cash Collateral (or the appropriate portion thereof) provided to reduce Fronting Exposure or other obligations shall be released promptly following (i) the elimination of the applicable Fronting Exposure or other obligations giving rise thereto (including by the termination of Defaulting Lender status of the applicable Lender (or, as appropriate, its assignee following compliance with Section 10.06(b))) or (ii) the Administrative Agent's good faith determination that there exists excess Cash Collateral; *provided* that (x) Cash Collateral furnished by or on behalf of a Loan Party shall not be released during the continuance of an Event of Default (and following application as provided in this Section 2.15 may be otherwise applied in accordance with Section 8.03), and (y) the Person providing Cash Collateral and the applicable L/C Issuer may agree that Cash Collateral shall not be released but instead held to support future anticipated Fronting Exposure or other obligations.

Section 2.16 *Defaulting Lenders*.

(a) *Adjustments*. Notwithstanding anything to the contrary contained in this Agreement, if any Lender becomes a Defaulting Lender, then, until such time as that Lender is no longer a Defaulting Lender, to the extent permitted by applicable Law:

(i) *Waivers and Amendments*. That Defaulting Lender's right to approve or disapprove any amendment, modification, waiver or consent with respect to this Agreement shall be restricted as set forth in the definitions of Required Lenders, Required Revolving Credit Lenders, and Required Facility Lenders and, in addition, Defaulting Lenders shall not be permitted to vote with respect to any other amendment, modification, waiver or consent pursuant to Section 10.01 or otherwise direct the Administrative Agent pursuant to the terms hereof or of the other Loan Documents; *provided* that any amendment, modification, waiver or consent requiring the consent of all Lenders or each affected Lender which affects such Defaulting Lender differently than other affected Lenders shall require the consent of such Defaulting Lender.

(ii) *Reallocation of Payments*. Any payment of principal, interest, fees or other amounts received by the Administrative Agent for the account of that Defaulting Lender (whether voluntary or mandatory, at maturity, pursuant to Article 8 or otherwise, and including any amounts made available to the Administrative Agent by that Defaulting Lender pursuant to Section 10.08), shall be applied at such time or times as may be determined by the Administrative Agent as follows: *first*, to the payment of any amounts owing by that Defaulting Lender to the Administrative Agent hereunder; *second*, to the payment on a pro rata basis of any amounts owing by that Defaulting Lender to the L/C Issuers; *third*, if so determined by the Administrative Agent or requested by any L/C Issuer, to be held as Cash Collateral for future funding obligations of that Defaulting Lender of any participation in any Letter of Credit; *fourth*, as the Borrower may request (so long as no Default exists), to the funding of any Loan in respect of which that Defaulting Lender has failed to fund its portion thereof as required by this Agreement, as determined by the Administrative Agent; *fifth*, if so determined by the Administrative Agent and the Borrower, to be held in a non-interest bearing deposit account and released in order to satisfy obligations of that Defaulting Lender to fund Loans under this Agreement; *sixth*, to the payment of any amounts owing to the Lenders or any L/C Issuer as a result of any judgment of a court of competent jurisdiction obtained by any Lender or any L/C Issuer against that Defaulting Lender as a result of that Defaulting Lender's breach of its obligations under this Agreement; *seventh*, so long as no Default exists, to the payment of any amounts owing to the Borrower as a result of any judgment of a court of competent

jurisdiction obtained by the Borrower against that Defaulting Lender as a result of that Defaulting Lender's breach of its obligations under this Agreement; and *eighth*, to that Defaulting Lender or as otherwise directed by a court of competent jurisdiction; *provided* that if (x) such payment is a payment of the principal amount of any Loans or L/C Borrowings in respect of which that Defaulting Lender has not fully funded its appropriate share and (y) such Loans or L/C Borrowings were made at a time when the conditions set forth in Section 4.02 were satisfied or waived, such payment shall be applied solely to pay the Loans of, and L/C Borrowings owed to, all non-Defaulting Lenders on a pro rata basis prior to being applied to the payment of any Loans of, or L/C Borrowings owed to, that Defaulting Lender. Any payments, prepayments or other amounts paid or payable to a Defaulting Lender that are applied (or held) to pay amounts owed by a Defaulting Lender or to post Cash Collateral pursuant to this Section 2.16(a)(ii) shall be deemed paid to and redirected by that Defaulting Lender, and each Lender irrevocably consents hereto.

(iii) *Certain Fees*. That Defaulting Lender (x) shall not be entitled to receive a commitment fee pursuant to Section 2.09(a) for any period during which that Lender is a Defaulting Lender (and the Borrower shall not be required to pay any such fee that otherwise would have been required to have been paid to that Defaulting Lender) and (y) shall be limited in its right to receive Letter of Credit Fees as provided in Section 2.03(h). With respect to any fee not required to be paid to any Defaulting Lender pursuant to this Section 2.16(a)(iii), the Borrower shall (1) pay to each Lender that is not a Defaulting Lender that portion of any such fee otherwise payable to such Defaulting Lender with respect to such Defaulting Lender's participation in Letters of Credit that has been reallocated to such non-Defaulting Lender pursuant to Section 2.03, (2) pay to each L/C Issuer the amount of any such fee otherwise payable to such Defaulting Lender to the extent allocable to such L/C Issuer's Fronting Exposure to such Defaulting Lender, and (3) not be required to pay the remaining amount of any such fee.

(iv) *Reallocation of Applicable Percentages to Reduce Fronting Exposure*. During any period in which there is a Defaulting Lender in respect of the Revolving Credit Facility, for purposes of computing the amount of the obligation of each Revolving Credit Lender that is not a Defaulting Lender to acquire, refinance or fund participations in Letters of Credit pursuant to Section 2.03, the "Applicable Percentage" and "Applicable Revolving Credit Percentage" of each Revolving Credit Lender that is not a Defaulting Lender in respect of the Revolving Credit Facility shall be computed without giving effect to the Revolving Credit Commitment of that Defaulting Lender; *provided* that (i) each such reallocation shall be given effect only if, at the date the applicable Revolving Credit Lender becomes a Defaulting Lender, no Default exists; and (ii) the aggregate obligation of each Revolving Credit Lender that is not a Defaulting Lender to acquire, refinance or fund participations in Letters of Credit shall not exceed the positive difference, if any, of (x) the Revolving Credit Commitment of that Revolving Credit Lender that is not a Defaulting Lender minus (y) the aggregate Outstanding Amount of the Revolving Credit Loans of such Revolving Credit Lender plus such Revolving Credit Lender's Applicable Revolving Credit Percentage of the Outstanding Amount of all L/C Obligations.

(b) *Defaulting Lender Cure*. If the Borrower, the Administrative Agent and the L/C Issuers agree in writing in their sole discretion that a Defaulting Lender should no longer be deemed to be a Defaulting Lender, the Administrative Agent will so notify the parties hereto, whereupon as of the effective date specified in such notice and subject to any conditions set forth therein (which may include arrangements with respect to any Cash Collateral), that Lender will, to the extent applicable, purchase at par that portion of outstanding Loans of the other Lenders (and shall pay to such other Lenders any break funding costs that such other Lenders may incur as a result of such purchase) or take such other actions as the Administrative Agent may determine to be necessary to cause the Loans and funded and unfunded participations in Letters of Credit to be held on a pro rata basis by the Revolving Credit Lenders in accordance with their Applicable Revolving Credit Percentages (without giving effect to Section 2.16(a)(iv)), whereupon that Lender will cease to be a Defaulting Lender; *provided* that no adjustments will be made retroactively with respect to fees accrued or payments made by or on behalf of the Borrower while that Lender was a Defaulting Lender; and *provided, further,* that except to the extent otherwise expressly agreed by the affected parties, no change hereunder from Defaulting Lender to Revolving Credit Lender will constitute a waiver or release of any claim of any party hereunder arising from that Revolving Credit Lender's having been a Defaulting Lender.

Section 2.17 *Refinancing Facilities*.

(a) On one or more occasions, the Borrower may obtain, from any Lender or any other bank or financial institution or other institutional lender or investor that would constitute an Eligible Assignee if it were purchasing Loans hereunder and that agrees to provide any portion of Refinancing Term Commitments, Refinancing Term Loans, Other Revolving Commitments or Other Revolving Loans, Credit Agreement Refinancing Indebtedness in the form of Refinancing Term Commitments, Refinancing Term Loans, Other Revolving Commitments or Other Revolving Loans, in each case pursuant to a Refinancing Amendment in accordance with this Section 2.17 (each, an "**Additional Refinancing Lender**"); *provided* that (i) the Administrative Agent and each L/C Issuer shall have consented (such consent not to be unreasonably withheld, conditioned, or delayed) to such Lender's or Additional Refinancing Lender's providing such Refinancing Term Commitments, Refinancing Term Loans, Other Revolving Commitments or Other Revolving Loans to the extent such consent, if any, would be required under Section 10.06 for an assignment of Refinancing Term Commitments, Refinancing Term Loans, Other Revolving Commitments or Other Revolving Loans, as applicable, to such Lender or Additional Refinancing Lender; *provided*, *further*, that the following terms are satisfied:

(i) any Refinancing Term Loans may participate on a pro rata basis or on a less than pro rata basis (but not on a greater than pro rata basis) as among the various Classes of Term Loans (in accordance with the respective outstanding principal amounts thereof) in any voluntary or mandatory repayments or prepayments of Term Loans hereunder, as specified in the applicable Refinancing Amendment;

(ii) (x) all Other Revolving Commitments shall be deemed to be Revolving Credit Commitments for purposes of borrowings and prepayments of Revolving Credit Loans and participations in Letters of Credit and (y) the borrowing and repayment of Other Revolving Loans and the termination or reduction of Other Revolving Commitments after the date of obtaining any Other Revolving Commitments shall be made on a pro rata basis or non-pro rata basis with all other Revolving Commitments as directed by the Borrower;

(iii) subject to the provisions of Section 2.03(k) to the extent dealing with Letters of Credit which mature or expire after a maturity date when there exist Other Revolving Commitments with a longer maturity date, all Letters of Credit shall be participated on a pro rata basis by all Lenders with Revolving Credit Commitments (including Other Revolving Commitments) in accordance with their Applicable Revolving Credit Percentage; and

(iv) assignments and participations of Other Revolving Commitments and Other Revolving Loans shall be governed by the same assignment and participation provisions applicable to Original Revolving Credit Commitments and Original Revolving Credit Loans.

(b) The effectiveness of any Refinancing Amendment shall be subject to the satisfaction on the date thereof of each of the conditions set forth in Section 4.02 and, to the extent reasonably requested by the Administrative Agent, receipt by the Administrative Agent of (i) customary legal opinions, board resolutions and officers' certificates consistent with those delivered on the Closing Date other than changes to such legal opinions resulting from a Change in Law, change in fact or change to counsel's form of opinion reasonably satisfactory to the Administrative Agent and (ii) reaffirmation agreements and/or such amendments to the Collateral Documents as may be reasonably requested by the Administrative Agent in order to ensure that the enforceability of the Collateral Documents and the perfection and priority of the Liens thereunder are preserved and maintained.

(c) Each issuance of Credit Agreement Refinancing Indebtedness under Section 2.17(a) shall be in an aggregate principal amount that is not less than $25,000,000.

(d) Each of the parties hereto hereby agrees that this Agreement and the other Loan Documents may be amended pursuant to a Refinancing Amendment, without the consent of any other Lenders, to the extent (but only to the extent) necessary to (i) reflect the existence and terms of the Credit Agreement Refinancing Indebtedness incurred pursuant thereto and (ii) effect such other amendments to this Agreement and the other Loan Documents as may be necessary or appropriate, in the reasonable opinion of the Administrative Agent and the Borrower, to effect the provisions of this Section 2.17, and the Lenders hereby expressly authorize the Administrative Agent to enter into any such Refinancing Amendment.

(e) This Section 2.17 shall supersede any provisions in Section 2.13 and 10.01 to the contrary, and nothing in Section 2.05 to the contrary shall prohibit the application of this Section 2.17.

ARTICLE 3.
TAXES, YIELD PROTECTION AND ILLEGALITY

Section 3.01 *Taxes*.

(a) *Payments Free of Taxes; Obligation to Withhold; Payments on Account of Taxes*. Any and all payments by or on account of any obligation of any Loan Party hereunder or under any other Loan Document shall to the extent permitted by applicable Laws be made free and clear of and without deduction or withholding for any Taxes. If, however, applicable Laws (as determined in the good faith discretion of the applicable Withholding Agent) require the deduction or withholding of any Tax from any such payment by a Withholding Agent, then the applicable Withholding Agent shall be entitled to make such deduction or withholding and shall timely pay the full amount deducted or withheld to the relevant Governmental Authority in accordance with applicable Laws and, if such Tax is an Indemnified Tax, then the sum payable by the applicable Loan Party shall be increased as necessary so that after such deduction or withholding has been made (including such deductions and withholdings applicable to additional sums payable under this Section) the applicable Recipient receives an amount equal to the sum it would have received had no such deduction or withholding been made.

(b) *Payment of Other Taxes by the Borrower*. Without limiting the provisions of subsection (a) above, the Loan Parties shall timely pay any Other Taxes to the relevant Governmental Authority in accordance with applicable Laws, or at the option of the Administrative Agent timely reimburse it for the payment of Other Taxes.

(c) *Tax Indemnifications*.

(i) Without limiting the provisions of subsection (a) or (b) above, the Loan Parties shall, and do hereby, jointly and severally indemnify each Recipient, and shall make payment in respect thereof within ten (10) days after demand therefor, for the full amount of any Indemnified Taxes (including Indemnified Taxes imposed or asserted on or attributable to amounts payable under this Section 3.01) withheld or deducted by a Withholding Agent or paid by the Recipient, and any reasonable out of pocket 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. The Borrower shall also, and does hereby, indemnify the Administrative Agent, and shall make payment in respect thereof within ten days after demand therefor, for any amount which a Lender or any L/C Issuer for any reason fails to pay indefeasibly to the Administrative Agent as required by clause (ii) of this subsection. A certificate as to the amount of any such payment or liability delivered to the Borrower by a Lender or an L/C Issuer (with a copy to the Administrative Agent), or by the Administrative Agent on its own behalf or on behalf of a Lender or an L/C Issuer, shall be conclusive absent manifest error (so long as such certificate is prepared in a commercially reasonable manner in accordance with applicable Laws). No Loan Party shall be required to compensate any Recipient pursuant to this Section 3.01 for any amounts to the extent that such Recipient does not furnish notice of such possible indemnification claim within 180 days after such Recipient receives notice from the applicable Governmental Authority of the specific Tax assessment giving rise to such indemnification claim.

(ii) Without limiting the provisions of subsection (a) or (b) above, each Lender and each L/C Issuer shall, and does hereby, severally indemnify:

(A) the Borrower and the Administrative Agent, and shall make payment in respect thereof within ten (10) days after demand therefor, against any and all Taxes and any and all related losses, claims, liabilities, penalties, interest and expenses (including the fees, charges and disbursements of any counsel for the Borrower or the Administrative Agent) incurred by or asserted against the Borrower

or the Administrative Agent by a Governmental Authority as a result of the failure by such Lender or any L/C Issuer, as the case may be, to deliver, or as a result of the inaccuracy or similar deficiency of, any documentation required to be delivered by such Lender or any L/C Issuer, as the case may be, to the Borrower or the Administrative Agent pursuant to subsection (e)(ii); and

(B) the Administrative Agent, and shall make payment in respect thereof within ten (10) days after demand therefor, for (x) any Indemnified Taxes attributable to such Lender or such L/C Issuer (but only to the extent that any Loan Party has not already indemnified the Administrative Agent for such Indemnified Taxes and without limiting the obligation of the Loan Parties to do so), (y) any Excluded Taxes attributable to such Lender or such L/C Issuer, in each case, that are payable or paid by the Administrative Agent in connection with any Loan Document, and any reasonable expenses arising therefrom or with respect thereto, whether or not such Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority and (z) any Taxes attributable to such Lender's or L/C Issuer's failure to comply with the provisions of Section 10.06(d) relating to the maintenance of a Participant Register.

(iii) A certificate as to the amount of such payment or liability delivered to any Lender or any L/C Issuer by the Borrower or the Administrative Agent shall be conclusive absent manifest error. Each Lender and L/C Issuer hereby authorizes the Administrative Agent to set off and apply any and all amounts at any time owing to such Lender or the L/C Issuer, as the case may be, under this Agreement or any other Loan Document against any amount due to the Administrative Agent under this subsection (c).

(d) *Evidence of Payments*. Upon request by the Borrower or the Administrative Agent, as the case may be, as soon as possible after any payment of Taxes by any Loan Party or by the Administrative Agent to a Governmental Authority as provided in this Section 3.01, such Loan Party shall deliver to the Administrative Agent or the Administrative Agent shall deliver to such Loan Party, as the case may be, the original or a certified copy of a receipt issued by such Governmental Authority evidencing such payment, a copy of any return required by Laws to report such payment or other evidence of such payment reasonably satisfactory to such Loan Party or the Administrative Agent, as the case may be.

(e) *Status of Lenders*; *Tax Documentation*.

(i) For purposes of this Section 3.01(e), the term "Lender" includes any L/C Issuer. Each Lender that is entitled to an exemption from or reduction of withholding Tax with respect to payments under any Loan Document shall deliver to the Borrower and to the Administrative Agent, at the time or times reasonably requested by the Borrower or the Administrative Agent, such properly completed and executed documentation reasonably requested by the Borrower or the Administrative Agent as will permit such payments to be made without withholding or at a reduced rate of withholding. In addition, any Lender, if reasonably requested by the Borrower or the Administrative Agent, shall deliver such other documentation prescribed by applicable Laws or reasonably requested by the Borrower or the Administrative Agent as will enable the Borrower or the

Administrative Agent to determine whether or not such Lender is subject to backup withholding or information reporting requirements. Notwithstanding anything to the contrary in the preceding two sentences, the delivery, completion and execution of documentation and other requested information described in this subsection (e)(i) or (e)(ii)(C) (and not, for the avoidance of doubt, otherwise described in subsection (e)(ii)) shall not be required if in the Lender's reasonable judgment such delivery, completion or execution would subject the Lender to any material unreimbursed cost or expense or would materially prejudice the legal or commercial position of such Lender.

(ii) Without limiting the generality of the foregoing, on or prior to the date on which a Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Borrower or the Administrative Agent), but only to the extent it is legally entitled to do so,

(A) any Lender that is a U.S. Person shall deliver to the Borrower and the Administrative Agent executed copies of IRS Form W-9 or such other documentation or information prescribed by applicable Laws or reasonably requested by the Borrower or the Administrative Agent as will enable the Borrower or the Administrative Agent, as the case may be, to determine whether or not such Lender is subject to backup withholding or information reporting requirements;

(B) any Foreign Lender shall, to the extent it is legally entitled to do so, deliver to the Borrower and the Administrative Agent (in such number of copies as shall be reasonably requested by the recipient), whichever of the following is applicable:

(1) in the case of a Foreign Lender claiming the benefits of an income tax treaty to which the United States is a party (x) with respect to payments of interest under any Loan Document, executed copies of IRS Form W-8BEN or W-8BEN-E establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to the "interest" article of such tax treaty and (y) with respect to any other applicable payments under any Loan Document, IRS Form W-8BEN or W-8BEN-E establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to the "business profits" or "other income" article of such tax treaty,

(2) executed copies of IRS Form W-8ECI,

(3) in the case of a Foreign Lender claiming the benefits of the exemption for portfolio interest under section 881(c) of the Code, (x) a certificate substantially in the form of Exhibit H-1 to the effect that such Foreign Lender is not (A) a "bank" within the meaning of section 881(c)(3)(A) of the Code, (B) a "10 percent shareholder" of the Borrower within the meaning of section 881(c)(3)(B) of the Code, or (C) a "controlled foreign corporation" described in section 881(c)(3)(C) of the Code and (y) executed copies of Internal Revenue Service Form W-8BEN or W-8BEN-E, or

(4) to the extent a Foreign Lender is not the beneficial owner, executed copies of IRS Form W-8IMY, accompanied by IRS Form W-8ECI, IRS Form W-8BEN or W-8BEN-E, a U.S. Tax Compliance Certificate substantially in the form of Exhibit H-2 or H-3, IRS Form W-9, and/or other certification documents from each beneficial owner, as applicable; *provided* that if the Foreign Lender is a partnership and one or more direct or indirect partners of such Foreign Lender are claiming the portfolio interest exemption, such Foreign Lender may provide a U.S. Tax Compliance Certificate substantially in the form of Exhibit H-4 on behalf of each such direct and indirect partner together with the executed copies of the applicable IRS Forms;

(C) any Foreign Lender shall, to the extent it is legally entitled to do so, deliver to the Borrower and the Administrative Agent (in such number of copies as shall be reasonably requested by the Recipient) on or prior to the date on which such Foreign Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Borrower or the Administrative Agent) executed copies of any other form prescribed by applicable Law as a basis for claiming exemption from or a reduction in U.S. federal withholding Tax, duly completed, together with such supplementary documentation as may be prescribed by applicable Law to permit the Borrower or the Administrative Agent to determine the withholding or deduction required to be made.

(iii) 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 Borrower and the Administrative Agent at the time or times prescribed by law and at such time or times reasonably requested by the Borrower or the Administrative Agent such documentation prescribed by applicable Law (including as prescribed by section 1471(b)(3)(C)(i) of the Code) and such additional documentation reasonably requested by the Borrower or the Administrative Agent as may be necessary for the Borrower and the Administrative Agent to comply with their obligations under FATCA and to determine that such Lender has complied with such Lender's obligations under FATCA or to determine the amount to deduct and withhold from such payment. Solely for purposes of this clause (iii), "FATCA" shall include any amendments made to FATCA after the date of this Agreement.

(iv) Each Lender shall promptly (A) notify the Borrower and the Administrative Agent of any change in circumstances which would modify or render invalid any claimed exemption or reduction or if any form or certification it previously delivered becomes obsolete or inaccurate or expires and (B) update any such form or certification or notify the Borrower and Administrative Agent in writing of its legal inability to do so.

(f) *Treatment of Certain Refunds*. At no time shall the Administrative Agent have any obligation to file for or otherwise pursue on behalf of a Lender or an L/C Issuer, or have any obligation to pay to any Lender or L/C Issuer, any refund of Taxes withheld or deducted from funds paid for the account of such Lender or L/C Issuer, as the case may be. If the Administrative Agent, any Lender or any L/C Issuer determines, in its sole discretion exercised reasonably, that it has received a refund of any Indemnified Taxes as to which it has been indemnified by the Borrower or with respect to which the Borrower has paid additional amounts pursuant to this Section 3.01, it shall pay to the Borrower an amount equal to such refund (but only to the extent of indemnity payments made, or additional amounts paid, by the Borrower under this Section 3.01 with respect to the Indemnified Taxes giving rise to such refund), net of all out-of-pocket expenses (including Taxes) incurred by the Administrative Agent, such Lender or such L/C Issuer, as the case may be, related to the receipt of such refund and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund), *provided* that the Borrower, upon the request of the Administrative Agent, such Lender or such L/C Issuer, agrees to repay the amount paid over to the Borrower (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) to the Administrative Agent, such Lender or such L/C Issuer in the event the Administrative Agent, such Lender or such L/C Issuer is required to repay such refund to such Governmental Authority. This subsection shall not be construed to require the Administrative Agent, any Lender or any L/C Issuer to make available its tax returns (or any other information relating to its taxes that it deems confidential) to the Borrower or any other Person. Notwithstanding anything to the contrary in this subsection, in no event will the Administrative Agent, such Lender or such L/C Issuer be required to pay any amount to the Borrower pursuant to this subsection the payment of which would place the Administrative Agent, such Lender or such L/C Issuer in a less favorable after-Tax position than the Administrative Agent, such Lender or such L/C Issuer would have been in if the Tax subject to indemnification and giving rise to such refund had not been deducted, withheld or otherwise imposed and the indemnification payments or additional amounts giving rise to such refund had never been paid.

(g) *Survival*. Each party's obligations under this Section 3.01 shall survive the resignation and/or replacement of the Administrative Agent, any assignment of rights by, or the replacement of, a Lender or any L/C Issuer, the termination of the Aggregate Commitments and the repayment, satisfaction or discharge of all other Obligations.

Section 3.02 *Illegality*. If any Lender determines that any Law has made it unlawful, or that any Governmental Authority has asserted that it is unlawful, for any Lender or its applicable Lending Office to make, maintain or fund Loans whose interest is determined by reference to the Adjusted Term SOFR Rate, the Eurodollar Rate or the Daily Simple RFR, or to determine or charge interest rates based upon the Adjusted Term SOFR Rate, the Eurodollar Rate or the Daily Simple RFR, or any Governmental Authority has imposed material restrictions on the authority of such Lender to purchase or sell, or to take deposits of, U.S. Dollars or any Alternative Currency in the applicable interbank market, then, on notice thereof by such Lender to the Borrower through the Administrative Agent, (i) any obligation of such Lender to make or continue Term SOFR Loans, Eurodollar Rate Loans or RFR Loans in the affected currency or currencies or to convert Base Rate Loans to Term SOFR Loans shall be suspended and (ii) if such notice asserts the illegality of such Lender making or maintaining Base Rate Loans the interest rate on which is determined by reference to the Adjusted Term SOFR Rate component of the Base Rate, the interest rate on which Base Rate Loans of such Lender shall, if necessary to avoid such illegality, be determined by the Administrative Agent without reference to the Adjusted Term SOFR Rate component of the Base Rate, in each case until such Lender notifies the Administrative Agent and

the Borrower that the circumstances giving rise to such determination no longer exist. Upon receipt of such notice, (x) the Borrower shall, upon demand from such Lender (with a copy to the Administrative Agent), if such Loans are not denominated in U.S. Dollars, prepay such Loans, or if such Loans are denominated in U.S. Dollars, convert all such Loans of such Lender to Base Rate Loans or (y) if such notice asserts the illegality of such Lender making or maintaining Base Rate Loans (the interest rate on which is determined by reference to the Adjusted Term SOFR Rate component of the Base Rate), the interest rate on which Base Rate Loans of such Lender shall, if necessary to avoid such illegality, be determined by the Administrative Agent without reference to the Adjusted Term SOFR Rate component of the Base Rate, in each case, either on the last day of the Interest Period therefor, if such Lender may lawfully continue to maintain such Term SOFR Loans or Eurodollar Rate Loans to such day, or immediately, if such Lender may not lawfully continue to maintain such Term SOFR Loans, Eurodollar Rate Loans or RFR Loans. Upon any such prepayment or conversion, the Borrower shall also pay accrued interest on the amount so prepaid or converted.

Section 3.03 *Inability to Determine Rates*. Subject to Section 3.08, if the Required Lenders determine that for any reason:

(a) in connection with any request for a Term SOFR Loan, a Eurodollar Rate Loan or a conversion to or continuation thereof that (A)(i) deposits are not being offered to banks in the interbank market for the applicable amount and Interest Period of such Loan or (ii) adequate and reasonable means do not exist for determining the Adjusted Term SOFR Rate or the Eurodollar Rate for any requested Interest Period with respect to a proposed Term SOFR Loan or Eurodollar Rate Loan, as applicable, or (B) the Adjusted Term SOFR Rate or the Eurodollar Rate, for any requested Interest Period with respect to a proposed Term SOFR Loan or Eurodollar Rate Loan does not adequately and fairly reflect the cost to such Lenders of funding such Loan; or

(b) in connection with any RFR Loan, that adequate and reasonable means do not exist for determining the Daily Simple RFR,

then in each case, the Required Lenders will so notify the Administrative Agent and the Administrative Agent will promptly so notify the Borrower and each Lender. Thereafter, (x) the obligation of the Lenders to make or maintain Term SOFR Loans, Eurodollar Rate Loans or RFR Loans, as applicable, shall be suspended and (y) in the event of a determination described in the preceding sentence with respect to the Adjusted Term SOFR Rate component of the Base Rate, the utilization of the Adjusted Term SOFR Rate component in determining the Base Rate shall be suspended, in each case until the Administrative Agent (upon the instruction of the Required Lenders) revokes such notice. Upon receipt of such notice, the Borrower may revoke any pending request for a Borrowing of, conversion to or continuation of Term SOFR Loans, Eurodollar Rate Loans or RFR Loans or, failing that, will, (x) in the case of Loans in U.S. Dollars, be deemed to have converted such request into a request for a Borrowing of Base Rate Loans in U.S. Dollars, in the amount specified therein, (y) in the case of Loans in an Alternative Currency other than Sterling, be deemed to have converted any such request into a request for a Borrowing of or conversion to Base Rate Loans in U.S. Dollars (in an amount equal to the U.S. Dollar Equivalent of the amount requested to be borrowed or continued in the Alternative Currency) and (z) in the case of Loans in Sterling, be deemed to have requested a Loan in Sterling that bears interest at the Central Bank Rate plus the Applicable Rate applicable to RFR Loans; provided that, if the

Administrative Agent determines (which determination shall be conclusive and binding absent manifest error) that the Central Bank Rate for Sterling cannot be determined, then the Borrower shall be deemed to have converted any such request into a request for a Borrowing of Base Rate Loans in U.S. Dollars (in an amount equal to the U.S. Dollar Equivalent of the amount in question). Upon receipt of such notice with respect to any outstanding Loan, (x) in the case of Loans in U.S. Dollars, the Borrower shall convert all such outstanding Loans to Base Rate Loans, (y) in the case of Loans in an Alternative Currency other than Sterling, the Borrower shall prepay such Loans and (z) in the case of Loans in Sterling, the Borrower shall convert all such outstanding Loans to Loans that bear interest at the Central Bank Rate plus the Applicable Rate applicable to RFR Loans; *provided* that, if the Administrative Agent determines (which determination shall be conclusive and binding absent manifest error) that the Central Bank Rate for Sterling cannot be determined, then all such Loans shall be prepaid in full promptly upon written demand by the Administrative Agent. Upon any such prepayment, the Borrower shall also pay accrued interest on the amount so prepaid.

Section 3.04 *Increased Costs; Reserves on Eurodollar Rate Loans, Term SOFR Loans and RFR Loans.*

(a) *Increased Costs Generally*. If any Change in Law shall:

(i) impose, modify or deem applicable any reserve, special deposit, compulsory loan, insurance charge or similar requirement against assets of, deposits with or for the account of, or credit extended or participated in by, any Lender (except any reserve requirement contemplated by Section 3.04(e)) or any L/C Issuer;

(ii) subject any Recipient to any Tax (except for Indemnified Taxes covered by Section 3.01 and the imposition of, or any change in the rate of, any Tax described in clause (a)(ii) or clause (b) through (d) of the definition of Excluded Taxes) on its loans, loan principal, letters of credit, commitment, or other obligations, or its deposits, reserves, other liabilities or capital attributable thereto; or

(iii) impose on any Lender or any L/C Issuer or the interbank market any other condition, cost or expense (other than Taxes) affecting this Agreement or Term SOFR Loans, Eurodollar Rate Loans or RFR Loans made by such Lender or any Letter of Credit or participation therein;

and the result of any of the foregoing shall be to increase the cost to the Administrative Agent, any L/C Issuer or any Lender of making, continuing or maintaining any Loan (or of maintaining its obligation to make any such Loan), or to increase the cost to such Lender or L/C Issuer of participating in, issuing or maintaining any Letter of Credit (or of maintaining its obligation to participate in or to issue any Letter of Credit), or to reduce the amount of any sum received or receivable by the Administrative Agent, any Lender or any L/C Issuer hereunder (whether of principal, interest or any other amount) then, upon the request of the Administrative Agent, such Lender or such L/C Issuer, the Borrower will pay to the Administrative Agent, such Lender or such L/C Issuer, as the case may be, such additional amount or amounts as will compensate the Administrative Agent, such Lender or such L/C Issuer, as the case may be, for such additional costs incurred or reduction suffered; *provided*, that the Borrower shall not be obligated to pay any

such compensation unless the Lender or L/C Issuer requesting such compensation also is requesting compensation as a result of such Change in Law from other similarly situated customers under agreements relating to similar credit transactions that include provisions similar to this Section 3.04(a); *provided* that the Borrower shall not be required to compensate a Lender or a L/C Issuer pursuant to this Section for any increased costs or reductions incurred more than 180 days prior to the date that such Lender or L/C Issuer notifies the Borrower of the Change in Law giving rise to such increased costs or reductions and of such Lender's or L/C Issuer'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.

(b) *Capital Requirements*. If any Lender or any L/C Issuer determines that any Change in Law affecting such Lender or such L/C Issuer or any Lending Office of such Lender or such Lender's or such L/C Issuer's holding company, if any, regarding capital or liquidity requirements has or would have the effect of reducing the rate of return on such Lender's or such L/C Issuer's capital or on the capital of such Lender's or such L/C Issuer's holding company, if any, as a consequence of this Agreement, the Commitments of such Lender or the Loans made by, or participations in Letters of Credit held by, such Lender, or the Letters of Credit issued by such L/C Issuer, to a level below that which such Lender or such L/C Issuer or such Lender's or such L/C Issuer's holding company could have achieved but for such Change in Law (taking into consideration such Lender's or such L/C Issuer's policies and the policies of such Lender's or such L/C Issuer's holding company with respect to capital adequacy and liquidity), then from time to time the Borrower will pay to such Lender or such L/C Issuer, as the case may be, such additional amount or amounts as will compensate such Lender or such L/C Issuer or such Lender's or such L/C Issuer's holding company for any such reduction suffered; *provided*, that the Borrower shall not be obligated to pay any such compensation unless the Lender or such L/C Issuer requesting such compensation also is requesting compensation as a result of such Change in Law from other similarly situated customers under agreements relating to similar credit transactions that include provisions similar to this Section 3.04(b).

(c) *Certificates for Reimbursement*. A certificate of a Lender or an L/C Issuer setting forth in reasonable detail the amount or amounts necessary to compensate such Lender or such L/C Issuer or its holding company, as the case may be, as specified in subsection (a) or (b) of this Section and delivered to the Borrower shall be conclusive absent manifest error. The Borrower shall pay such Lender or such L/C Issuer, as the case may be, the amount shown as due on any such certificate within ten days after receipt thereof.

(d) *Delay in Requests*. Failure or delay on the part of any Lender or any L/C Issuer to demand compensation pursuant to the foregoing provisions of this Section shall not constitute a waiver of such Lender's or such L/C Issuer's right to demand such compensation, *provided* that the Borrower shall not be required to compensate a Lender or an L/C Issuer pursuant to the foregoing provisions of this Section for any increased costs incurred or reductions suffered more than six months prior to the date that such Lender or such L/C Issuer, as the case may be, notifies the Borrower of the Change in Law giving rise to such increased costs or reductions and of such Lender's or such L/C Issuer's intention to claim compensation therefor (except that, if the Change in Law giving rise to such increased costs or reductions is retroactive, then the six-month period referred to above shall be extended to include the period of retroactive effect thereof).

(e) *Reserves on Eurodollar Rate Loans*. The Borrower shall pay to each Lender, as long as such Lender shall be required to maintain reserves with respect to liabilities or assets consisting of or including Eurodollar funds or deposits (currently known as "**Eurodollar liabilities**"), additional interest on the unpaid principal amount of each Eurodollar Rate Loan equal to the actual costs of such reserves allocated to such Loan by such Lender (as determined by such Lender in good faith, which determination shall be conclusive and binding), which shall be due and payable on each date on which interest is payable on such Loan, *provided* the Borrower shall have received at least ten days' prior notice (with a copy to the Administrative Agent) of such additional interest from such Lender; *provided*, *further*, that the Borrower shall not be obligated to pay any such additional interest unless the Lender requesting such additional interest also is requesting additional interest from other similarly situated customers under agreements relating to similar credit transactions that include provisions similar to this Section 3.04(e). If a Lender fails to give notice ten days prior to the relevant Interest Payment Date, such additional interest shall be due and payable ten days from receipt of such notice.

Section 3.05 *Compensation for Losses*. Upon demand of any Lender (with a copy to the Administrative Agent) from time to time, the Borrower shall promptly compensate such Lender for and hold such Lender harmless from any loss, cost or expense incurred by it as a result of:

(a) any continuation, conversion, payment or prepayment of any Loan other than a Base Rate Loan on a day other than the last day of the Interest Period for such Loan (whether voluntary, mandatory, automatic, by reason of acceleration, or otherwise);

(b) any failure by the Borrower to prepay, borrow, continue or convert any Loan other than a Base Rate Loan on the date or in the amount notified by the Borrower (in the case of a borrowing, for a reason other than the failure of such Lender to make a Loan);

(c) any assignment of a Term SOFR Loan or Eurodollar Rate Loan on a day other than the last day of the Interest Period therefor as a result of a request by the Borrower pursuant to Section 2.14, 3.06(b) or Section 10.13; or

(d) any payment by the Borrower of the principal of or interest on any Loan or of any drawing under any Letter of Credit (or interest due thereon) denominated in an Alternative Currency in a different currency from the currency in which the applicable Loan or Letter of Credit is denominated (except to the extent an L/C Issuer has required payment of any drawing under a Letter of Credit in U.S. Dollars pursuant to Section 2.03(c)(i)), including any foreign exchange losses or loss of anticipated profits and any loss or expense arising from the liquidation or reemployment of funds obtained by it to maintain such Loan or from fees payable to terminate the deposits from which such funds were obtained or from the performance of any foreign exchange contract. The Borrower shall also pay any customary and reasonable administrative fees charged by such Lender in connection with the foregoing.

For purposes of calculating amounts payable by the Borrower to the Lenders under this Section 3.05, each Lender shall be deemed to have funded each Eurodollar Rate Loan or each Term SOFR Loan, as applicable, made by it at the Eurodollar Rate or Adjusted Term SOFR Rate, as applicable, for such Loan by a matching deposit or other borrowing in the London, England or other offshore interbank market for the applicable currency for a comparable amount and for a comparable period, whether or not such Eurodollar Rate Loan or Term SOFR Loan was in fact so funded. A certificate of a Lender setting forth the amount or amounts necessary to compensate such Lender, as specified in this Section, delivered to the Borrower shall be conclusive absent manifest error.

Section 3.06 *Mitigation Obligations; Replacement of Lenders*.

(a) *Designation of a Different Lending Office*. If any Lender requests compensation under Section 3.04, or the Borrower is required to pay any additional amount to any Lender, any L/C Issuer, or any Governmental Authority for the account of any Lender or any L/C Issuer pursuant to Section 3.01, or if any Lender gives a notice pursuant to Section 3.02, then such Lender or such L/C Issuer shall, as applicable, 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 or such L/C Issuer, such designation or assignment (i) would eliminate or reduce amounts payable pursuant to Section 3.01 or 3.04, as the case may be, in the future, or eliminate the need for the notice pursuant to Section 3.02 as applicable, and (ii) in each case, would not subject such Lender or such L/C Issuer, as the case may be, to any unreimbursed cost or expense and would not otherwise be disadvantageous to such Lender or such L/C Issuer, as the case may be. The Borrower hereby agrees to pay all reasonable costs and expenses incurred by any Lender or such L/C Issuer in connection with any such designation or assignment.

(b) *Replacement of Lenders*. If any Lender requests compensation under Section 3.04, or if the Borrower is required to pay any Indemnified Taxes or additional amounts to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 3.01, and in each case, such Lender has declined or is unable to designate a different Lending Office in accordance with Section 3.06(a) which would eliminate such request for compensation or requirement to pay such additional amount, or if any Lender is a Defaulting Lender hereunder, the Borrower may, at its sole expense and effort, upon notice to such Lender and the Administrative Agent, replace such Lender in accordance with Section 10.13.

Section 3.07 *Survival*. All of the Borrower's obligations under this Article 3 shall survive the termination of the Aggregate Commitments, any assignment of rights by, or the replacement of, a Lender, repayment, satisfaction or discharge of all other Obligations hereunder, and resignation or replacement of the Administrative Agent.

Section 3.08 *Effect of Benchmark Transition Event*.

(a) Notwithstanding anything to the contrary herein or in any other Loan Document (and any Swap Contract shall be deemed not to be a "Loan Document" for purposes of this Section 3.08), if a Benchmark 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 (x) if a Benchmark Replacement is determined in accordance with clause (a) of the definition of "Benchmark Replacement" with respect to U.S. 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 (b) of the definition of "Benchmark Replacement" with respect to any Agreed Currency 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. 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 of each affected Class.

(b) 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.

(c) The Administrative Agent will promptly notify the Borrower and the Lenders of (i) any occurrence of a Benchmark Transition Event and its related Benchmark Replacement Date, (ii) the implementation of any Benchmark Replacement, (iii) the effectiveness of any Benchmark Replacement Conforming Changes, and (iv) the commencement or conclusion of any Benchmark Unavailability Period. Any determination, decision or election that may be made by the Administrative Agent or Lenders pursuant to this Section 3.08, 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, 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 hereto, except, in each case, as expressly required pursuant to this Section 3.08.

(d) Upon the Borrower's receipt of notice of the commencement of a Benchmark Unavailability Period, the Borrower may revoke any request for a Borrowing of, conversion to or continuation of Term SOFR Loans or Eurodollar Rate Loans, as applicable to be made, converted or continued during any Benchmark Unavailability Period and, failing that, (x) in the case of Term SOFR Loans denominated in U.S. Dollars, the Borrower will be deemed to have converted any such request into a request for a Borrowing of or conversion to Base Rate Loans and (y) in the case of a request for a Borrowing or continuation in an Alternative Currency, the Borrower will be deemed to have converted any such request into a request for a Borrowing of or conversion to Base Rate Loans in U.S. Dollars (in an amount equal to the U.S. Dollar Equivalent of the amount requested to be borrowed or continued in the Alternative Currency). During any Benchmark Unavailability Period, the component of the Base Rate based upon the Adjusted Term SOFR Rate will not be used in any determination of Base Rate.

ARTICLE 4.
CONDITIONS PRECEDENT

Section 4.01 *Conditions Precedent to the Closing Date*. The effectiveness of this Agreement and the obligations of each L/C Issuer and each Lender to make the initial Credit Extensions on the Closing Date (if any) shall, in each case, be subject to the following conditions:

(a) The Administrative Agent's receipt of the following, each of which shall be originals, facsimiles or "pdf" or similar electronic format (followed promptly by originals) unless otherwise specified, each properly executed by a Responsible Officer of the signing Loan Party each in form and substance reasonably satisfactory to the Administrative Agent:

(i) a Note executed by the Borrower in favor of each Lender that has requested a Note at least two (2) Business Days prior to the Closing Date;

(ii) executed copies of (x) this Agreement, and (y) each Collateral Document set forth on Schedule 4.01(a)(ii), executed by each Loan Party thereto, together with:

(A) evidence that all filings under the UCC shall have been taken, completed or otherwise provided for in a manner reasonably satisfactory to the Administrative Agent; and

(B) any other documents and instruments as may be necessary or advisable in the reasonable opinion of the Administrative Agent to vest in the Administrative Agent valid and subsisting first priority perfected Liens on the properties purported to be subject to the Collateral Documents set forth on Schedule 4.01(a)(ii), enforceable against all third parties in accordance with their terms;

(iii) such certificates of resolutions or other action, incumbency certificates and/or other certificates of Responsible Officers of each Loan Party as the Administrative Agent may reasonably require evidencing the identity, authority and capacity of each Responsible Officer thereof authorized to act as a Responsible Officer in connection with this Agreement and the other Loan Documents to which such Loan Party is a party;

(iv) an opinion from (A) Lewis Rice LLC, counsel to the Loan Parties, and (B) local or other counsel in each of the jurisdictions listed on Schedule 4.01(a)(iv), in each case as reasonably requested by the Administrative Agent, in the case of each of clauses (A) and (B), in form and substance reasonably satisfactory to the Administrative Agent;

(v) a certificate attesting to the Solvency of the Borrower and its Subsidiaries (taken as a whole) on the Closing Date after giving effect to the Transactions, from the Chief Financial Officer of the Borrower, substantially in the form attached hereto as Exhibit K;

(vi) a certificate attesting to the compliance with clauses (e), (f) and (g) of this Section 4.01 on the Closing Date from a Responsible Officer of the Borrower;

(vii) if any Loans are to be made on the Closing Date, a Committed Loan Notice pursuant to Section 2.02; and

(viii) copies of a recent Lien search in each jurisdiction reasonably requested by the Administrative Agent with respect to the Loan Parties.

(b) All reasonable fees and out-of-pocket expenses due and payable to the Lenders, the Arrangers and the Administrative Agent and required to be paid on or prior to the Closing Date pursuant to the Engagement Letter and the Fee Letter shall have been paid or shall have been authorized to be deducted from the proceeds of the initial funding under the Facilities, so long as any such fees or expenses not expressly set forth in the Fee Letters have been have been invoiced not less than three (3) business days prior to the Closing Date.

(c) Substantially concurrently with the initial funding of the Facility, all outstanding obligations of the Borrower, BellRing Brands, LLC and its Restricted Subsidiaries under the Existing Credit Agreement shall be repaid, all commitments thereunder and all guarantees, liens and security interests granted in connection therewith shall be terminated (the "**Refinancing**").

(d) The Administrative Agent and the Lenders shall have received at least three Business Days prior to the Closing Date, to the extent requested in writing at least seven Business Days prior to the Closing Date, all documentation and other information that the Administrative Agent and the Lenders reasonably determine is necessary in order to allow the Administrative Agent and the Lenders to comply with applicable "know your customer" and anti-money laundering rules and regulations, including the Act and the Beneficial Ownership Regulation.

(e) The representations and warranties of the Borrower and each other Loan Party contained in Article 5 hereof shall be true and correct in all material respects; *provided* that any representation and warranty that is qualified as to "materiality," "Material Adverse Effect" or similar language shall be true and correct (after giving effect to any qualification therein) in all respects.

(f) There has been no change, occurrence or development since September 30, 2021 that could reasonably be expected to have a Material Adverse Effect.

(g) At the time of and immediately after giving effect to the Transactions, no Default shall have occurred and be continuing.

(h) The Administrative Agent shall have received a certificate from the Borrower's insurance broker or other evidence reasonably satisfactory to it that all insurance required to be maintained pursuant to Section 6.06 is in full force and effect, together with endorsements naming the Administrative Agent, for the benefit of the Secured Parties, as additional insured and loss payee thereunder to the extent required under Section 6.06.

(i) The Administrative Agent shall have received the annual financial statements of Old BRBR for the fiscal years ended September 30, 2020 and September 30, 2021, and the quarterly financial statements of Old BRBR for the fiscal quarter ended December 31, 2021.

(j) Substantially concurrently with the initial funding of the Facility, Old BRBR shall file with the Secretary of State of the State of Delaware a certificate of merger evidencing the Old BRBR Merger, in the form required by and executed in accordance with the relevant provisions of the General Corporation Law of the State of Delaware.

Section 4.02 *Conditions to All Credit Extensions after the Closing Date*. The obligation of each Lender to honor any Request for Credit Extension other than a Letter of Credit, and if such Request for Credit Extension is for a Letter of Credit, the obligation of the applicable L/C Issuer to honor such Request for Credit Extension, after the Closing Date (other than (x) pursuant to a Conversion/Continuation Notice and (y) in connection with the funding of an Incremental Term Loan) is subject to the following conditions precedent:

(a) The representations and warranties of the Borrower and each other Loan Party contained in Article 5 or any other Loan Document, or which are contained in any document furnished at any time under or in connection herewith or therewith, that are qualified by materiality shall be true and correct (after giving effect to any qualification therein) on and as of the date of such Credit Extension, and each of the representations and warranties of the Borrower and each other Loan Party contained in any other Loan Document or in any document furnished at any time under or in connection herewith or therewith that are not qualified by materiality shall be true and correct in all material respects on and as of the date of such Credit Extension, except in each case to the extent that such representations and warranties specifically refer to an earlier date, in which case they shall be true and correct (if qualified by materiality) after giving effect to any such qualification therein and otherwise, shall be true and correct in all material respects as of such earlier date, and except that for purposes of this Section 4.02, the representations and warranties contained in clauses (a) and (b) of Section 5.05 shall be deemed to refer to the most recent statements furnished pursuant to clauses (a) and (b), respectively, of Section 6.01 (or, if no such financial statements have yet been delivered, to those delivered pursuant to Section 4.01(i)).

(b) No Default shall exist, or would result from such proposed Credit Extension or from the application of the proceeds thereof.

(c) The Administrative Agent and, if applicable, the applicable L/C Issuer shall have received a Request for Credit Extension in accordance with the requirements hereof.

(d) The Old BRBR Merger shall have become effective under the relevant provisions of the General Corporation Law of the State of Delaware.

Each Request for Credit Extension (other than pursuant to a Conversion/Continuation Notice) submitted by the Borrower shall be deemed to be a representation and warranty that the conditions specified in Sections 4.02(a) and (b) have been satisfied on and as of the date of the applicable Credit Extension.

ARTICLE 5.
REPRESENTATIONS AND WARRANTIES

The Borrower represents and warrants to the Administrative Agent and the Lenders on the Closing Date and on the date of each Credit Extension as contemplated by Section 4.02 as to each of the matters set forth below that:

Section 5.01 *Existence, Qualification and Power*. Each Loan Party and each Restricted Subsidiary (other than any Immaterial Subsidiary) thereof (a) is duly organized or formed, validly existing and, as applicable, in good standing under the Laws of the jurisdiction of its incorporation or organization; (b) has all requisite power and authority and all requisite governmental licenses, authorizations, consents and approvals to (i) own or lease its assets and carry on its business and (ii) execute, deliver and perform its obligations under the Loan Documents to which it is a party; and (c) is duly qualified and is licensed and, as applicable, in good standing under the Laws of each jurisdiction where its ownership, lease or operation of properties or the conduct of its business requires such qualification or license; except in each case referred to in clause (b)(i) or (c), to the extent that failure to do so could not reasonably be expected to have a Material Adverse Effect.

Section 5.02 *Authorization; No Contravention*. The execution, delivery and performance by each Loan Party of each Loan Document to which such Person is party have been duly authorized by all necessary corporate or other organizational action, and do not and will not (a) contravene the terms of any of such Person's Organization Documents; (b) conflict with or result in any breach or contravention of, or the creation of any Lien under, or require any payment to be made under (i) any material contract to which such Person is a party or affecting such Person or the properties of such Person or any of its Restricted Subsidiaries or (ii) any order, injunction, writ or decree of any Governmental Authority or any arbitral award to which such Person or its property is subject; or (c) violate any Law.

Section 5.03 *Governmental Authorization; Other Consents*. No material approval, consent, exemption, authorization, or other action by, or notice to, or filing with, any Governmental Authority or any other Person is necessary or required in connection with (a) the execution, delivery or performance by, or enforcement against, any Loan Party of this Agreement or any other Loan Document, or for the consummation of the Transactions, (b) the grant by any Loan Party of the Liens granted by it pursuant to the Collateral Documents or (c) the perfection or maintenance of the Liens created under the Collateral Documents (including the priority thereof), except for (x) filings and actions completed on or prior to the Closing Date and as contemplated hereby and by the Collateral Documents necessary to perfect or maintain the Liens on the Collateral granted by the Loan Parties in favor of the Administrative Agent for the benefit of the Secured Parties (including, without limitation, UCC financing statements and filings in the United States Patent and Trademark Office and the United States Copyright Office) and (y) approvals, consents, exemptions, authorizations, actions, notices and filings which have been duly obtained, taken, given or made and are in full force and effect.

Section 5.04 *Binding Effect*. This Agreement has been, and each other Loan Document, when delivered hereunder, will have been, duly executed and delivered by each Loan Party that is party thereto. This Agreement constitutes, and each other Loan Document when so delivered will constitute, a legal, valid and binding obligation of such Loan Party, enforceable against each Loan Party that is party thereto in accordance with its terms, except to the extent that the enforceability thereof may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws generally affecting creditors' rights and by equitable principles (regardless of whether enforcement is sought in equity or at law).

Section 5.05 *Financial Statements; No Material Adverse Effect*

(a) The Annual Financial Statements of the Borrower and its Subsidiaries: (A) were prepared in accordance with GAAP consistently applied throughout the period covered thereby, except as otherwise expressly noted therein; (B) fairly present, in all material respects, the financial condition of the Borrower and its Subsidiaries as of the date thereof and their results of operations for the period covered thereby in accordance with GAAP consistently applied throughout the period covered thereby, except as otherwise expressly noted therein; (C) show all material indebtedness and other liabilities, direct or contingent, of the Borrower and its Subsidiaries, as of the date thereof, including liabilities for taxes, material commitments and Indebtedness to the extent required by GAAP and (D) were accompanied by a reconciliation that explains or otherwise shows in reasonable detail the differences between the information relating to the Borrower and its Subsidiaries, on the one hand, and the information relating to the Borrower and its Restricted Subsidiaries on a standalone basis, on the other hand.

(b) The Quarterly Financial Statements of the Borrower and its Subsidiaries: (A) were each prepared in accordance with GAAP consistently applied throughout the period covered thereby, subject only to normal year-end audit adjustments and the absence of footnotes, except as otherwise expressly noted therein, (B) fairly present, in all material respects, the financial condition of the Borrower and its Subsidiaries, as of the date thereof and their results of operations for the period covered thereby and (C) were accompanied by a reconciliation that explains or otherwise shows in reasonable detail the differences between the information relating to the Borrower and its Subsidiaries, on the one hand, and the information relating to the Borrower and its Restricted Subsidiaries on a standalone basis, on the other hand.

(c) Since September 30, 2021, there has been no event or circumstance, either individually or in the aggregate, that has had or could reasonably be expected to have a Material Adverse Effect.

Section 5.06 *Litigation*. There are no actions, suits, proceedings, claims or disputes pending or, to the knowledge of the Borrower, threatened or contemplated, at law, in equity, in arbitration or before any Governmental Authority, by or against the Borrower or any of its Restricted Subsidiaries or against any of their properties or revenues that (a) purport to affect or pertain to this Agreement or any other Loan Document or (b) either individually or in the aggregate could reasonably be expected to have a Material Adverse Effect.

Section 5.07 *Ownership of Property*. Each of the Borrower and each Restricted Subsidiary has good record and marketable title to all owned property, or valid leasehold interests or valid licenses in all leased or licensed property, reasonably necessary or used in the ordinary conduct of its business, except for such defects in title, or failure to obtain a valid leasehold interest or valid license as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

Section 5.08 *Environmental*.

(a) Each of the Loan Parties and its Restricted Subsidiaries is and has been in compliance with all Environmental Laws and has received and maintained in full force and effect all Environmental Permits required for its current operations, except where non-compliance could not, either individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

(b) To the Loan Parties' knowledge, no Hazardous Materials are present, or have been released by any Person, whether related or unrelated to any Loan Party in, on, within, above, under, affecting or emanating from any real property currently or previously owned, leased or operated by any Loan Party or its Restricted Subsidiaries (i) in a quantity, location, manner or state requiring any cleanup, investigation or remedial action pursuant to any Environmental Laws; (ii) in violation or alleged violation of any Environmental Laws; or (iii) which has or could give rise to any Environmental Liability, including any claim pursuant to any Environmental Laws against any Loan Party or its Restricted Subsidiaries, except, in each case, as could not, either individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

(c) No Environmental Claim is pending or, to the Loan Parties' knowledge, proposed, threatened or anticipated, with respect to or in connection with any Loan Party or its Restricted Subsidiaries or any real properties now or previously owned, leased or operated by any Loan Party or its Restricted Subsidiaries except as could not, either individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

(d) No properties now or, to the Loan Parties' knowledge, previously owned, leased or operated by any Loan Party or its Restricted Subsidiaries nor, to the Loan Parties' knowledge, any property to which any Loan Party or its Restricted Subsidiaries has transported or arranged for the transportation of any Hazardous Material is listed or, to the Loan Parties' knowledge, proposed for listing on the National Priorities List promulgated pursuant to CERCLA, on CERCLIS (as defined in CERCLA) or on any similar federal, state or foreign list of sites requiring investigation or cleanup, nor to the knowledge of the Loan Parties, is any such property anticipated or to the Loan Parties' knowledge, threatened to be placed on any such list, except as could not, either individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

(e) To the Loan Parties' knowledge, there are no Environmental Liabilities of any Loan Party or its Restricted Subsidiaries of any kind whatsoever, whether accrued, contingent, absolute, determined, determinable or otherwise, and there are no facts, conditions, situations or set of circumstances which could reasonably be expected to result in or be the basis for any such Environmental Liability, except, in each case, as could not, either individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

(f) No Loan Party or any of its Restricted Subsidiaries has assumed or retained any Environmental Liability of any other Person, except as could not, either individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

This Section 5.08 contains the sole and exclusive representations and warranties of the Loan Parties with respect to environmental matters.

Section 5.09 *Insurance*. The properties of the Borrower and its Restricted Subsidiaries are insured with financially sound and reputable insurance companies that are not Affiliates of the Borrower, in such amounts, with such deductibles and covering such risks as are customarily carried by companies engaged in similar businesses and owning similar properties in localities where the Borrower or the applicable Restricted Subsidiary operates.

Section 5.10 *Taxes*. The Borrower and its Restricted Subsidiaries have filed all Federal, state and other material tax returns and reports required to be filed, and have paid all Federal, state and other material taxes, assessments, fees and other governmental charges levied or imposed upon them or their properties, income, business, franchise or assets otherwise due and payable, except (a) those which are being contested in good faith by appropriate proceedings diligently conducted and for which adequate reserves have been provided in accordance with GAAP or (b) to the extent that failure to do so could not reasonably be expected to result in Material Adverse Effect.

Section 5.11 *ERISA Compliance; Labor Matters*.

(a) No ERISA Event has occurred or is reasonably expected to occur that, when taken together with all other such ERISA Events for which liability is reasonably expected to occur, could reasonably be expected to result in a Material Adverse Effect. Each Plan is in compliance in all material respects with the applicable provisions of ERISA, the Code and other Federal or state laws. Each Pension Plan that is intended to be a qualified plan under Section 401(a) of the Code has received a favorable determination or opinion/advisory letter from the Internal Revenue Service to the effect that the form of such Plan is qualified under Section 401(a) of the Code and the trust related thereto has been determined by the Internal Revenue Service to be exempt from federal income tax under Section 501(a) of the Code, or an application for such a letter is currently being processed by the Internal Revenue Service. To the best knowledge of the Borrower, nothing has occurred that would prevent or cause the loss of such tax-qualified status.

(b) There are no strikes, or other labor disputes pending or, to the Borrower's knowledge, threatened against the Borrower or any of its Restricted Subsidiaries, the hours worked and payments made to employees of the Borrower and its Restricted Subsidiaries have not been in violation of the Fair Labor Standards Act or any other applicable law dealing with such matters and all payments due from the Borrower or any of its Restricted Subsidiaries or for which any claim may be made against the Borrower or any of its Restricted Subsidiaries on account of wages and employee health and welfare insurance and other benefits have been paid or accrued as a liability on the books of the Borrower or such Restricted Subsidiary to the extent required by GAAP except, in each case, as would not reasonably be expected to result in a Material Adverse Effect. Except as could not reasonably be expected to result in a Material Adverse Effect, the consummation of the Transactions will not give rise to a right of termination or right of renegotiation on the part of any union under any material collective bargaining agreement to which the Borrower or any of its Restricted Subsidiaries (or any predecessor) is a party or by which the Borrower or any of its Restricted Subsidiaries (or any predecessor) is bound.

(c) With respect to each scheme or arrangement mandated by a government other than the United States (a "**Foreign Government Scheme or Arrangement**") and with respect to each employee benefit plan maintained, contributed to or required to be contributed to by any Loan Party or any Restricted Subsidiary of any Loan Party primarily for the benefit of any employees located outside of the United States (a "**Foreign Plan**"):

(i) any employer and employee contributions required by law or by the terms of any Foreign Government Scheme or Arrangement or any Foreign Plan have been made, or, if applicable, accrued, in accordance with normal accounting practices;

(ii) the fair market value of the assets of each funded Foreign Plan, the liability of each insurer for any Foreign Plan funded through insurance or the book reserve established for any Foreign Plan, together with any accrued contributions, is sufficient to procure or provide for the accrued benefit obligations, as of the Closing Date, with respect to all current and former participants in such Foreign Plan according to the actuarial assumptions and valuations most recently used to account for such obligations in accordance with applicable generally accepted accounting principles ("**Fully Funded**"), except where the failure to be Fully Funded, in each case, could not, either individually or in the aggregate, reasonably be expected to have a Material Adverse Effect; and

(iii) each Foreign Plan required to be registered has been registered and has been maintained in good standing with applicable regulatory authorities.

Section 5.12 *Subsidiaries; Equity Interests*. As of the Closing Date, the Borrower has no Restricted Subsidiaries other than those specifically disclosed in Part (a) of Schedule 5.12, and all of the outstanding Equity Interests in such Subsidiaries have been validly issued, are fully paid and nonassessable and are owned by the Borrower or one or more of its Subsidiaries in the amounts specified on Part (a) of Schedule 5.12 free and clear of all Liens except those created under the Collateral Documents. As of the Closing Date, (x) the Borrower has no Equity Interests in any other Person other than (i) those specifically disclosed in Part (b) of Schedule 5.12 and (ii) Equity Interests in Subsidiaries and (y) there are no Unrestricted Subsidiaries other than those listed on Part (c) of Schedule 5.12. All of the outstanding Equity Interests in the Borrower have been validly issued and are fully paid and nonassessable.

Section 5.13 *Margin Regulations; Investment Company Act*.

(a) The Borrower is not engaged and will not engage, principally or as one of its important activities, in the business of purchasing or carrying margin stock (within the meaning of Regulation U issued by the FRB), or extending credit for the purpose of purchasing or carrying margin stock.

(b) None of the Borrower, any Person Controlling the Borrower or any Restricted Subsidiary is or is required to be registered as an "investment company" under the Investment Company Act of 1940.

Section 5.14 *Disclosure*.

(a) No report, financial statement, certificate or other information furnished in writing by or on behalf of any Loan Party to the Administrative Agent or any Lender in connection with the Transactions or delivered hereunder or under any other Loan Document (in each case, taken as a whole and as modified or supplemented by other information so furnished) contains any material misstatement of fact or omits 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 Borrower represents only that such information was prepared in good faith based upon assumptions believed by it to be reasonable at the time made, it being recognized by the Administrative Agent and the Lenders that such financial information as it relates to future events is not to be viewed as fact and that actual results during the period or periods covered by such financial information may differ from the projected results set forth therein by a material amount.

(b) As of the Closing Date, the information included in the Beneficial Ownership Certification is true and correct in all respects.

Section 5.15 *Compliance with Laws*. Each Loan Party and each Restricted Subsidiary thereof is in compliance in all material respects with the requirements of all Laws and all orders, writs, injunctions and decrees applicable to it or to its properties (including the Act), except in such instances in which (a) such requirement of Law or order, writ, injunction or decree is being contested in good faith by appropriate proceedings diligently conducted; or (b) the failure to comply therewith, either individually or in the aggregate, could not reasonably be expected to have a Material Adverse Effect.

Section 5.16 *Intellectual Property; Licenses, Etc.* The Borrower and its Restricted Subsidiaries own or possess the right to use all of the trademarks, service marks, trade names, trade dress, logos, domain names and all good will associated therewith, copyrights, patents, patent rights, trade secrets, know-how, franchises, licenses, and other intellectual property rights (collectively, "**IP Rights**") that are reasonably necessary for the operation of their respective businesses as currently conducted, without conflict with the rights of any other Person, except where the failure to own or possess the right to use any such IP Rights would not reasonably be expected to have a Material Adverse Effect. The Borrower and its Restricted Subsidiaries hold all right, title and interest in and to such owned IP Rights free and clear of any Lien (other than Liens permitted by Section 7.01). No slogan or other advertising device, product, process, method, substance, part or other material or activity now employed, or now contemplated to be employed, by the Borrower or any Restricted Subsidiary infringes upon, misappropriates or otherwise violates any rights held by any other Person, except where such infringement, misappropriation or other violation would not reasonably be expected to have a Material Adverse Effect.

Section 5.17 *Solvency*. As of the Closing Date, immediately after giving effect to the consummation of the Transactions, the Borrower and its Subsidiaries on a consolidated basis are Solvent.

Section 5.18 *Collateral Documents*. The provisions of the applicable Collateral Documents are effective to create in favor of the Administrative Agent for the benefit of the Secured Parties a legal, valid and enforceable first priority Lien subject, in the case of any Collateral (other than Collateral consisting of Equity Interests), to Permitted Liens, and with respect to Collateral consisting of Equity Interests, subject to Liens permitted pursuant to Sections 7.01(a) and (y) and non-consensual Liens permitted by Section 7.01 (collectively, such Liens, "**Permitted Prior Liens**"), on all right, title and interest of the respective Loan Parties in the Collateral described therein.

Section 5.19 *Anti-Terrorism; Anti-Money Laundering; Etc.* The Borrower has implemented and maintains in effect policies and procedures designed to ensure compliance in all material respects by the Borrower, its Restricted Subsidiaries and their respective directors, officers, and employees with Anti-Corruption Laws and applicable Sanctions, and the Borrower, its Restricted Subsidiaries and, to the Borrower's knowledge, its and its Restricted Subsidiaries' respective officers and directors, are in compliance with Anti-Corruption Laws in all material respects and applicable Sanctions in all material respects and are not knowingly engaged in any activity that would reasonably be expected to result in the Borrower being designated as a Sanctioned Person. No Loan Party nor any of its Restricted Subsidiaries (i) is an "enemy" or an "ally of the enemy" within the meaning of Section 2 of the Trading with the Enemy Act of the United States (50 U.S.C. App. §§ 1 et seq.), (ii) is in violation in any material respect of (A) the Trading with the Enemy Act, (B) any of the foreign assets control regulations of the United States Treasury Department (31 CFR, Subtitle B, Chapter V) or any enabling legislation or executive order relating thereto, (C) the Act or (D) any other laws relating to terrorism or money laundering (collectively, the "**Anti-Terrorism Laws**") or (iii) is a Sanctioned Person. No part of the proceeds of any Loan and no Letter of Credit hereunder will be unlawfully used to fund any operations in, finance any investments or activities in or make any payments to, a Sanctioned Person or a Sanctioned Country, or in any other manner that will result in any violation in any material respect by any Loan Party or any Lender or Arranger, the Administrative Agent or any L/C Issuer of any Anti-Terrorism Laws or Sanctions.

Section 5.20 *Foreign Corrupt Practices Act.* No part of the proceeds of the Loans will be used, directly or indirectly, for 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 capacity, in order to obtain, retain or direct business or obtain any improper advantage, in violation of Anti-Corruption Laws.

Section 5.21 *Affected Financial Institution*. No Loan Party is an Affected Financial Institution.

ARTICLE 6.
AFFIRMATIVE COVENANTS

From and after the Closing Date, so long as any Lender shall have any Commitment hereunder, any Loan or other Obligation (other than contingent indemnification obligations as to which no claim has been asserted and obligations and liabilities under Secured Cash Management Agreements and Secured Hedge Agreements) hereunder shall remain unpaid or unsatisfied, or any Letter of Credit (other than Letters of Credit which have been Cash Collateralized or as to which other arrangements satisfactory to the applicable L/C Issuer have been made) shall remain outstanding, the Borrower shall, and shall (except in the case of the covenants set forth in Sections 6.01, 6.02, 6.03, 6.13 and 6.14) cause each Restricted Subsidiary to:

Section 6.01 *Financial Statements*. Deliver to the Administrative Agent:

(a) within 90 days after the end of each Fiscal Year of the Borrower (commencing with the Fiscal Year ending September 30, 2022), a consolidated balance sheet of the Borrower and its Subsidiaries as at the end of such Fiscal Year, and the related consolidated statements of income or operations, changes in Shareholders' Equity, and cash flows for such Fiscal Year, setting forth in each case in comparative form the figures for the previous Fiscal Year, all in reasonable detail and prepared in accordance with GAAP, audited and accompanied by a report and opinion of PricewaterhouseCoopers LLP or any other independent certified public accountant of nationally recognized standing, which report and opinion shall be prepared in accordance with generally accepted auditing standards and shall not be subject to any "going concern" qualification, "going concern" exception or "going concern" explanatory paragraph (other than a "going concern" qualification, exception or explanatory paragraph resulting solely from an upcoming maturity date under any Indebtedness occurring within one year from the time such opinion is delivered) or any qualification or exception paragraph as to the scope of such audit; *provided*, that the foregoing financial statements are accompanied by a reconciliation that explains or otherwise shows in reasonable detail the differences between the information relating to the Borrower and its Subsidiaries, on the one hand, and the information relating to the Borrower and its Restricted Subsidiaries on a standalone basis, on the other hand;

(b) in connection with each of the first three fiscal quarters of each Fiscal Year of the Borrower (commencing with the fiscal quarter ending March 31, 2022), within 45 days after the end of each such fiscal quarter, a consolidated balance sheet of the Borrower and its Subsidiaries as at the end of such fiscal quarter, the related consolidated statements of income or operations for such fiscal quarter and for the portion of the Borrower's Fiscal Year then ended, and the related consolidated statements of changes in Shareholders' Equity, and cash flows for the portion of the Borrower's Fiscal Year then ended, in each case setting forth in comparative form, as applicable, the figures for the corresponding fiscal quarter of the previous Fiscal Year and the corresponding portion of the previous Fiscal Year, all in reasonable detail, certified by the chief executive officer, chief financial officer, chief accounting officer, treasurer or controller of the Borrower as fairly presenting, in all material respects, the financial condition, results of operations, Shareholders' Equity and cash flows of the Borrower and its Subsidiaries in accordance with GAAP, subject only to normal year-end audit adjustments and the absence of footnotes; *provided*, that the foregoing financial statements are accompanied by a reconciliation that explains or otherwise shows in reasonable detail the differences between the information relating to the Borrower and its Subsidiaries, on the one hand, and the information relating to the Borrower and its Restricted Subsidiaries on a standalone basis, on the other hand (the "**Quarterly Financial Statements**"); and

(c) not later than 60 days after the end of each Fiscal Year of the Borrower (commencing with the Fiscal Year ending September 30, 2022), an annual budget of the Borrower and its Restricted Subsidiaries on a consolidated basis consisting of consolidated balance sheets and statements of income or operations and cash flows of the Borrower and its Restricted Subsidiaries on a quarterly basis for the then-current Fiscal Year (including the Fiscal Year in which the Latest Maturity Date occurs, if such Fiscal Year is the then-current Fiscal Year).

As to any information contained in materials furnished pursuant to Section 6.02(c), the Borrower shall not be required separately to furnish such information under Section 6.01(a) or (b), but the foregoing shall not be in derogation of the obligation of the Borrower to furnish the information and materials described in Section 6.01(a) or (b) at the times specified therein.

Section 6.02 *Certificates; Other Information*. Deliver to the Administrative Agent, in form and detail reasonably satisfactory to the Administrative Agent:

(a) concurrently with the delivery of the financial statements referred to in Sections 6.01(a) and (b), a duly completed Compliance Certificate signed by the chief executive officer, chief financial officer, treasurer, controller or other officer of the Borrower;

(b) promptly after any request by the Administrative Agent or the Required Lenders acting through the Administrative Agent, copies of any detailed audit reports, management letters or recommendations submitted to the board of directors (or the audit committee of the board of directors) of the Borrower by independent accountants in connection with the accounts or books of the Borrower or any Restricted Subsidiary, or any audit of any of them;

(c) promptly after the same are available, copies of each annual report, proxy or financial statement or other report or communication sent to the shareholders of the Borrower, and copies of all annual, regular, periodic and special reports and registration statements which the Borrower may file or be required to file with the SEC under Section 13 or 15(d) of the Securities Exchange Act of 1934, whether or not otherwise required to be delivered to the Administrative Agent pursuant hereto; *provided* that to the extent any such documents are filed with the SEC, such documents shall be deemed delivered pursuant to this Section 6.02(c) at the time of and so long as the Borrower notifies the Administrative Agent (by facsimile or electronic mail) of the filing with the SEC of any such documents; and

(d) promptly, such additional information regarding the business, financial or corporate affairs of the Borrower or any Restricted Subsidiary, or compliance with the terms of the Loan Documents, as the Administrative Agent or the Required Lenders, through the Administrative Agent, may from time to time reasonably request.

Documents required to be delivered pursuant to Section 6.01(a) or (b) or Section 6.02(c) (to the extent any such documents are included in materials otherwise filed with the SEC) may be delivered electronically and if so delivered, shall be deemed to have been delivered on the date (1) on which the Borrower posts such documents, or provides a link thereto on the Borrower's website, on the Internet at the website address listed on Schedule 10.02 or (2) on which such documents are posted on the Borrower's behalf on an Internet or intranet website, if any, to which each Lender and the Administrative Agent has access (whether a commercial, third-party website or whether sponsored by the Administrative Agent).

The Borrower hereby acknowledges that (a) the Administrative Agent and/or the Arrangers and the Co-Managers will make available to the Lenders and the L/C Issuers materials and/or information provided by or on behalf of the Borrower hereunder (collectively, "**Borrower Materials**") by posting the Borrower Materials on IntraLinks, SyndTrak or another similar electronic system (the "**Platform**") and (b) certain of the Lenders (each, a "**Public Lender**") may have personnel who do not wish to receive material non-public information within the meaning of United States federal securities laws ("**MNPI**") with respect to the Borrower or its Subsidiaries, or the respective securities of any of the foregoing, and who may be engaged in investment and other market-related activities with respect to such Persons' securities. The Borrower hereby agrees that (w) all Borrower Materials that are to be made available to Public Lenders shall be clearly and conspicuously marked "PUBLIC" which, at a minimum, shall mean that the word "PUBLIC" shall appear prominently on the first page thereof; (x) by marking Borrower Materials "PUBLIC," the Borrower shall be deemed to have authorized the Administrative Agent, the Arrangers, the Co-Managers, the L/C Issuers and the Lenders to treat such Borrower Materials as not containing any MNPI with respect to the Borrower or its Subsidiaries, or their respective securities (*provided*, *however*, that to the extent such Borrower Materials constitute Information, they shall be treated as set forth in Section 10.07); (y) all Borrower Materials marked "PUBLIC" are permitted to be made available through a portion of the Platform designated "Public Side Information" (and the Administrative Agent agrees that only Borrower Materials marked "PUBLIC" will be made available on such portion of the Platform); and (z) the Administrative Agent, the Co-Managers and the Arrangers shall be entitled to treat any Borrower Materials that are not marked "PUBLIC" as being suitable only for posting on a portion of the Platform that is not designated "Public Side Information." Notwithstanding the foregoing, the Borrower shall be under no obligation to mark any Borrower materials "PUBLIC."

Section 6.03 *Notices*. Promptly notify the Administrative Agent when a Responsible Officer of the Borrower has knowledge:

(a) of the occurrence of any Default;

(b) of any matter that has resulted or would reasonably be expected to result in a Material Adverse Effect, including (i) breach or non-performance of, or any default under, a Contractual Obligation of the Borrower or any Restricted Subsidiary; (ii) any dispute, litigation, investigation, proceeding or suspension between the Borrower or any Restricted Subsidiary and any Governmental Authority, including in connection with any tax liabilities, assessments, governmental charges or levies upon it or its properties or assets; and (iii) the commencement of, or any material development in, any litigation or proceeding affecting the Borrower or any Restricted Subsidiary, including pursuant to any applicable Environmental Laws;

(c) of the occurrence of any ERISA Event that, alone or together with any other ERISA Events that have occurred or are reasonably expected to occur, would reasonably be expected to result in a Material Adverse Effect; or

(d) of the incurrence or issuance of any Indebtedness for which the Borrower is required to make a mandatory prepayment pursuant to Section 2.05(b)(i).

Each notice pursuant to this Section 6.03 shall be accompanied by a statement of a Responsible Officer of the Borrower setting forth details of the occurrence referred to therein and stating what action the Borrower has taken and proposes to take with respect thereto. Each notice pursuant to Section 6.03(a) shall describe with particularity any and all provisions of this Agreement and any other Loan Document, if any, that have been breached.

Section 6.04 *Preservation of Existence, Etc.* (a) Preserve, renew and maintain in full force and effect its legal existence and good standing under the Laws of the jurisdiction of its organization except in a transaction permitted by Section 7.04 or Section 7.05; (b) maintain all rights, privileges, permits, and licenses reasonably necessary in the normal conduct of its business, except to the extent that failure to do so could not reasonably be expected to have a Material Adverse Effect; (c) preserve, maintain, renew and keep in full force and effect all of its registered patents, trademarks, trade names, trade dress and service marks, the failure of which to so preserve, maintain, renew or keep in full force and effect could reasonably be expected to have a Material Adverse Effect; and (d) pay, discharge or otherwise satisfy as the same shall become due and payable all Federal, state and other Tax liabilities, assessments and governmental charges or levies upon it or its properties or assets, unless the same are being contested in good faith by appropriate proceedings diligently conducted and adequate reserves in accordance with GAAP are being maintained by the Borrower or such Restricted Subsidiary, except to the extent that failure to do so could not reasonably be expected to have a Material Adverse Effect.

Section 6.05 *Maintenance of Properties*. (a) Maintain, preserve and protect all of its properties and equipment necessary in the operation of its business in good working order and condition, ordinary wear and tear excepted, and (b) make all necessary repairs thereto and renewals and replacements thereof, in each case with respect to clauses (a) and (b) except where the failure to do so could not reasonably be expected to have a Material Adverse Effect.

Section 6.06 *Maintenance of Insurance*. Maintain with financially sound and reputable insurance companies (that are not Affiliates of the Borrower) insurance with respect to its properties and business against loss or damage of the kinds customarily insured against by Persons engaged in the same or similar business, of such types and in such amounts as are customarily carried under similar circumstances by such other Persons, and providing for not less than 30 days' prior notice to the Administrative Agent of termination, lapse or cancellation of such insurance, which insurance (except as to Excluded Subsidiaries and Immaterial Subsidiaries) shall name the Administrative Agent as loss payee (in the case of casualty insurance) or additional insured (in the case of liability insurance); *provided, however*, if any insurance proceeds are paid on account of a casualty to assets or properties of any Loan Party constituting Collateral and at such time no Event of Default shall have occurred and is continuing, then the Administrative Agent shall take such actions, including endorsement, to cause any such insurance proceeds to be promptly remitted to the Borrower to be used by the Borrower or such Loan Party in any manner not prohibited by this Agreement.

Section 6.07 *Compliance with Laws*. Comply with the requirements of all Laws and all orders, writs, injunctions and decrees applicable to it or to its business or property, except in such instances in which (a) such requirement of Law or order, writ, injunction or decree is being contested in good faith by appropriate proceedings diligently conducted or (b) the failure to comply therewith could not reasonably be expected to have a Material Adverse Effect. Maintain in effect and enforce policies and procedures designed to ensure compliance in all material respects by the Borrower and its Restricted Subsidiaries and their respective directors, officers, and employees with Anti-Corruption Laws and applicable Sanctions.

Section 6.08 *Books and Records*. Maintain proper books of record and account, in which full, true and correct entries in conformity with GAAP consistently applied shall be made of all financial transactions, and, if and to the extent required by GAAP, matters involving the assets and business of the Borrower or such Restricted Subsidiary, as the case may be.

Section 6.09 *Inspection Rights*. Permit representatives and independent contractors of the Administrative Agent to visit and inspect any of its properties, to examine its corporate, financial and operating records, and to make copies thereof or abstracts therefrom, and to discuss its affairs, finances and accounts with its directors, officers, and independent public accountants, at such reasonable times during normal business hours and as often as may be reasonably desired (but in no event more than one time per Fiscal Year of the Borrower and with the Borrower being required to pay all reasonable out-of-pocket expenses for one visit each Fiscal Year) by the Administrative Agent, upon reasonable advance notice to the Borrower; *provided*, *however*, that when an Event of Default exists the Administrative Agent (or any of its respective representatives or independent contractors) may do any of the foregoing at the expense of the Borrower at any time during normal business hours and without advance notice, and without limitation as to frequency.

Section 6.10 *Use of Proceeds*. Use the proceeds of the Credit Extensions (a) to pay any fees, costs and expenses related to the Transactions, (b) for the Refinancing and (c) for working capital, acquisitions, Investments, inter-company transactions and for other general corporate purposes (including the payment of merger consideration as contemplated by the Transaction Agreement (the "**Transaction Merger Consideration**")) not in contravention of any Law or of any Loan Document.

Section 6.11 *Covenant to Guarantee Obligations and Give Security*. Upon the formation or acquisition by any Loan Party of any new direct or indirect Subsidiary (other than any Excluded Subsidiary or any Immaterial Subsidiary), or upon a Subsidiary of any Loan Party ceasing to be an Excluded Subsidiary or ceasing to be an Immaterial Subsidiary, as applicable, the Borrower shall, at the Borrower's expense:

(i) within 30 days (as such time may be extended by the Administrative Agent in its reasonable discretion) following the creation or acquisition of such Subsidiary or following such Subsidiary ceasing to be an Excluded Subsidiary or ceasing to be an Immaterial Subsidiary, as applicable, cause such Subsidiary to (a) become a Guarantor and provide the Administrative Agent, for the benefit of the Secured Parties, a Lien on its assets (other than Excluded Assets) to secure the Obligations by executing and delivering to the Administrative Agent a joinder to the Collateral Agreement or such other document as the Administrative Agent shall deem appropriate for such purpose and (b) deliver to the Administrative Agent such other customary documentation reasonably requested by the Administrative Agent including, without limitation, favorable opinions of counsel to such Person (which shall cover, among other things, the legality, validity, binding effect and enforceability of the documentation referred to in clause (a)), all in form, content and scope reasonably satisfactory to the Administrative Agent;

(ii) within 30 days after such formation or acquisition or after such Subsidiary ceases to be an Excluded Subsidiary or ceases to be an Immaterial Subsidiary, as applicable, cause each direct and indirect parent (to the extent such parent is a Loan Party) of such Subsidiary to pledge its interests in such Subsidiary to the Administrative Agent, for the benefit of the Secured Parties, to secure such parent's Obligations (if it has not already done so) and deliver to the Administrative Agent all certificated Equity Interests of such Subsidiary (if any) together with transfer powers in respect thereof endorsed in blank, and cause such Subsidiary:

(A) to duly execute and deliver to the Administrative Agent, for the benefit of the Secured Parties, any additional collateral and security agreements or supplements thereto, as reasonably specified by and in form and substance reasonably satisfactory to the Administrative Agent to secure payment of all the Obligations of such Subsidiary and constituting Liens on the personal property (other than Excluded Assets) of such Subsidiary; and

(B) to take whatever action (including the filing of UCC financing statements) may be necessary or advisable in the reasonable opinion of the Administrative Agent to vest in the Administrative Agent (or in any representative of the Administrative Agent designated by it) valid and subsisting first priority perfected Liens on Collateral purported to be subject to the Collateral Agreement and other agreements delivered pursuant to this Section 6.11, subject to Permitted Prior Liens; and

(iii) within 30 days after such formation or acquisition or after such Subsidiary ceases to be an Excluded Subsidiary or ceases to be an Immaterial Subsidiary, as applicable, deliver to the Administrative Agent, upon the request of the Administrative Agent, a signed copy of a favorable opinion, addressed to the Administrative Agent and the other Secured Parties, of counsel for the Loan Parties reasonably acceptable to the Administrative Agent as to the matters contained in clauses (i) and (ii) above, and as to such other matters as the Administrative Agent may reasonably request.

Notwithstanding any of the foregoing to the contrary or Section 6.15 below, (i) the Collateral shall exclude Excluded Assets, and shall be subject to the limitations and exclusions set forth in the applicable Collateral Documents, and (ii) no Foreign Subsidiary shall be required to become a Guarantor or grant a Lien on any of its assets (other than a pledge of Equity Interests in any of its Subsidiaries pursuant to clause (ii) above to the extent otherwise required hereunder (provided, however, no legal opinions of foreign counsel shall be required)) to secure any of the Obligations.

Section 6.12 *Compliance with Environmental Laws*. Comply, and cause all lessees and other Persons operating or occupying its owned properties to comply, with all applicable Environmental Laws and Environmental Permits, except where the failure to so comply would not reasonably be likely to have a Material Adverse Effect; and, if ordered by a final decree to do so by a Governmental Authority or otherwise required in the reasonable opinion of the Borrower pursuant to any Environmental Law, conduct any investigation, study, sampling and testing, and undertake any cleanup, removal, remedial or other action reasonably necessary to address, and to be in material compliance with, such final decree or the material requirements of Environmental Laws; *provided, however,* that neither the Borrower nor any of its Restricted Subsidiaries shall be required to undertake any such ordered or required cleanup, removal, remedial or other action to the extent that its obligation to do so is being contested in good faith and by proper proceedings and appropriate reserves are being maintained with respect to such circumstances in accordance with GAAP.

Section 6.13 *Environmental Disclosure*. The Borrower will deliver to the Administrative Agent:

(a) as soon as practicable following receipt thereof, copies of all environmental audits, investigations, analyses and reports of any kind or character, whether prepared by personnel of the Borrower or any of its Restricted Subsidiaries or by independent consultants, Governmental Authorities or any other Persons, with respect to significant environmental matters at the Borrower's or any other Loan Party's real property or with respect to any Environmental Claims, in each case, that would reasonably be expected to have a Material Adverse Effect;

(b) promptly following the occurrence thereof, written notice describing in reasonable detail (A) any Release required to be reported by the Borrower or any of its Restricted Subsidiaries to any federal, state or local governmental or regulatory agency under any Environmental Laws that would reasonably be expected to have a Material Adverse Effect, (B) any remedial action taken by the Borrower or any of its Restricted Subsidiaries or any other Persons of which the Borrower or any of its Restricted Subsidiaries has knowledge in response to (1) any Hazardous Materials Activities, the existence of which has a reasonable possibility of resulting in one or more Environmental Claims that would reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect or (2) any Environmental Claims that, individually or in the aggregate, would reasonably be expected to result in a Material Adverse Effect and (C) the Borrower's discovery of any occurrence or condition arising under Environmental Law or relating to Hazardous Materials on any real property adjoining or in the vicinity of any facility that reasonably would be expected to have a Material Adverse Effect;

(c) as soon as practicable following the sending or receipt thereof by the Borrower or any of its Restricted Subsidiaries, a copy of any and all non-privileged written communications with respect to (A) any Environmental Claims that, individually or in the aggregate, would reasonably be expected to give rise to a Material Adverse Effect, (B) any Release required to be reported by the Borrower or any of its Restricted Subsidiaries to any federal, state or local governmental or regulatory agency that would reasonably be expected to have a Material Adverse Effect, and (C) any request made to the Borrower or any of its Restricted Subsidiaries for information from any governmental agency that suggests such agency is investigating whether the Borrower or any of its Restricted Subsidiaries may be potentially responsible for any Hazardous Materials Activity which would reasonably be expected to have a Material Adverse Effect;

(d) prompt written notice describing in reasonable detail (A) any proposed acquisition of stock, assets, or property by the Borrower or any of its Restricted Subsidiaries that would reasonably be expected to expose the Borrower or any of its Restricted Subsidiaries to, or result in, Environmental Claims that would reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect and (B) any proposed action to be taken by the Borrower or any of its Restricted Subsidiaries to modify current operations in a manner that could subject the Borrower or any of its Restricted Subsidiaries to any additional obligations or requirements under any Environmental Law that would reasonably be expected to have a Material Adverse Effect; and

(e) with reasonable promptness, such other documents and information as from time to time may be reasonably requested by the Administrative Agent in relation to any matters disclosed pursuant to this Section 6.13.

Section 6.14 *Lender Calls*. If requested in writing by the Administrative Agent, participate in an annual meeting of the Administrative Agent and the Lenders to be held at the Borrower's corporate offices (or at such other location as may be agreed to by the Borrower and the Administrative Agent, including by telephonic conference calls) at such time as may be agreed to by the Borrower and the Administrative Agent; *provided* that if, at any point, the Borrower is no longer required to file periodic reports under the Exchange Act, the Borrower shall be required to invite the Lenders to participate in any quarterly conference calls made available to the holders of any of the Senior Notes (although the Borrower shall have no obligation to hold any such quarterly conference calls).

Section 6.15 *Further Assurances*. Promptly following a request by the Administrative Agent or the Required Lenders through the Administrative Agent, (a) correct any material defect or error that may be discovered in any Loan Document or in the execution, acknowledgment, filing or recordation thereof, and (b) do, execute, acknowledge, deliver, record, re-record, file, re-file, register and re-register any and all such further acts, deeds, certificates, assurances and other instruments as the Administrative Agent, or any Lender through the Administrative Agent, may reasonably require from time to time in order to (i) carry out more effectively the purposes of the Loan Documents, (ii) to the fullest extent permitted by applicable law, subject any Loan Party's properties, assets, rights or interests to the Liens now or hereafter intended to be covered by any of the Collateral Documents or Section 6.11, (iii) perfect and maintain the validity, effectiveness and priority of any of the Collateral Documents and any of the Liens intended to be created thereunder and (iv) assure, convey, grant, assign, transfer, preserve, protect and confirm more effectively unto the Secured Parties the rights granted or now or hereafter intended to be granted to the Secured Parties under any Loan Document or under any other instrument executed in connection with any Loan Document to which any Loan Party or any of its Restricted Subsidiaries is or is to be a party, and cause each of its Restricted Subsidiaries to do so; *provided* that, notwithstanding the foregoing, the Loan Parties shall not be required to take actions to create or perfect the security interest of the Administrative Agent (x) on any property that is covered by a certificate of title statute of any jurisdiction under the law of which the indication of a security interest on such certificate is required as a condition of perfection thereof, or (y) if recordation of a security interest with the Federal Aviation Administration or the International Registry of Mobile Assets is required as a condition of perfection thereof.

Section 6.16 *[Reserved]*.

Section 6.17 *Designation of Restricted and Unrestricted Subsidiaries.*

The Borrower may designate any Restricted Subsidiary to be an Unrestricted Subsidiary in accordance with the definition of "Unrestricted Subsidiary"; *provided* that (i) immediately before and after giving effect to such designation, no Event of Default shall have occurred and be continuing, (ii) the Borrower shall be in pro forma compliance with the financial covenant set forth in Section 7.11, and (iii) no Subsidiary may be designated as an Unrestricted Subsidiary if it is a "Restricted Subsidiary" as defined in any of the Senior Notes.

All outstanding Investments owned by the Borrower and its Restricted Subsidiaries in the designated Unrestricted Subsidiary will be treated as an Investment by the Borrower or such Restricted Subsidiary, as applicable, made at the time of the designation. The amount of all such outstanding Investments will be the aggregate fair market value of such Investments at the time of the designation. The designation will not be permitted if such Investment would not be permitted under Section 7.02 at that time and if such Restricted Subsidiary does not otherwise meet the definition of an Unrestricted Subsidiary. Any designation of a Subsidiary of the Borrower as an Unrestricted Subsidiary shall be evidenced to the Administrative Agent by delivering to the Administrative Agent a certificate signed by a Responsible Officer of the Borrower certifying that such designation complied with the foregoing conditions and the conditions set forth in the definition of "Unrestricted Subsidiary" and was permitted by this Section 6.17, *provided, however*, (i) no Subsidiary may be designated as an Unrestricted Subsidiary if such designated Unrestricted Subsidiary will own any IP Rights and the failure of the Borrower or any of its Restricted Subsidiaries to own such IP Rights could reasonably be expected to have a Material Adverse Effect and (ii) neither the Borrower nor any of its Restricted Subsidiaries shall be permitted to contribute or dispose of any IP Rights to an Unrestricted Subsidiary if (x) the failure by the Borrower or any of its Restricted Subsidiaries to own such IP Rights could reasonably be expected to have a Material Adverse Effect or (y) after giving effect to such contribution or disposition the Borrower would not be in pro forma compliance with the covenant set forth in Section 7.11.

If, at any time, any Unrestricted Subsidiary would fail to meet any of the requirements of an Unrestricted Subsidiary, it shall thereafter cease to be an Unrestricted Subsidiary for purposes of this Agreement and (1) any Indebtedness of such Subsidiary, (2) any Liens of such Subsidiary and (3) any Investments of such Subsidiary, in each case shall be deemed to be incurred by a Restricted Subsidiary of the Borrower as of such date and, if such Liens, Investments, or Indebtedness are not permitted to be incurred as of such date under Section 7.01, Section 7.02 or Section 7.03, as applicable, the Borrower shall be in default of such Section 7.01, Section 7.02 or Section 7.03, as applicable.

The Borrower may at any time designate any Unrestricted Subsidiary to be a Restricted Subsidiary; *provided* that such designation shall be deemed to be an incurrence, on the date of designation, of Indebtedness, Liens and Investments by a Restricted Subsidiary of the Borrower of any outstanding Indebtedness, Liens and Investments of such Unrestricted Subsidiary and such designation shall only be permitted if (1) such Liens are permitted under Section 7.01, such Investments are permitted under Section 7.02, and such Indebtedness is permitted under Section 7.03; and (2) no Event of Default under Sections 8.01(a), (f) and (g) shall have occurred and be continuing.

ARTICLE 7.
NEGATIVE COVENANTS

From and after the Closing Date, so long as any Lender shall have any Commitment hereunder, any Loan or other Obligation (other than contingent indemnification obligations as to which no claim has been asserted and obligations and liabilities under Secured Cash Management Agreements and Secured Hedge Agreements) hereunder shall remain unpaid or unsatisfied, or any Letter of Credit (other than Letters of Credit which have been Cash Collateralized or as to which other arrangements satisfactory to the L/C Issuer have been made) shall remain outstanding, the Borrower shall not, nor shall it permit any Restricted Subsidiary to, directly or indirectly:

Section 7.01 *Liens*. Create, incur, assume or suffer to exist any Lien upon any of its property, assets or revenues, whether now owned or hereafter acquired, other than the following:

(a) Liens pursuant to any Loan Document securing the Obligations;

(b) Liens existing on the Closing Date and listed on Schedule 7.01 and any modifications, replacements, renewals or extensions thereof; *provided* that (i) the Lien does not extend to any additional property other than (A) after-acquired property that is affixed or incorporated into the property covered by such Lien and (B) proceeds and products thereof, and (ii) the modification, replacement, renewal or extension of the obligations secured or benefited thereby, to the extent constituting Indebtedness, is permitted by Section 7.03(b);

(c) Liens for taxes (i) which are (x) not then more than 30 days overdue or (y) being contested in good faith and by appropriate proceedings diligently conducted, if adequate reserves with respect thereto are maintained on the books of the applicable Person in accordance with GAAP or (ii) with respect to which the failure to make payment would not reasonably be expected to have a Material Adverse Effect;

(d) carriers', warehousemen's, landlords', mechanics', materialmen's, repairmen's or other like Liens granted or arising in the ordinary course of business (i) which secure amounts not overdue for a period of more than 60 days or if more than 60 days overdue, are unfiled and either no other action has been taken to enforce such Lien or such Liens are being contested in good faith and by appropriate proceedings diligently conducted, if adequate reserves with respect thereto are maintained on the books of the applicable Person in accordance with GAAP or (ii) with respect to which the failure to make payment could not reasonably be expected to have a Material Adverse Effect;

(e) pledges or deposits in the ordinary course of business in connection with workers' compensation, unemployment insurance and other social security legislation, other than any Lien imposed by ERISA;

(f) deposits to secure the performance of bids, trade contracts and leases (other than Indebtedness for borrowed money), statutory obligations, surety, stay, customs and appeal bonds, performance bonds and other obligations of a like nature incurred in the ordinary course of business;

(g) easements, rights-of-way, restrictions (including zoning restrictions), encroachments, protrusions and other similar encumbrances and minor title defects affecting real property which, in the aggregate, do not materially interfere with the ordinary conduct of the business of the applicable Person; and Liens securing obligations (other than obligations representing Indebtedness for borrowed money) under operating, reciprocal easement or similar agreements entered into in the ordinary course of business of the Borrower and its Subsidiaries;

(h) Liens securing judgments, awards and decrees for the payment of money not constituting an Event of Default under Section 8.01(h) or securing appeal or other surety bonds related to such judgments;

(i) (i) Liens securing Indebtedness permitted under Section 7.03(e); *provided* that (A) such Liens do not at any time encumber any property (except for replacements, additions and accessions to such property) other than the property financed by such Indebtedness and (B) the Indebtedness secured thereby does not exceed the cost or fair market value of the property, whichever is lower, being acquired on the date of acquisition, improvements thereto and related expenses; *provided* that individual financings of equipment provided by one lender may be cross collateralized to other financings of equipment provided by such lender on customary terms; and (ii) Liens securing Indebtedness permitted under Section 7.03(t); *provided* that (w) such Liens existed on the property or asset prior to the acquisition thereof by the Borrower or any Restricted Subsidiary or existed on the property or asset of any Person that becomes a Restricted Subsidiary in connection with a Permitted Acquisition or other Investment in the nature of an acquisition; (x) such Lien is not created in connection with such acquisition or such Person becoming a Restricted Subsidiary as a result of such Investment, as the case may be and (y) such Lien shall not encumber any other property or assets of the Borrower or any Restricted Subsidiary (other than any Person acquired by the Borrower or any Restricted Subsidiary as a result of a Permitted Acquisition or other Investment in the nature of an acquisition and any Restricted Subsidiary of such acquired Person as of the date of such Permitted Acquisition or other Investment in the nature of an acquisition);

(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 Borrower or any Restricted Subsidiary or (ii) secure any Indebtedness;

(k) other Liens on property securing Indebtedness and other obligations in an aggregate principal amount outstanding at any time which does not exceed the greater of $125,000,000 and 50% of Consolidated EBITDA based on the Most Recent Financial Statements, in the aggregate;

(l) Liens on property of Restricted Subsidiaries that are not Loan Parties securing Indebtedness of such Restricted Subsidiaries that are not Loan Parties permitted by Section 7.03;

(m) Liens arising in connection with a Qualified Receivables Transaction on Receivables Program Assets permitted to be Disposed of pursuant to Section 7.05(l) securing Receivables Program Obligations permitted by Section 7.03(j);

(n) Liens in favor of custom and revenue authorities arising as a matter of law to secure payment of non-delinquent customs duties in connection with the importation of goods;

(o) Liens upon specific items of inventory or other goods and proceeds of any Person securing such Person's obligations in respect of letters of credit and bankers' acceptances issued or created for the account of such Person to facilitate the purchase, shipment or storage of such inventory or other goods;

(p) (i) Liens arising out of conditional sale, consignment, title retention or similar arrangements for the sale of goods entered into by the Borrower or any of its Restricted Subsidiaries in the ordinary course of business and (ii) purported Liens evidenced by the filing of UCC financing statements relating solely to operating leases or consignment or bailee arrangements entered into in the ordinary course of business;

(q) Liens (i) of a collection bank arising under Section 4-210 of the UCC on items in the course of collection; (ii) attaching to commodity trading accounts or other commodity brokerage accounts incurred in the ordinary course of business; and (iii) in favor of banking institutions arising as a matter of law encumbering deposits (including the right of set-off) and which are within the general parameters customary in the banking industry;

(r) deposits made in the ordinary course of business to secure liability to insurance carriers, and Liens on insurance policies and the proceeds thereof securing the financing of the premiums with respect thereto;

(s) Liens on Cash Collateral granted in favor of any Lenders and/or L/C Issuers created as a result of any requirement or option to Cash Collateralize pursuant to this Agreement;

(t) Liens that are customary contractual rights of setoff (i) relating to the establishment of depository relations with banks or other financial institutions not given in connection with the incurrence of Indebtedness; (ii) relating to pooled deposit or sweep accounts of the Borrower or any of its Restricted Subsidiaries to permit satisfaction of overdraft or similar obligations incurred in the ordinary course of business of the Borrower or any of its Restricted Subsidiaries; or (iii) relating to purchase orders and other agreements entered into with customers of the Borrower or any of its Restricted Subsidiaries in the ordinary course of business;

(u) (i) zoning, building, entitlement and other land use regulations by Governmental Authorities with which the normal operation of the business complies except for such noncompliance that does not materially interfere with the ordinary conduct of the business of the Borrower or any of its Restricted Subsidiaries; and (ii) any zoning or similar law or right reserved to or vested in any Governmental Authority to control or regulate the use of any real property that does not materially interfere with the ordinary conduct of the business of the Borrower or any of its Restricted Subsidiaries;

(v) Liens solely on any cash earnest money deposits made by the Borrower or any of its Restricted Subsidiaries in connection with any letter of intent or purchase agreement permitted hereunder;

(w) licenses and sublicenses of IP Rights, and Liens under licensing agreements for the use of intellectual property, in each case, either entered into in the ordinary course of business or pursuant to a bona fide transaction intended or expected to increase, maintain or preserve, or prevent a decrease in, the revenue, profits, cash flow, or value of the Borrower and its Restricted Subsidiaries, taken as a whole, and which could not reasonably be expected to have a Material Adverse Effect;

(x) Liens on cash and Cash Equivalents in an aggregate amount outstanding at any time not to exceed the greater of $100,000,000 and 40% of Consolidated EBITDA based on the Most Recent Financial Statements to secure obligations of the Borrower or any Restricted Subsidiary in respect of ordinary course cash management arrangements or under Swap Contracts, in each case, that do not constitute Obligations;

(y) Liens on Collateral securing obligations under the documentation for Indebtedness permitted pursuant to Section 7.03(s); *provided* that, if such indebtedness is secured by any or all of the Collateral, such Liens shall be subject to the Pari Passu Intercreditor Agreement, and (if then in effect) the Junior Lien Intercreditor Agreement if such indebtedness is secured on a pari passu basis (without regard to the control of remedies) with the Obligations and, otherwise, to the Junior Lien Intercreditor Agreement;

(z) Liens arising in the ordinary course of business under the Perishable Agricultural Commodities Act of 1930;

(aa) Liens on Equity Interests in joint ventures or Unrestricted Subsidiaries (i) securing obligations of such joint ventures or Unrestricted Subsidiaries or (ii) pursuant to the relevant joint venture agreement or arrangements;

(bb) Liens arising out of sale and lease-back transactions permitted under Section 7.15;

(cc) Liens (i) in favor of the Borrower or any Loan Party granted by a Restricted Subsidiary that is not a Loan Party or (ii) granted by any non-Loan Party in favor of any other non-Loan Party, in the case of each of clauses (i) and (ii), securing intercompany Indebtedness permitted under Section 7.02 or Section 7.03;

(dd) Liens on cash or Cash Equivalents in respect of ordinary course cash management arrangements;

(ee) ground leases in respect of real property on which facilities owned or leased by the Borrower or any of its Restricted Subsidiaries are located;

(ff) Liens on fee owned real property and related improvements and fixtures or other assets not constituting Collateral which secure Indebtedness in an aggregate principal amount outstanding at any time not to exceed the greater of $30,000,000 and 12.00% of Consolidated EBITDA; and

(gg) Liens securing Indebtedness permitted under Section 7.03(aa); provided that such Liens do not at any time encumber any property other than assets owned by such Restricted Subsidiary and its Subsidiaries incurring such Indebtedness permitted under Section 7.03(aa).

Section 7.02 *Investments*. Make any Investments, except:

(a) Investments held by the Borrower or such Restricted Subsidiary in the form of cash and Cash Equivalents;

(b) advances to officers, directors, employees and consultants of the Borrower and Restricted Subsidiaries (i) in an aggregate amount not to exceed $5,000,000 at any time outstanding, for payroll, salary, travel, entertainment, relocation and analogous ordinary business purposes; and (ii) in connection with such Person's purchase of Equity Interests of the Borrower, *provided* that no cash is actually advanced pursuant to this clause (ii) unless promptly repaid;

(c) Investments (i) existing on the Closing Date in Subsidiaries existing on the Closing Date; *provided* that in the case of this clause (i), any such Investments in Restricted Subsidiaries that are not Loan Parties in the form of intercompany loans by Loan Parties if in excess of $10,000,000 in the aggregate shall be evidenced by notes that have been pledged (individually or pursuant to a global note) to the Administrative Agent in form and substance reasonably satisfactory to the Administrative Agent for the benefit of the Secured Parties unless such pledge would, in the good faith judgment of the Borrower, result in adverse tax consequences to the Borrower and its Restricted Subsidiaries as reasonably determined by Borrower in consultation with the Administrative Agent; (ii) in Loan Parties (including those formed or acquired after the Closing Date so long as the Borrower and its Restricted Subsidiaries comply with the applicable provisions of Section 6.11, *provided* that, notwithstanding anything to the contrary in this Agreement or any other Loan Document, the Lien of the Administrative Agent for the benefit of the Secured Parties shall not attach to any such Investment in the form of an intercompany loan and any intercompany note evidencing such loan shall not be required to be delivered to the Administrative Agent if any such note is subsequently reasonably promptly contributed to a Subsidiary that is not a Loan Party pursuant to Section 7.02(c)(iv)); (iii) by Restricted Subsidiaries that are not Loan Parties in Restricted Subsidiaries that are not Loan Parties; and (iv) by the Borrower or any other Loan Party in Unrestricted Subsidiaries, in Restricted Subsidiaries that are not Loan Parties or in other Persons; *provided* that, in the case of this clause (iv), (A) no Event of Default under Sections 8.01(a), 8.01(f) or 8.01(g) shall have occurred and be continuing, (B) the Borrower and its Restricted Subsidiaries comply with the applicable provisions of Section 6.11, (C) the aggregate amount of all such Investments outstanding at any time (determined without regard to any write-downs or write-offs of such Investments) shall not exceed the greater (x) of $100,000,000 and (y) 40% of Consolidated EBITDA based on the Most Recent Financial Statements; *provided*, that this clause (C) shall not apply to any such Investment in a Restricted Subsidiary that is not a Loan Party that is in the form of an equity contribution or intercompany loan if, reasonably promptly following receipt of such equity contribution or intercompany loan, the proceeds of such equity contribution or intercompany loan shall be used by such Restricted Subsidiaries that are not Loan Parties (or Restricted Subsidiaries thereof) to consummate a Permitted Acquisition (and any such Investment described in this proviso shall not utilize the basket set forth in this clause (C), but shall, if applicable, utilize the basket set forth in the definition of Permitted Acquisition) and (D) any such Investments in the form of intercompany loans if in excess of $10,000,000 in the aggregate shall be evidenced by notes that have been

pledged (individually or pursuant to a global note) to the Administrative Agent in form and substance reasonably satisfactory to the Administrative Agent for the benefit of the Secured Parties unless (x) such pledge would, in the good faith judgment of the Borrower, result in adverse tax consequences to the Borrower and its Restricted Subsidiaries as reasonably determined by Borrower in consultation with the Administrative Agent or (y) reasonably promptly following the making of such intercompany loan the holder of such note representing such loan contributes such note as an equity contribution to any Restricted Subsidiary that is not a Loan Party that will reasonably promptly following receipt of such equity contribution consummate (or cause one or more of its Restricted Subsidiaries to consummate) a Permitted Acquisition, in which case and in each such case, notwithstanding anything to the contrary in this Agreement or any other Loan Document, the Lien of the Administrative Agent for the benefit of the Secured Parties shall not attach to any such note, and any such note shall not be required to be delivered to the Administrative Agent;

(d) Investments consisting of extensions of credit in the nature of accounts receivable or notes receivable arising from the grant of trade credit in the ordinary course of business, and Investments received in satisfaction or partial satisfaction thereof from financially troubled account debtors to the extent reasonably necessary in order to prevent or limit loss;

(e) (i) any Investments by the Borrower or any Guarantor in the form of Permitted Acquisitions, and (ii) any Permitted Acquisition by any Restricted Subsidiary that is not a Loan Party (or any Restricted Subsidiary thereof) funded from, reasonably promptly following receipt thereof, the cash proceeds received by such Restricted Subsidiary (or any parent entity(ies) thereof that is also a Restricted Subsidiary and that received such proceeds in accordance with Section 7.02(c)(iv)) from any equity contribution or intercompany loan permitted under Section 7.02(c)(iv), and (iii) any Investment of any Person acquired by, or merged into or consolidated or amalgamated with, the Borrower or any Restricted Subsidiary after the Closing Date (other than an Investment in connection with a Permitted Acquisition in Persons who do not become Loan Parties), in each case pursuant to an Investment otherwise permitted by this Section 7.02 after the Closing Date to the extent that such Investments of such Person were not made in contemplation of or in connection with such acquisition, merger, amalgamation or consolidation and were in existence on the date of such acquisition, merger, amalgamation or consolidation, and any modification, replacement, renewal or extension of any Investment permitted under clause (iii) of this Section 7.02(e) so long as any such modification, replacement, renewal or extension thereof does not increase the amount of such Investment except as otherwise permitted by this Section 7.02;

(f) Guarantees of Indebtedness permitted by Section 7.03;

(g) to the extent constituting Investments, transactions expressly permitted under Sections 7.04 (other than Section 7.04(c)) and 7.14;

(h) Investments existing on, or made pursuant to legally binding written commitments in existence on, the Closing Date and set forth on Schedule 7.02 and any modification, replacement, renewal or extension thereof; *provided*, that the amount of the original Investment is not increased except by the terms of such Investment or as otherwise permitted by this Section 7.02 and the terms and conditions of such modified, replacement, renewed or extended Investment shall not be materially less favorable, taken as a whole, to the Loan Parties than the Investment being modified, replaced, renewed or extended;

(i) promissory notes, property (tangible or intangible) and other non-cash consideration received in connection with Dispositions permitted by Section 7.05;

(j) Investments (including debt obligations and Equity Interests) received in connection with the bankruptcy or reorganization of suppliers and customers and in settlement of delinquent obligations of, and other disputes with, customers and suppliers arising in the ordinary course of business and upon the foreclosure with respect to any secured Investment or other transfer of title with respect to any secured Investment;

(k) Investments to the extent that payment for such Investments is made solely by the issuance of Equity Interests of the Borrower or a Subsidiary (unless the issuance of Equity Interests in a Subsidiary is prohibited by Section 7.05), in each case, to the extent not resulting in a Change of Control;

(l) Restricted Subsidiaries of the Borrower may be established or created if the Borrower and such Restricted Subsidiary comply with the requirements of Section 6.11, if applicable; *provided* that, in each case, to the extent such new Restricted Subsidiary is created solely for the purpose of consummating a transaction pursuant to an acquisition permitted by this Section 7.02, and such new Restricted Subsidiary at no time holds any assets or liabilities other than any merger or acquisition consideration contributed to it contemporaneously with the closing of such transactions, such new Restricted Subsidiary shall not be required to take the actions set forth in Section 6.11, as applicable, until the applicable acquisition is consummated (at which time the surviving entity of the applicable transaction shall be required to so comply in accordance with the provisions thereof);

(m) Investments in a Receivables Subsidiary or any Investment by a Receivables Subsidiary in any other Person, including the payment of Receivables Fees, in each case, (i) in connection with a Qualified Receivables Transaction and (ii) constituting a Disposition permitted pursuant to Section 7.05(l);

(n) Swap Contracts to the extent permitted pursuant to Section 7.03(d);

(o) other Investments; *provided* that in no event shall the aggregate amount of Investments allowed pursuant to this Section 7.02(o) during the term of this Agreement exceed the sum of (1) so long as no Event of Default under Sections 8.01(a), 8.01(f) or 8.01(g) has occurred and is continuing or would be caused thereby, the greater of (x) $125,000,000 and (y) 50% of Consolidated EBITDA based on the Most Recent Financial Statements plus (2) an amount not to exceed the Available Amount at the time of the making of such Investment; *provided* that the portion of the Available Amount attributed to clause (a)(2) of the definition thereof shall not be available for any such Investments made pursuant to this clause (o)(2) if an Event of Default under Sections 8.01(a), 8.01(f) or 8.01(g) has occurred and is continuing or would be caused thereby;

(p) Investments in Term Loans pursuant to Section 10.06(b)(vii);

(q) Investments consisting of the licensing or contribution of intellectual property pursuant to joint marketing arrangements with other Persons;

(r) Investments so long as (i) no Event of Default under Sections 8.01(a), 8.01(f) or 8.01(g) has occurred and is continuing or would be caused thereby and (ii) the pro forma Total Net Leverage Ratio would be less than 3.75:1.00;

(s) Investments (i) constituting deposits, prepayments and other credits to suppliers, (ii) made in connection with obtaining, maintaining or renewing client and customer contracts and (iii) in the form of advances made to distributors, suppliers, licensors and licensees, in each case, in the ordinary course of business or, in the case of clause (iii), to the extent necessary to maintain the ordinary course of supplies to the Borrower or any Restricted Subsidiary;

(t) the Transactions;

(u) Investments in any Restricted Subsidiary in connection with reorganizations and related activities related to Tax planning; *provided* that, after giving effect to any such reorganization and related activities, the Lien of the Administrative Agent in the Collateral and the value thereof, taken as a whole, is not materially impaired and after giving effect to such Investment, the Borrower and its Restricted Subsidiaries shall otherwise be in compliance with Section 6.11;

(v) pension fund and other employee benefit plan obligations and liabilities;

(w) Investments in the Borrower or any Restricted Subsidiary in connection with intercompany cash management arrangements and related activities in the ordinary course of business;

(x) Investments in any Parent Company in amounts and for purposes for which Restricted Payments by the Borrower are permitted under Section 7.06(e); *provided* that any such Investments made as provided above in lieu of such Restricted Payments shall reduce availability under the applicable Restricted Payment basket under Section 7.06(e);

(y) Investments consisting of the licensing or sublicensing of IP Rights in each case, either entered into in the ordinary course of business or pursuant to a bona fide transaction intended to increase the revenue of the Borrower and its Restricted Subsidiaries and which could not reasonably be expected to have a Material Adverse Effect; and

(z) Investments in an Unrestricted Subsidiary to the extent comprised of assets of, or Equity Interests in, an Unrestricted Subsidiary.

Section 7.03 *Indebtedness*. Create, incur, assume or suffer to exist any Indebtedness, except:

(a) Indebtedness under (A) the Loan Documents, including, without limitation, Incremental Term Loans, Incremental Revolving Loans and any Refinancing Facility and (B) the Senior Notes in an aggregate principal amount not to exceed $840,000,000 (inclusive of any Permitted Refinancing of the Senior Notes);

(b) Indebtedness outstanding on the Closing Date and listed on Schedule 7.03 and any Permitted Refinancing thereof; *provided* that any such Indebtedness (including any Permitted Refinancing thereof), to the extent owed by a Loan Party to a Restricted Subsidiary that is not a Loan Party, shall be unsecured and subordinated to the payment of the Obligations in a manner reasonably satisfactory to the Administrative Agent;

(c) (i) Guarantees by the Borrower or any Guarantor in respect of Indebtedness otherwise permitted hereunder of the Borrower or any Guarantor; (ii) Guarantees by any Restricted Subsidiary that is not a Loan Party in respect of Indebtedness otherwise permitted hereunder of the Borrower or any Restricted Subsidiary; and (iii) Guarantees by the Borrower or any Guarantor in respect of Indebtedness otherwise permitted hereunder of Restricted Subsidiaries that are not Loan Parties to the extent such Guarantee constitutes an Investment permitted by Sections 7.02(c)(i), (c)(iv), 7.02(o) or 7.02(r);

(d) obligations (contingent or otherwise) of the Borrower or any Restricted Subsidiary existing or hereafter arising under any Swap Contract; *provided* that (i) such obligations are (or were) entered into by such Person in the ordinary course of business for the purpose of directly mitigating risks associated with liabilities, commitments, investments, assets, or property held or reasonably anticipated by such Person, or changes in the value of securities issued by such Person, and not for purposes of speculation; and (ii) such Swap Contract does not contain any provision exonerating the non-defaulting party from its obligation to make payments on outstanding transactions to the defaulting party (other than pursuant to customary netting or set-off provisions and except as contemplated by Section 10.23);

(e) Indebtedness of the Borrower or any Restricted Subsidiary in respect of Capital Leases and purchase money obligations for fixed or capital assets, which may be secured by Liens under and within the applicable limitations set forth in Section 7.01(i); *provided, however,* that the aggregate principal amount of all such Indebtedness at any one time outstanding pursuant to this clause (e) shall not exceed the greater of (x) $62,500,000 and (y) 25% of Consolidated EBITDA based on the Most Recent Financial Statements;

(f) Indebtedness of the Borrower or any Restricted Subsidiary owing to the Borrower or any Restricted Subsidiary to the extent constituting an Investment permitted by Section 7.02(c), 7.02(o), 7.02(r) or 7.02(t); *provided* that, such Indebtedness, to the extent owed by a Loan Party to a Restricted Subsidiary that is not a Loan Party, shall be subordinated to the payment of the Obligations in a manner reasonably satisfactory to the Administrative Agent;

(g) Non-Guarantor Debt in an aggregate principal amount outstanding under this clause (g), together with the aggregate principal amount outstanding of all Non-Guarantor Debt incurred pursuant to Section 7.03(s), at any time not to exceed the Non-Guarantor Debt Cap;

(h) [reserved];

(i) other Indebtedness of the Borrower and its Restricted Subsidiaries in an aggregate principal amount outstanding at any time not to exceed the greater of (x) $125,000,000 and (y) 50% of Consolidated EBITDA based on the Most Recent Financial Statements;

(j) Indebtedness in respect of Receivables Program Obligations in an aggregate principal amount outstanding at any time not to exceed the greater of (x) $100,000,000 and (y) 40% of Consolidated EBITDA based on the Most Recent Financial Statements; *provided* that no Event of Default shall have occurred and be continuing at the time such Indebtedness is incurred;

(k) Indebtedness of the Borrower or any of its Restricted Subsidiaries consisting of obligations to pay insurance premiums or take-or-pay obligations contained in supply arrangements incurred in the ordinary course of business;

(l) Indebtedness consisting of obligations of the Borrower or its Restricted Subsidiaries under deferred consideration or other similar arrangements (including earn-outs, indemnifications, incentive non-competes and other contingent obligations and agreements consisting of the adjustment of purchase price or similar adjustments) incurred by such Person in connection with any Permitted Acquisition or Disposition permitted by Section 7.05 or any other Investment permitted under Section 7.02;

(m) Indebtedness incurred by the Borrower or any of its Restricted Subsidiaries in respect of bank guarantees, warehouse receipts or similar instruments (other than letters of credit) issued or created in the ordinary course of business consistent with past practice, including in respect of workers compensation claims, health, disability or other employee benefits or property, casualty or liability insurance or self-insurance, or other Indebtedness with respect to reimbursement type obligations (other than obligations in respect of letters of credit) regarding workers compensation claims;

(n) Indebtedness or obligations in respect of performance and completion guaranties, or customs, stay, performance, bid, surety, statutory, appeal, performance and return of money bonds, tenders, statutory obligations, leases, governmental contracts, trade contracts or other similar obligations incurred in the ordinary course of business and, in each case, not in respect of borrowed money or in respect of any letters of credit, bank guaranties, surety bonds, performance bonds or similar instruments to support any of the foregoing items;

(o) Indebtedness arising from the honoring by a bank or other financial institution of a check, draft or similar instrument inadvertently (except in the case of daylight overdrafts) drawn against insufficient funds in the ordinary course of business; *provided*, *however*, that such Indebtedness is extinguished within five Business Days of incurrence;

(p) Indebtedness in respect of commercial credit cards, stored value cards, purchasing cards and treasury management services, and other netting services, overdraft protections and overdraft facilities, automated clearing-house arrangements, employee credit card programs, corporate cards and purchasing cards, controlled disbursement, ACH transactions, return items, interstate depository network service, cash pooling and operational foreign exchange management, and, in each case, similar arrangements and otherwise in connection with cash management arrangements, including cash management arrangements among the Borrower and its Restricted Subsidiaries, including Indebtedness arising under or in connection with any Cash Management Agreement with a Cash Management Bank;

(q) Indebtedness incurred under commercial letters of credit issued for the account of the Borrower or any of its Restricted Subsidiaries in the ordinary course of business (and not for the purpose of, directly or indirectly, incurring Indebtedness or providing credit support or a similar arrangement in respect of Indebtedness) or Indebtedness of the Borrower or any of its Restricted Subsidiaries under letters of credit and bank guarantees backstopped by Letters of Credit issued under this Agreement;

(r) Indebtedness representing deferred compensation to employees of the Borrower or any of its Restricted Subsidiaries incurred in the ordinary course of business;

(s) (A) Indebtedness incurred or issued by the Borrower or by any Restricted Subsidiary of the Borrower in an amount not to exceed in the aggregate the Incremental Available Amount (such debt, "**Incremental Equivalent Debt**"); *provided* that,

(i) except when the proceeds of such Incremental Equivalent Debt are being used to finance in whole or in part a Limited Condition Acquisition, no Event of Default shall exist before or after giving effect to the incurrence of such Incremental Equivalent Debt;

(ii) such Incremental Equivalent Debt shall not be Guaranteed by any Person that is not a Guarantor;

(iii) if such Incremental Equivalent Debt is in the form of loans secured by any or all of the Collateral on a pari passu basis with the Liens securing the Obligations hereunder, such Incremental Equivalent Debt shall have the benefit of Section 2.14(g)(iv) as if such Incremental Equivalent Debt were a Class of Incremental Term Loans;

(iv) other than in the case of customary bridge loans, the terms of such Incremental Equivalent Debt shall not be more restrictive, taken as a whole, to the Borrower and its Restricted Subsidiaries than those applicable to any Facility at the time of incurrence of such Incremental Equivalent Debt, unless (x) such other terms apply only after the Latest Maturity Date at the time of incurrence of such Incremental Equivalent Debt, (y) this Agreement is amended so that such terms are also applicable for the benefit of any Lenders under the then-existing Facilities or (z) such other terms relate only to pricing, fees or redemption terms;

(v) other than in the case of customary bridge loans, (x) if such Incremental Equivalent Debt is secured on a pari passu basis with the Liens securing the Obligations hereunder, the stated maturity of such Incremental Equivalent Debt shall be no earlier than the Latest Maturity Date at the time of incurrence of such Incremental Equivalent Debt and (i) if there are any Term Loans outstanding at such time, the Weighted Average Life to Maturity of such Incremental Equivalent Debt shall be no shorter than the remaining Weighted Average Life to Maturity of any then-existing Facility hereunder and (ii) if there are no Term Loans outstanding, the Weighted Average Life to Maturity of such Incremental Equivalent Debt shall be no shorter than 36 months and (y) if such Incremental Equivalent Debt is secured on a junior basis to the Liens securing the Obligations hereunder or is unsecured, the stated maturity of such Incremental Equivalent Debt is not less than 91 days following the Latest Maturity Date at the time of incurrence of such Incremental Equivalent Debt and the Weighted Average Life to Maturity of such Incremental Equivalent Debt shall be no shorter than the remaining Weighted Average Life to Maturity of any then-existing Facility hereunder;

(vi) the aggregate principal amount outstanding of all Non-Guarantor Debt under this clause (s), together with the aggregate principal amount outstanding of all Non-Guarantor Debt incurred pursuant to Section 7.03(g), does not exceed at any time the Non-Guarantor Debt Cap;

(vii) the Borrower shall deliver or cause to be delivered legal opinions and such other documents reasonably requested by the Administrative Agent in connection with such transaction; and

(viii) if such Incremental Equivalent Debt is secured, the representative and collateral trustee acting on behalf of the holders of such Incremental Equivalent Debt shall have executed and delivered to the Administrative Agent (x) a joinder to the Pari Passu Intercreditor Agreement and (if then in effect) the Junior Lien Intercreditor Agreement (if such Incremental Equivalent Debt is secured by any or all of the Collateral on a pari passu basis (without regard to control of remedies) with the Obligations hereunder) in accordance with the terms thereof and (y) a joinder to the Junior Lien Intercreditor Agreement (if such Incremental Equivalent Debt is secured by any or all of the Collateral on a junior basis to the Obligations hereunder) in accordance with the terms thereof; *provided* that if such Indebtedness is the initial issuance of Indebtedness that would cause such documents to be executed, then the Borrower, the Guarantors, the Administrative Agent and the representative and collateral trustee for such Incremental Equivalent Debt shall have executed and delivered the Pari Passu Intercreditor Agreement and/or the Junior Lien Intercreditor Agreement, as applicable and

(B) Permitted Refinancing of any Indebtedness incurred under the foregoing clause (A) (*provided* that any such Permitted Refinancing of any such Indebtedness that was initially incurred in reliance on clause (a) of the definition of Incremental Available Amount (or any Permitted Refinancing thereof) shall continue to be deemed to be a utilization of such clause (a) for purposes hereof unless it shall have been properly reclassified to clause (c) of the definition of Incremental Available Amount);

(t) (x) Indebtedness assumed in connection with a Permitted Acquisition or other Investment in the nature of an acquisition so long as (i) such Indebtedness existed prior to the consummation of such Permitted Acquisition or other Investment in the nature of an acquisition, (ii) such Indebtedness is not created in contemplation of such Permitted Acquisition or other Investment in the nature of an acquisition, (iii) such Indebtedness is solely the obligation of such Person, and not of the Borrower or any other Restricted Subsidiary (other than any Person acquired by the Borrower or any Restricted Subsidiary as a result of such Permitted Acquisition or other Investment in the nature of an acquisition and any Restricted Subsidiary of such acquired Person as of the date of such Permitted Acquisition or other Investment in the nature of an acquisition) and (iv) if such Indebtedness (excluding leases) is secured, the pro forma Secured Net Leverage Ratio would not exceed the greater of 4.25:1.00 and the Secured Net Leverage Ratio

immediately prior to giving effect to such Permitted Acquisition or other Investment in the nature of an acquisition and if such Indebtedness (excluding leases) is unsecured, the pro forma Consolidated Interest Coverage Ratio would be greater than or equal to the lesser of 2.00:1.00 and the Consolidated Interest Coverage Ratio immediately prior to giving effect to such Permitted Acquisition or other Investment in the nature of an acquisition or the pro forma Total Net Leverage Ratio would not exceed the greater of 6.00:1.00 and the Total Net Leverage Ratio immediately prior to giving effect to such Permitted Acquisition or other Investment in the nature of an acquisition, and (y) Permitted Refinancings of any Indebtedness assumed under the foregoing clause (x);

(u) (i) Indebtedness incurred in the ordinary course of business in respect of obligations of the Borrower or any Restricted Subsidiary to pay the deferred purchase price of goods or services or progress payments in connection with such goods and services, (ii) Indebtedness in respect of any letter of credit, bankers' acceptance, bank guaranty or similar instrument supporting trade payables, warehouse receipts or similar facilities entered into in the ordinary course of business, and (iii) Indebtedness consisting of obligations owing under any customer or supplier incentive, supply, license or similar agreements entered into in the ordinary course of business;

(v) unfunded pension fund and other employee benefit plan obligations and liabilities incurred in the ordinary course of business to the extent that the unfunded amounts would not otherwise cause an Event of Default under Section 8.01(i);

(w) customer deposits and advance payments received in the ordinary course of business from customers for goods and services purchased in the ordinary course of business;

(x) without duplication of any other Indebtedness, all premiums (if any), interest (including post-petition interest and payment in kind interest), accretion or amortization of original issue discount, fees, expenses and charges with respect to Indebtedness permitted hereunder;

(y) Indebtedness incurred in connection with sale and leaseback transactions permitted pursuant to Section 7.15;

(z) Indebtedness secured by fee owned real property and related improvements and fixtures or other assets not constituting Collateral in an aggregate principal amount outstanding at any time not to exceed the greater of $30,000,000 and 12.00% of Consolidated EBITDA based on the Most Recent Financial Statements; and

(aa) Indebtedness of any Restricted Subsidiary that is a joint venture in an aggregate principal amount outstanding at any time not to exceed the greater $25,000,000 and 10% of Consolidated EBITDA based on the Most Recent Financial Statements.

Notwithstanding anything to the contrary herein, no Restricted Subsidiary shall be permitted to guarantee any of the Senior Notes or any Permitted Refinancing thereof unless such Restricted Subsidiary also guarantees the Obligations.

Section 7.04 *Fundamental Changes*. Except in the case of the consummation of any of the Transactions, merge, dissolve, liquidate, consolidate with or into another Person, or Dispose of (whether in one transaction or in a series of transactions) all or substantially all of its assets (whether now owned or hereafter acquired) to or in favor of any Person, except that, so long as no Event of Default exists or would result therefrom:

(a) any Subsidiary may merge with (i) the Borrower; *provided* that the Borrower shall be the continuing or surviving Person and (ii) any Subsidiary; *provided* that (A) when any wholly-owned Subsidiary is merging with another Subsidiary, a wholly-owned Subsidiary shall be the continuing or surviving Person, (B) when any Restricted Subsidiary is merging with another Subsidiary, either (I) a Restricted Subsidiary shall be the continuing or surviving Person or (II) an Unrestricted Subsidiary shall be the continuing or surviving person (if such Person shall be permitted to be designated as an Unrestricted Subsidiary hereunder (other than pursuant to Section 7.02(g))), (C) when any Guarantor is merging with another Subsidiary, the continuing or surviving Person shall either (I) be a Guarantor or (II) a Loan Party, and (D) if as a result thereof, the Borrower owns, directly or indirectly, less of such Subsidiary's equity interests than it did prior to the merger, such merger shall also constitute a Disposition subject to Section 7.05 (and must be permitted by any clause thereof other than Section 7.05(d) or (g)(A));

(b) (i) any Subsidiary may merge, amalgamate, liquidate, dissolve or change its form if the Borrower determines in good faith that such merger, amalgamation, liquidation, dissolution or change in form (x) is in the best interests of the Borrower and (y) is not materially disadvantageous to the Lenders; *provided* that in the case of a merger, amalgamation, dissolution or liquidation of a Loan Party that results in a distribution of assets to a Subsidiary that is not a Loan Party, such distribution shall be treated as an Investment and shall comply with Section 7.02 and (ii) any Subsidiary may merge, dissolve, liquidate or consolidate, so long as the purpose thereof is to effect a Disposition permitted pursuant to Section 7.05 (other than Section 7.05(d) or (g)(A));

(c) the Borrower or any Restricted Subsidiary may consummate any Permitted Acquisition or any other Investment permitted by Section 7.02; *provided* that (i) in any such transaction involving the Borrower, the Borrower shall be the continuing or surviving Person; and (ii) in any such transaction involving a Guarantor, the continuing or surviving Person shall be a Guarantor or a Loan Party; and

(d) any Restricted Subsidiary may Dispose of all or substantially all of its assets (upon voluntary liquidation, dissolution or otherwise) (i) to the Borrower or to a Guarantor; or (ii) if the transferor is not a Guarantor, to any other Restricted Subsidiary; *provided* in each case that (A) if the transferor in such a transaction is a wholly-owned Subsidiary, then the transferee must either be the Borrower or one or more wholly-owned Subsidiaries, (B) if the transferor in such a transaction is a wholly-owned Restricted Subsidiary, then the transferee must either be the Borrower or one or more wholly-owned Restricted Subsidiaries and (C) to the extent that the transferee is not the Borrower or one or more wholly-owned Restricted Subsidiaries (based on the percentage of such transferee which is not owned directly or indirectly by the Borrower), the Disposition shall constitute a Disposition subject to Section 7.05 and shall be permitted under this Section 7.04 so long as it is permitted by any clause of Section 7.05 (other than Section 7.05(d) or (g)(A).

Section 7.05 *Dispositions*. Make any Disposition or enter into any agreement to make any Disposition, in each case, having a fair market value in excess of the greater of (i) $10,000,000 and (ii) 4.00% of Consolidated EBITDA based on the Most Recent Financial Statements in a single transaction or in a related series of transactions, except:

(a) Dispositions of surplus, obsolete, used or worn out property, whether now owned or hereafter acquired in the ordinary course of business and Dispositions of property (including, without limitation, real estate and related improvements) no longer used or useful in the conduct of the business of the Borrower and its Restricted Subsidiaries (including allowing any registrations or any applications for registration of any immaterial intellectual property to lapse or go abandoned);

(b) (x) Dispositions of inventory or equipment in the ordinary course of business and (y) the leasing or subleasing of real property in the ordinary course of business;

(c) Dispositions of property to the extent that (i) such property is exchanged for credit against the purchase price of other property or (ii) the proceeds of such Disposition are reasonably promptly applied to the purchase price of such replacement property;

(d) Dispositions of property by the Borrower to any Restricted Subsidiary, or by any Restricted Subsidiary to the Borrower or to a Restricted Subsidiary; *provided* that if the transferor of such property is the Borrower or a Guarantor, the transferee thereof must either be the Borrower or a Guarantor;

(e) Dispositions of accounts receivable for purposes of collection or forgiveness or discounting of accounts receivable in the ordinary course of business;

(f) Dispositions of investment securities, cash and Cash Equivalents in the ordinary course of business;

(g) (A) Dispositions permitted by Section 7.04 (other than Section 7.04(a)(ii)(D), Section 7.04(b) or Section 7.04(d)(ii)(C)); (B) Dispositions that constitute Investments permitted by Section 7.02 (other than Section 7.02(g)); and (C) Dispositions that constitute Restricted Payments permitted by Section 7.06;

(h) (i) Dispositions, licensing, sublicensing and cross-licensing arrangements, in each case, involving any technology or IP Rights of the Borrower or any Restricted Subsidiary in each case, either entered into in the ordinary course of business or pursuant to a bona fide transaction intended to increase the revenue of the Borrower and its Restricted Subsidiaries and which could not reasonably be expected to have a Material Adverse Effect, (ii) the Disposition, abandonment, cancellation or lapse of IP Rights, or any issuances or registrations, or applications for issuances or registrations, of any IP Rights, which, in the reasonable good faith determination of the Borrower or its Restricted Subsidiaries are no longer economically practicable to maintain, worth the cost of maintaining, or used or useful in any material respect, (iii) Dispositions of IP Rights through expiration in accordance with their respective statutory terms, or (iv) Dispositions, licensing, sublicensing and cross-licensing arrangements involving any technology or IP Rights of (A) the Borrower or any Restricted Subsidiary that is a Loan Party to the Borrower or any Restricted Subsidiary that is a Loan Party, or (B) any Restricted Subsidiary that is not a Loan Party to the Borrower or any Restricted Subsidiary;

(i) transfers of condemned property as a result of the exercise of "eminent domain" or other similar policies to the respective Governmental Authority or agency that has condemned the same (whether by deed in lieu of condemnation or otherwise), and transfers of property that has been subject to a casualty to the respective insurer of such real property as part of an insurance settlement;

(j) Dispositions by the Borrower and its Restricted Subsidiaries of property not otherwise permitted under this Section 7.05 (but in any event excluding Receivables Program Assets); *provided* that with respect to any Disposition with a purchase price in an aggregate amount (with respect to any single Disposition or series of related Dispositions) in excess of the greater of (i) $17,500,000 and (ii) 7.00% of Consolidated EBITDA based on the Most Recent Financial Statements, (i) at the time of such Disposition and after giving effect thereto, no Event of Default shall exist or would result from such Disposition as of the date of the agreement governing such Disposition, (ii) the consideration received for such property shall be in an amount at least equal to the fair market value thereof and (iii) no less than 75% of such consideration shall be paid in cash; *provided*, *however*, that for the purposes of clause (iii), the following shall be deemed to be cash: (A) any liabilities (as shown on the Borrower's or the applicable Restricted Subsidiary's most recent balance sheet provided hereunder or in the footnotes thereto, or if incurred, accrued or increased subsequent to the date of such balance sheet, such liabilities that would have been reflected on the Borrower's or such Restricted Subsidiary's balance sheet if such incurrence had taken place on or prior to the date of such balance sheet, as determined in good faith by the Borrower, of the Borrower or such Restricted Subsidiary) (other than liabilities that are by their terms subordinated to the Obligations) that are assumed by the transferee with respect to the applicable Disposition and for which the Borrower and all of its Restricted Subsidiaries shall have been validly released by all applicable creditors in writing, (B) any securities received by the Borrower or the applicable Restricted Subsidiary from such transferee that are converted by the Borrower or such Restricted Subsidiary into cash or Cash Equivalents (to the extent of the cash or Cash Equivalents received) within 180 days (or such longer period as the Administrative Agent may agree) following the closing of the applicable Disposition and (C) any Designated Non-Cash Consideration received any in respect of such Disposition having an aggregate fair market value, taken together with all other Designated Non-Cash Consideration received during the term of this Agreement pursuant to this clause (C), not in excess of the greater of (i) $25,000,000 and (ii) 10% of Consolidated EBITDA based on the Most Recent Financial Statements;

(k) Dispositions by the Borrower and its Restricted Subsidiaries of property acquired after the Closing Date in Permitted Acquisitions; *provided* that (i) the Borrower identifies any such assets to be divested in reasonable detail in writing to the Administrative Agent within 180 days (or such longer period as the Administrative Agent may agree) following the closing of such Permitted Acquisition and (ii) the fair market value of the assets to be divested in connection with any Permitted Acquisition does not exceed an amount equal to 35% of the total cash and non-cash consideration for such Permitted Acquisition;

(l) Dispositions of Receivables Program Assets in connection with a Qualified Receivables Transaction; *provided* that (i) the consideration received for such assets shall be in an amount at least equal to the fair market value thereof, (ii) the outstanding principal amount of Indebtedness in respect of Receivables Program Obligations shall not exceed the maximum amount permitted to be outstanding under Section 7.03(j), and (iii) no Event of Default shall have occurred and be continuing at the time such Disposition is made;

(m) leases, licenses, subleases or sublicenses granted to others in the ordinary course of business or the termination thereof which (i) do not interfere in any material respect with the business of the Borrower or any Restricted Subsidiary or (ii) relate to closed branches or manufacturing facilities or the discontinuation of any product or service line;

(n) any issuance or sale of Equity Interests in, or Indebtedness or other securities of, an Unrestricted Subsidiary (or a Restricted Subsidiary which owns an Unrestricted Subsidiary so long as such Restricted Subsidiary owns no assets other than the Equity Interests of such Unrestricted Subsidiary);

(o) Dispositions of Investments in joint ventures or any Subsidiary that is not a wholly-owned Subsidiary to the extent required by, or made pursuant to, buy/sell arrangements between the joint venture or similar parties set forth in joint venture arrangements and similar binding arrangements;

(p) (i) termination of leases in the ordinary course of business, (ii) the expiration of any option agreement in respect of real or personal property and (iii) any surrender or waiver of contractual rights or the settlement, release or surrender of contractual rights or other litigation claims (including in tort) in the ordinary course of business;

(q) any merger, consolidation, Disposition or conveyance the sole purpose of which is to reincorporate or reorganize (i) any Domestic Subsidiary in another jurisdiction in the United States. or (ii) any Foreign Subsidiary in the United States or any other jurisdiction;

(r) Dispositions of assets in connection with the closing or sale of an office in the ordinary course of business of the Borrower and its Restricted Subsidiaries, which consist of leasehold interests in the premises of such office, the equipment and fixtures located at such premises and the books and records relating exclusively and directly to the operations of such office; *provided* that as to each and all such sales and closings, (i) on the date on which the agreement governing such Disposition is executed, no Event of Default shall result and (ii) such sale shall be on commercially reasonable prices and terms in a bona fide arm's-length transaction;

(s) the Disposition of aircrafts, motor vehicles, trailers, cabs, and information technology equipment;

(t) sale and leaseback transactions permitted pursuant to Section 7.15;

(u) exchanges or swaps, including transactions covered by Section 1031 of the Code (or any comparable provision of any foreign jurisdiction), of property or assets so long as the exchange or swap is made for fair value (as reasonably determined by the Borrower) for like property or assets; *provided* that within 90 days of any such exchange or swap, in the case of any Loan Party and to the extent such property does not constitute an "Excluded Asset", the Administrative Agent has a perfected Lien having the same priority as any Lien held on the assets so exchanged or swapped;

(v) the Disposition of Equity Interests of a Restricted Subsidiary pursuant to an agreement or other obligation with or to a Person (other than the Borrower 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), made as part of such acquisition and in each case comprising all or a portion of the consideration in respect of such acquisition; and

(w) terminations of Swap Contracts.

Section 7.06 *Restricted Payments*. Declare or make, directly or indirectly, any Restricted Payment, or incur any obligation (contingent or otherwise) to do so, except that:

(a) each Restricted Subsidiary may make Restricted Payments to the Borrower, the Guarantors and any other Person (including any other Restricted Subsidiary) that owns an Equity Interest in such Restricted Subsidiary ratably according to their respective holdings of the relevant class of Equity Interest in respect of which such Restricted Payment is being made;

(b) the Borrower and each Restricted Subsidiary may declare and make dividend payments or other distributions payable solely in Qualified Equity Interests of such Person, in the case of a Restricted Subsidiary, ratably to each Person that owns an Equity Interest in such Restricted Subsidiary of the class of Equity Interest in respect of which the Restricted Payment is being made;

(c) the Borrower and each Restricted Subsidiary may purchase, redeem or otherwise acquire or retire Equity Interests issued by it with the proceeds (whether in cash or Equity Interests) received from the substantially concurrent issue of new Qualified Equity Interests issued by it or Equity Interests of any Parent Company;

(d) the Borrower and each Restricted Subsidiary may make Restricted Payments pursuant to and in accordance with their (or any Parent Company's) stock option, stock purchase and other benefit plans of general application to management, directors, employees or other individual services providers of the Borrower (or any Parent Company) and its Restricted Subsidiaries, as adopted or implemented in the ordinary course of business;

(e) the Borrower may (i) declare and make dividends or distributions to its shareholders, partners or members in respect of Qualified Equity Interests and (ii) purchase, redeem, retire or otherwise acquire for Qualified Equity Interests issued by it in an aggregate amount with respect to clauses (i) and (ii) collectively during the term of this Agreement not to exceed the sum of (1) so long as no Event of Default under Sections 8.01(a), 8.01(f) or 8.01(g) shall have occurred and be continuing at the time of any action described in this clause (e)(1) or would result therefrom, the greater of $50,000,000 and 20% of Consolidated EBITDA based on the Most Recent Financial Statements, plus (2) an amount not to exceed the Available Amount at the time of the making of such dividend, distribution, retirement, purchase, redemption or acquisition; *provided* that, (x) the portion of the Available Amount attributed to clause (a)(1) of the definition thereof shall not be available for any such Restricted Payment made pursuant to this

clause (e)(2) if an Event of Default under Sections 8.01(a), 8.01(f) or 8.01(g) shall have occurred and be continuing at the time of any action described in this clause (e) or would result therefrom and (y) the portion of the Available Amount attributed to clause (a)(2) of the definition thereof shall not be available for any such Restricted Payment made pursuant to this clause (e)(2) if (i) the pro forma Total Net Leverage Ratio would be greater than 4.75:1.00, or (ii) an Event of Default under Sections 8.01(a), 8.01(f) or 8.01(g) shall have occurred and be continuing at the time of any action described in this clause (e) or would result therefrom;

(f) so long as no Event of Default under Sections 8.01(a), 8.01(f) or 8.01(g) shall have occurred and be continuing at the time of any action described in this clause (f) or would result therefrom, the Borrower may declare and make cash dividends or distributions to its shareholders, partners or members in respect of Disqualified Equity Interests;

(g) Investments pursuant to Section 7.02(c) shall be permitted;

(h) non-cash repurchases of Equity Interests of the Borrower deemed to occur (i) upon the non-cash exercise of stock options and warrants or similar equity incentive awards, and (ii) in connection with the withholding of a portion of the Equity Interests granted or awarded to a director or an employee to pay for the taxes payable by such director or employee upon such grant or award shall be permitted;

(i) the Borrower or any of its Restricted Subsidiaries may (i) pay cash in lieu of fractional shares in connection with any dividend, distribution, split or combination thereof or any Permitted Acquisition and (ii) honor any conversion request by a holder of convertible Indebtedness and make cash payments in lieu of fractional shares in connection with any such conversion;

(j) the payment of dividends and distributions within ninety (90) days after the date of declaration thereof, if at the date of declaration of such payment, such payment would have complied with the other provisions of this Section 7.06 shall be permitted;

(k) the purchase, redemption, acquisition, cancellation or other retirement for a nominal value per right of any rights granted to all holders of Equity Interests of the Borrower or any Parent Company pursuant to any shareholders' or members' rights plan adopted for the purpose of protecting shareholders from unfair takeover tactics shall be permitted; *provided* that any such purchase, redemption, acquisition, cancellation or other retirement of such rights is not for the purpose of evading the limitations of this covenant (all as determined in good faith by a Responsible Officer that is a senior financial officer of the Borrower);

(l) [reserved];

(m) the payment of dividends or distributions on, or share repurchases of, the Borrower's Common Stock in any fiscal year not to exceed an amount equal to 3.00% of the Borrower's Market Capitalization;

(n) unlimited Restricted Payments shall be permitted so long as (i) no Event of Default shall exist before or after giving effect to such Restricted Payment and (ii) the pro forma Total Net Leverage Ratio would be less than 3.50:1.00;

(o) the Borrower and each Restricted Subsidiary may make Tax and Related Distributions;

(p) the Borrower may repurchase (or make Restricted Payments to any Parent Company to enable it to repurchase) its Equity Interests upon the exercise of options or warrants or other securities convertible into or exchangeable for Equity Interests if such Equity Interests represent all or a portion of the exercise price of such options or warrants or other securities as part of a "cashless" exercise;

(q) the Borrower may make Restricted Payments to the extent necessary to permit any Parent Company to pay (i) general administrative fees, costs and expenses (including corporate overhead, corporate maintenance, insurance premiums, audit and other accounting and reporting fees, costs and expenses, SEC fees, costs and expenses, legal or similar fees, costs and expenses and customary wages, salary, bonus and other benefits payable to directors, officers, employees, members of management, consultants and/or independent contractors of any Parent Company, fees, costs and expenses in connection with debt or equity offerings (whether or not consummated), and fees, costs and expenses in connection with Investments (whether or not consummated), in the case of such Investments or debt or equity offerings, so long as and to the extent that such Investments or the proceeds of such debt or equity offerings are contributed or were intended to be contributed (if such Investment, debt or equity offerings were not consummated) to the Borrower or its Restricted Subsidiaries), in each case, which are reasonable and customary and incurred in the ordinary course of business by such Parent Company, and (ii) any reasonable and customary indemnification claims made by current or former directors, officers, members of management, employees or consultants of any Parent Company, in the case of each of clauses (i) and (ii), solely to the extent (1) attributable to the ownership by such Parent Company of the Borrower and/or its Subsidiaries or to the payment by such Parent Company of any of such expenses on behalf of the Borrower and its Subsidiaries and (2) that the Borrower and its Restricted Subsidiaries have not otherwise made payments to such Parent Company or any of its Affiliates in respect of such fees, costs and expenses; provided that Restricted Payments under this clause (q) that are attributable to any Unrestricted Subsidiary shall be permitted only to the extent that either (x) such Unrestricted Subsidiary has made one or more cash distributions, advances or loans to the Borrower or any of its Restricted Subsidiaries for such purpose in an amount up to the amount of such Unrestricted Subsidiary's proportionate share of such fees, costs and expenses or (y) the amount of such Restricted Payments made by the Borrower on behalf of such Unrestricted Subsidiary is treated as an Investment subject to Section 7.02 hereof;

(r) the Borrower may make Restricted Payments to any Parent Company to enable such Parent Company to make Restricted Payments consisting of (1) cash payments in lieu of the issuance of fractional shares in connection with the exercise of warrants, options or other securities convertible into or exchangeable for Equity Interests of such Parent Company or (2) (A) payments made or expected to be made in respect of withholding or similar Taxes payable by any future, present or former officers, directors, employees, members of management, managers or consultants of the Borrower, any Subsidiary or Parent Company or any of their respective Immediate Family Members in respect of their purchase of Equity Interests of such Parent Company and/or (B) repurchases of Equity Interests in consideration of the payments described in clause (A), including demand repurchases in connection with the exercise of stock options; provided that, for purposes of this clause (r), Restricted Payments shall only be made to a Parent Company that owns no Equity Interests in any other Person other than the Borrower and its Subsidiaries;

(s) the Borrower may make Restricted Payments the proceeds of which are applied (A) on or prior to the date that is 60 days after the Closing Date, solely to effect the consummation of the Transactions and (B) on or prior to the date that is 60 days after the Closing Date, to satisfy any payment obligations owing in connection with the Transactions (including, without limitation, (i) cash payments to holders of Equity Interests under any management equity plan, stock option plan or any other management or employee benefit plan or agreement of Old BRBR and (ii) Restricted Payments to holders of Equity Interests of Old BRBR (immediately prior to giving effect to the Transactions)) pursuant to the Transaction Agreement (as in effect on the Closing Date) and the Transaction Merger Consideration; and

(t) to the extent constituting Restricted Payments, the Borrower or any Restricted Subsidiary may make payments (other than any Tax and Related Distributions) pursuant to the Formation Documents (as in effect on the date of this Agreement, or as amended, modified or restated from time to time in a manner not materially adverse to the interests of the Lenders), including, without limitation, all indemnity payments thereunder, all fees, costs and expenses thereunder, and all other payments and reimbursements owed thereunder, in each case whether currently due or paid in respect of accruals from prior periods, and with respect to any of the foregoing, may pay such amounts to or on behalf of any Parent Company, provided, however, that Restricted Payments made pursuant to Article IV of the Tax Receivable Agreement and made in reliance on this clause (t) shall not exceed $1,500,000 in the aggregate.

Section 7.07 *Change in Nature of Business*. Engage in any material line of business substantially different from the Permitted Business.

Section 7.08 *Transactions with Affiliates*. Enter into any transaction of any kind involving, pursuant to any such transaction, payments in excess of the greater of (i) $12,500,000 and (ii) 5.00% of Consolidated EBITDA based on the Most Recent Financial Statements in any Fiscal Year based on the Most Recent Financial Statements with any Affiliate of the Borrower, whether or not in the ordinary course of business, other than on fair and reasonable terms not materially less favorable to the Borrower or such Restricted Subsidiary than would be obtainable by the Borrower or such Restricted Subsidiary at the time in a comparable arm's length transaction with a Person other than an Affiliate (or, if in the good faith judgment of the Borrower, no comparable transaction is available with which to compare such transaction, such transaction is otherwise fair to the Borrower or such Restricted Subsidiary from a financial point of view and when such transaction is taken in its entirety), *provided* that the foregoing restriction shall not apply to:

(a) transactions between or among Loan Parties or between and among Restricted Subsidiaries that are not Loan Parties;

(b) Qualified Receivables Transactions otherwise permitted hereunder;

(c) the payment of reasonable fees, expenses, indemnities, and compensation (including equity compensation) to and insurance provided on behalf of current, former and future officers, employees, managers, and directors of the Borrower or any of its Restricted Subsidiaries and indemnification agreements entered into by the Borrower or any of its Restricted Subsidiaries;

(d) employment and severance arrangements with current, former and future officers and employees and transactions pursuant to stock option plans and employee benefit plans and arrangements in the ordinary course of business;

(e) transactions pursuant to agreements in existence on the Closing Date and set forth on Schedule 7.08 or any amendment thereto to the extent such an amendment is not adverse to the Lenders in any material respect;

(f) Restricted Payments made pursuant to Section 7.06;

(g) transactions between or among Loan Parties and Restricted Subsidiaries who are not Loan Parties *provided* any such transaction does not adversely impact the Collateral securing the Obligations or the guarantees of the Obligations, impair the rights of or benefits or remedies available to the Secured Parties under any Loan Document or result in (and are not reasonably expected to result in) a Material Adverse Effect; *provided* that, during the continuance of an Event of Default, any amounts payable by a Loan Party to a Restricted Subsidiary that is not a Loan Party in connection with any such transactions shall be subordinated to the payment of the Obligations;

(h) the pledge of Equity Interests of Unrestricted Subsidiaries;

(i) any issuance, sale or grant of securities or other payments, awards or grants in cash, securities or otherwise pursuant to, or the funding of, employment arrangements, stock options and stock ownership plans approved by the board of directors (or equivalent governing body) of the Borrower or any Restricted Subsidiary;

(j) (i) any collective bargaining agreements, employment agreements or arrangements, severance agreements or compensatory (including profit sharing) arrangements entered into by the Borrower or any of its Restricted Subsidiaries with their respective current or former officers, directors, members of management, managers, employees, consultants or independent contractors or those of any Parent Company, (ii) any subscription agreement or similar agreement pertaining to the repurchase of Equity Interests pursuant to put/call rights or similar rights with current or former officers, directors, members of management, managers, employees, consultants or independent contractors and (iii) transactions pursuant to any employee compensation arrangement, benefit plan, stock option plan or arrangement, or any health, disability or similar insurance plan which covers current or former officers, directors, members of management, employees, consultants or independent contractors;

(k) the Transactions, including the payment of any fees, costs, expenses, indemnity or similar obligations with respect thereto;

(l) Guarantees permitted by this Agreement;

(m) non-exclusive Licenses or sublicenses of IP Rights in the ordinary course of business with Post or any of its Subsidiaries or any of the Borrower’s Subsidiaries; and

(n) transactions pursuant to the Formation Documents (as in effect on the date of this Agreement, or as amended, modified or restated from time to time in a manner not materially adverse to the interests of the Lenders); *provided*, *however*, that the payments made pursuant to Article IV of the Tax Receivables Agreement and made in reliance on this clause (n) shall not exceed $1,500,000 in the aggregate.

Section 7.09 *Restrictive Agreements*. Enter into any Contractual Obligation (other than this Agreement or any other Loan Document) that limits the ability (i) of any Restricted Subsidiary to make Restricted Payments to the Borrower or any Guarantor or to otherwise transfer property to the Borrower or any Guarantor, (ii) of any Restricted Subsidiary to Guarantee the Indebtedness of the Borrower hereunder or (iii) of the Borrower or any Restricted Subsidiary to create, incur, assume or suffer to exist Liens on property of such Person to secure the Obligations; *provided*, *however*, that clauses (i) and (iii) shall not prohibit any negative pledge or similar provision, or restriction on transfer of property, incurred or provided in favor of any holder of Indebtedness permitted under Section 7.03(e) and Section 7.15 solely to the extent any such negative pledge relates to the property financed by or the subject of such Indebtedness or transaction or any other property securing any other Indebtedness permitted under Section 7.03(e) or Section 7.15 to the extent permitted thereunder. Notwithstanding the foregoing, this Section 7.09 will not restrict or prohibit:

(a) to the extent constituting a limitation described in Section 7.09(i) above, restrictions imposed pursuant to an agreement that has been entered into in connection with a transaction permitted pursuant to Section 7.05 with respect to the property that is subject to that transaction;

(b) restrictions imposed by any agreement relating to secured Indebtedness permitted pursuant to Section 7.03(b), (d) (to the extent secured under Section 7.01(x)), (e), (g), (i), (j), (k), or (t), in each case in respect of the limitation described in Section 7.09(iii) to the extent that such restrictions apply only to the property or assets securing such Indebtedness;

(c) provisions restricting subletting or assignment of Contractual Obligations;

(d) to the extent constituting a limitation described in Section 7.09(i) above, restrictions contained in Indebtedness permitted under (x) Section 7.03(g) or (y) Sections 7.03(i), (s) or (t), in the case of this clause (y) so long as such restrictions are no more restrictive, taken as a whole, to the Borrower and its Restricted Subsidiaries than the restrictions or covenants contained in this Agreement;

(e) to the extent constituting a limitation described in Section 7.09(i) or 7.09(ii) above, provisions with respect to the disposition or distribution of assets or property in joint venture agreements and other similar agreements entered into by the Borrower and its Restricted Subsidiaries in the ordinary course of business;

(f) to the extent constituting the limitation described in Section 7.09(i) or 7.09(ii) above, customary restrictions on a Receivables Subsidiary and Receivables Program Assets effected in connection with a Qualified Receivables Transaction;

(g) to the extent constituting a limitation described in Section 7.09(i) above, restrictions on cash or other deposits or net worth imposed by customers on the Borrower and its Restricted Subsidiaries under contracts entered into in the ordinary course of business;

(h) to the extent constituting a limitation described in Section 7.09(i) above, encumbrances or restrictions arising or agreed to in the ordinary course of business, not relating to any Indebtedness, and that do not, individually or in the aggregate, detract from the value of property or assets of the Borrower or any of its Restricted Subsidiaries in any manner material to the Borrower or any of its Restricted Subsidiaries;

(i) (x) to the extent constituting a limitation described in Section 7.09(i) above, encumbrances or restrictions existing under, by reason of or with respect to customary provisions contained in leases, licenses of intellectual property and other agreements, in each case, entered into by the Borrower or any of its Restricted Subsidiaries in the ordinary course of business and (y) to the extent constituting a limitation described in Section 7.09(iii) above, encumbrances or restrictions existing under, by reason of or with respect to customary provisions contained in licenses of intellectual property or leases which prohibit the granting of a Lien on such intellectual property licensed to the Borrower or any of its Restricted Subsidiaries pursuant to the lease or license agreement, in each case, (i) entered into by the Borrower or any of its Restricted Subsidiaries with parties that are not the Borrower or any of its Restricted Subsidiaries and (ii) entered into in the ordinary course of business; or

(j) (x) restrictions set forth in any of the Senior Notes, in each case as in effect on the Closing Date or as amended, modified, refinanced, replaced, renewed or extended in a manner that is not more restrictive, taken as a whole, than any of the Senior Notes as in effect on the Closing Date and (y) similar restrictions set forth in any similar Indebtedness permitted to be incurred hereunder after the Closing Date, provided that such restrictions are no more restrictive, taken as a whole, than those set forth in any of the Senior Notes as in effect on the Closing Date.

Section 7.10 *Use of Proceeds*. Request any Credit Extension, use, or allow any of its Restricted Subsidiaries to use, the proceeds of any Credit Extension, (a) in furtherance of an offer, payment, promise to pay or authorization of the payment or giving of money, or anything else of value to any Person in violation of Anti-Corruption Laws, (b) for the purpose of funding, financing or facilitating any activities, business or transaction of, or with, any Sanctioned Person or in any Sanctioned Country, or (c) to purchase or carry margin stock (within the meaning of Regulation U of the FRB) or to extend credit to others for the purpose of purchasing or carrying margin stock or to refund indebtedness originally incurred for such purpose.

Section 7.11 *Total Net Leverage Ratio*. Commencing with the fiscal quarter ending June 30, 2022, permit the Total Net Leverage Ratio at the end of any fiscal quarter to be greater than 6.00:1.00.

Section 7.12 *Amendments of Organization Documents*. Amend any of its Organization Documents in a manner materially adverse to the Lenders.

Section 7.13 *Fiscal Year*. Make any change in its Fiscal Year.

Section 7.14 *Prepayments of Indebtedness*. Prepay, redeem, purchase, defease or otherwise satisfy more than ninety (90) days prior to the scheduled maturity thereof in any manner, or make any payment in violation of any subordination terms of, any subordinated, unsecured or junior secured Indebtedness in an aggregate principal amount during the term of this Agreement in excess of the greater of (x) $37,500,000 and (y) 15.00% of Consolidated EBITDA based on the Most Recent Financial Statements (such Indebtedness, the "**Restricted Indebtedness**"), except, in each case, for:

(a) the refinancing thereof with the proceeds of any Permitted Refinancing permitted by Section 7.03,

(b) the prepayment of Indebtedness of the Borrower or any Restricted Subsidiary owed to the Borrower or any Restricted Subsidiary to the extent not prohibited by the subordination provisions applicable thereto,

(c) so long as no Event of Default under Sections 8.01(a), 8.01(f) or 8.01(g) has occurred and is continuing or would be caused thereby, during the term of this Agreement, prepayments, redemptions, purchases or other payments made to satisfy Restricted Indebtedness (not in violation of any subordination terms in respect thereof) in an amount not to exceed the greater of $75,000,000 and 30% of Consolidated EBITDA based on the Most Recent Financial Statements,

(d) an amount not to exceed the Available Amount at the time of the making of such prepayment, redemption, repurchase or other payment; *provided* that the portion of the Available Amount attributed to clause (a)(2) of the definition thereof shall not be available for any such prepayments, redemptions, purchases or other payments made to satisfy Restricted Indebtedness made pursuant to this clause (d) if an Event of Default under Sections 8.01(a), 8.01(f) or 8.01(g) has occurred and is continuing or would be caused thereby,

(e) so long as no Event of Default under Sections 8.01(a), 8.01(f) or 8.01(g) has occurred and is continuing or would be caused thereby, prepayments, redemptions, purchases or other payments made to satisfy Restricted Indebtedness (not in violation of any subordination terms in respect thereof) shall be permitted so long as the pro forma Total Net Leverage Ratio would be less than 3.50:1.00, and

(f) regularly scheduled interest, fees and indemnification obligations due under any document, agreement or instrument evidencing any Restricted Indebtedness or entered into in connection with any Restricted Indebtedness, other non-principal payments thereunder, any mandatory prepayments of principal, interest and fees thereunder, scheduled payments thereon necessary to avoid the Restricted Indebtedness from constituting "applicable high yield discount obligations" within the meaning of Section 163(i)(1) of the Code and principal on the scheduled maturity date of any Restricted Indebtedness (or within ninety (90) days thereof), in each case to the extent not expressly prohibited by the subordination provisions applicable thereto, if any.

Section 7.15 *Sale-Leaseback Transactions*. Enter into any sale-leaseback transaction in which any Loan Party is the seller or the lessee unless the disposition of assets is permitted under Section 7.05 and the incurrence of indebtedness is permitted by Section 7.03; *provided*, that the aggregate amount of all such sales during the term of this Agreement shall not exceed the greater of (x) $100,000,000 and (y) 40% of Consolidated EBITDA based on the Most Recent Financial Statements.

Section 7.16 *Amendments of Indebtedness*. Amend, modify, or change in any manner any term or condition of any Restricted Indebtedness in excess of the Threshold Amount, in each case, in a manner materially adverse to the Lenders or that would effect a prepayment, redemption or repurchase or a Restricted Payment not otherwise permitted under Section 7.06 or Section 7.14, as applicable.

ARTICLE 8.
EVENTS OF DEFAULT AND REMEDIES

Section 8.01 *Events of Default*. Each of the following shall constitute an Event of Default (each, an "**Event of Default**"):

(a) *Non-Payment*. The Borrower or any other Loan Party fails to pay (i) when and as required to be paid herein, any amount of principal of any Loan or any L/C Obligation, or (ii) within three Business Days after the same becomes due, any interest on any Loan or on any L/C Obligation, or any fee due hereunder, or (iii) within five Business Days after the same becomes due, any other amount payable hereunder or under any other Loan Document; or

(b) *Specific Covenants*. (i) The Borrower fails to perform or observe any term, covenant or agreement contained in any of Sections 6.03(a), 6.04 (with respect to the Borrower's existence) or 6.10, or Article 7 (other than Section 7.11) or (ii) the Borrower fails to perform or observe the covenant contained in Section 7.11; *provided* that a breach of the requirements of Section 7.11 shall not constitute an Event of Default for purposes of any Facility other than the Revolving Credit Facility unless such Facility is given the benefit of such covenant in the applicable Joinder Agreement or unless and until the Required Revolving Credit Lenders have terminated the Revolving Credit Commitments and/or demanded repayment of, or otherwise accelerated, the Indebtedness owed to them hereunder; or

(c) *Other Defaults*. Any Loan Party fails to perform or observe any other covenant or agreement (not specified in subsection (a) or (b) above) contained in any Loan Document on its part to be performed or observed and such failure continues for 30 days after the Administrative Agent provides written notice to the Borrower of such failure; or

(d) *Representations and Warranties*. Any representation, warranty, certification or statement of fact made or deemed made by or on behalf of the Borrower or any other Loan Party herein, in any other Loan Document, or in any document delivered in connection herewith or therewith shall be incorrect, in any material respect, when made or deemed made; or

(e) *Cross-Default*. (i) The Borrower or any Restricted Subsidiary (other than an Escrow Subsidiary) (A) fails to make any payment when due (whether by scheduled maturity, required prepayment, acceleration, demand, or otherwise) in respect of any Indebtedness or Guarantee of Indebtedness (other than Indebtedness under the Loan Documents and Indebtedness under Swap Contracts) having an aggregate principal amount (including undrawn committed or available amounts and including amounts owing to all creditors under any combined or syndicated

credit arrangement) of more than the Threshold Amount, or (B) fails to observe or perform any other agreement or condition relating to any such Indebtedness or Guarantee of Indebtedness or contained in any instrument or agreement evidencing, securing or relating thereto, or any other event occurs, in each case after any applicable grace, cure or notice period, the effect of which default or other event is to cause, or to permit the holder or holders of such Indebtedness or the beneficiary or beneficiaries of such Guarantee of Indebtedness (or a trustee or agent on behalf of such holder or holders or beneficiary or beneficiaries) to cause, with the giving of notice if required, such Indebtedness to be demanded or to become due or to be repurchased, prepaid, defeased or redeemed (automatically or otherwise), or an offer to repurchase, prepay, defease or redeem such Indebtedness to be made, prior to its stated maturity, or such Guarantee of Indebtedness to become payable or cash collateral in respect thereof to be demanded; or (ii) there occurs under any Swap Contract an Early Termination Date (as defined, or as such comparable term may be used and defined, in such Swap Contract) resulting from (A) any event of default under such Swap Contract as to which the Borrower or any Restricted Subsidiary is the Defaulting Party (as defined, or as such comparable term may be used and defined, in such Swap Contract) or (B) any Termination Event (as defined, or as such comparable term may be used and defined, in such Swap Contract) under such Swap Contract as to which the Borrower or any Restricted Subsidiary is an Affected Party (as defined, or as such comparable term may be used and defined, in such Swap Contract) and, in either event, the Swap Termination Value owed by the Borrower or such Restricted Subsidiary as a result thereof is greater than the Threshold Amount; or

(f) *Insolvency Proceedings, Etc*. Any Loan Party or any of its Restricted Subsidiaries (other than an Immaterial Subsidiary or an Escrow Subsidiary) institutes or consents to the institution of any proceeding under any Debtor Relief Law, or makes an assignment for the benefit of creditors; or applies for or consents to the appointment of any receiver, trustee, custodian, conservator, liquidator, rehabilitator or similar officer for it or for all or any material part of its property; or any receiver, trustee, custodian, conservator, liquidator, rehabilitator or similar officer is appointed without the application or consent of such Person and the appointment continues undischarged or unstayed for 60 calendar days; or any proceeding under any Debtor Relief Law relating to any such Person or to all or any material part of its property is instituted without the consent of such Person and continues undismissed or unstayed for 60 calendar days, or an order for relief is entered in any such proceeding; or

(g) *Inability to Pay Debts*; *Attachment*. (i) The Borrower or any Restricted Subsidiary (other than an Immaterial Subsidiary or an Escrow Subsidiary) becomes unable or admits in writing its inability or fails generally to pay its debts as they become due, or (ii) any writ or warrant of attachment or execution or similar process is issued or levied against all or any material part of the property of any such Person and is not released, vacated or fully bonded within 30 days after its issue or levy; or

(h) *Judgments*. There is entered against the Borrower or any Restricted Subsidiary (other than an Escrow Subsidiary) (i) one or more final judgments or orders for the payment of money in an aggregate amount (as to all such judgments or orders) exceeding the Threshold Amount (to the extent not covered by independent third-party insurance as to which the insurer does not dispute coverage), or (ii) any one or more non-monetary final judgments that have, or could reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect and, in either case, (A) enforcement proceedings are commenced by any creditor upon such judgment or order, or (B) there is a period of 30 consecutive days during which a stay of enforcement of such judgment, by reason of a pending appeal or otherwise, is not in effect; or

(i) *ERISA*. (i) An ERISA Event occurs that alone or together with any other ERISA Event that has occurred could reasonably be expected to result in a Material Adverse Effect, or (ii) the Borrower or any ERISA Affiliate fails to pay when due, after the expiration of any applicable grace period, any installment payment with respect to its withdrawal liability under Section 4201 of ERISA under a Multiemployer Plan in an aggregate amount that could reasonably be expected to result in a Material Adverse Effect; or

(j) *Invalidity of Loan Documents*. Any provision of any Loan Document, at any time after its execution and delivery and for any reason other than as expressly permitted hereunder or thereunder including the release or termination thereof by the Administrative Agent or the Required Lenders or satisfaction in full of all the Obligations, ceases to be in full force and effect; or any Loan Party or any other Person contests in any manner the validity or enforceability of any provision of any Loan Document; or any Loan Party denies that it has any or further liability or obligation under any Loan Document, or purports to revoke, terminate or rescind any provision of any Loan Document; or

(k) *Change of Control*. There occurs any Change of Control; or

(l) *Collateral Documents*. Any Collateral Document after delivery thereof pursuant to Article 4 or Section 6.11 shall for any reason (other than pursuant to the terms hereof) cease to create a valid and perfected first priority Lien (subject to Permitted Prior Liens) on the Collateral purported to be covered thereby.

Section 8.02 *Remedies Upon Event of Default*. If any Event of Default occurs and is continuing, the Administrative Agent shall, at the request of, or may, with the consent of, the Required Lenders (or, in the case of Section 8.02(a) (insofar as it relates to the obligations of the Revolving Credit Lenders to make Revolving Credit Loans and of the L/C Issuers to make L/C Credit Extensions) or Section 8.02(e), in each case, the Required Revolving Credit Lenders), take any or all of the following actions:

(a) declare the commitment of each Lender to make Loans and any obligation of the L/C Issuers to make L/C Credit Extensions to be terminated, whereupon such commitments and obligation shall be terminated;

(b) declare the unpaid principal amount of all outstanding Loans, all interest accrued and unpaid thereon, and all other amounts owing or payable hereunder or under any other Loan Document to be immediately due and payable, without presentment, demand, protest or other notice of any kind, all of which are hereby expressly waived by the Borrower;

(c) require that the Borrower Cash Collateralize the L/C Obligations (in an amount equal to 105% of the then Outstanding Amount thereof);

(d) exercise on behalf of itself, the Lenders and the L/C Issuers all rights and remedies available to it, the Lenders and the L/C Issuers under the Loan Documents or at law or in equity; and

(e) upon the occurrence of an Event of Default under Section 7.11 that is unwaived, (x) terminate the Revolving Credit Commitments and/or (y) take any or all of the actions specified in Section 8.02(a), (b), (c) or (d) in respect of the Revolving Credit Commitments, Revolving Loans and Letters of Credit;

provided, however, that (i) upon the taking of any action by or upon the direction of the Required Revolving Credit Lenders as contemplated by clause (e) above, the Required Lenders may take any of the actions contemplated by clause (a) though (d) above with respect to any Facility hereunder and (ii) upon the occurrence of any Event of Default set forth in Section 8.01(f), the obligation of each Lender to make Loans and any obligation of each L/C Issuer to make L/C Credit Extensions shall automatically terminate, the unpaid principal amount of all outstanding Loans and all interest and other amounts as aforesaid shall automatically become due and payable, and the obligation of the Borrower to Cash Collateralize the L/C Obligations as aforesaid shall automatically become effective, in each case without further act of the Administrative Agent or any Lender.

Section 8.03 *Application of Funds*. After the exercise of remedies provided for in Section 8.02 (or after the Loans have automatically become immediately due and payable and the L/C Obligations have automatically been required to be Cash Collateralized as set forth in the proviso to Section 8.02), any amounts received on account of the Obligations shall, subject to the provisions of Sections 2.15 and 2.16 and of any Pari Passu Intercreditor Agreement then in effect, be applied by the Administrative Agent in the order specified in Section 6.5 of the Collateral Agreement.

ARTICLE 9.
AGENCY

Section 9.01 *Appointment and Authority*.

(a) Each of the Lenders and each L/C Issuer hereby irrevocably appoints JPMorgan Chase Bank, N.A. to act on its behalf as the Administrative Agent hereunder and under the other Loan Documents and authorizes the Administrative Agent to take such actions on its behalf and to exercise such powers as are delegated to the Administrative Agent by the terms hereof or thereof, together with such actions and powers as are reasonably incidental thereto. The provisions of this Article are solely for the benefit of the Administrative Agent, the Lenders and the L/C Issuers, and the Borrower shall not have rights as a third-party beneficiary of any of such provisions. It is understood and agreed that the use of the term "agent" herein or in any other Loan Documents (or any other similar term) with reference to any Agent is not intended to connote any fiduciary or other implied (or express) obligations arising under agency doctrine of any applicable Law. Instead, such term is used as a matter of market custom, and is intended to create or reflect only an administrative relationship between independent contracting parties.

(b) The Administrative Agent shall also act as the "collateral agent" under the Loan Documents, and each of the Lenders (including in its capacities as a potential Cash Management Bank and potential Hedge Bank) and the L/C Issuers hereby irrevocably appoints and authorizes the Administrative Agent to act as the agent of such Lender and such L/C Issuer for purposes of acquiring, holding and enforcing any and all Liens on Collateral granted by any of

the Loan Parties to secure any of the Obligations, together with such powers and discretion as are reasonably incidental thereto. In this connection, the Administrative Agent, as "collateral agent", and any co-agents, sub-agents and attorneys-in-fact appointed by the Administrative Agent pursuant to Section 9.05 for purposes of holding or enforcing any Lien on the Collateral (or any portion thereof) granted under the Collateral Documents, or for exercising any rights and remedies thereunder (at the direction of the Administrative Agent), shall be entitled to the benefits of all provisions of this Article 9 and Article 10 (including Section 10.04(c)), as though such co-agents, sub-agents and attorneys-in-fact were the "collateral agent" under the Loan Documents, as if set forth in full herein with respect thereto. The provisions of this Article 9 shall survive the payment in full of the Obligations, the termination of the Commitments and the termination of this Agreement.

Section 9.02 *Rights as a Lender*. Each Agent 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 hereunder, and the term "Lender" or "Lenders" shall, unless otherwise expressly indicated or unless the context otherwise requires, include the Person serving as such Agent hereunder in its individual capacity. Such Person and its Affiliates may accept deposits from, lend money to, act as the financial advisor or in any other advisory capacity for and generally engage in any kind of business with the Borrower or any Subsidiary or other Affiliate thereof as if such Person were not an Agent hereunder and without any duty to account therefor to the Lenders.

Section 9.03 *Exculpatory Provisions*. No Agent shall have any duties or obligations except those expressly set forth herein and in the other Loan Documents, and any such duties hereunder and thereunder shall be administrative in nature. Without limiting the generality of the foregoing, the Agents:

(a) shall not be subject to any fiduciary or other implied duties, regardless of whether a Default has occurred and is continuing;

(b) shall not have any duty to take any discretionary action or exercise any discretionary powers, except (in the case of the Administrative Agent) discretionary rights and powers expressly contemplated hereby or by the other Loan Documents that the Administrative Agent is required to exercise as directed in writing by the Required Lenders (or such other number or percentage of the Lenders as shall be expressly provided for herein or in the other Loan Documents); *provided* that the Administrative Agent shall not be required to take any action that, in its opinion or the opinion of its counsel, may expose the Administrative Agent to liability that is contrary to any Loan Document or applicable Law, including for the avoidance of doubt any action that may be in violation of the automatic stay under any Debtor Relief Law or that may effect a forfeiture, modification or termination of property of a Defaulting Lender in violation of any Debtor Relief Law; and

(c) shall not, except as expressly set forth herein and in the other Loan Documents, have any duty to disclose, and shall not be liable for the failure to disclose, any information relating to the Borrower or any of its Affiliates that is communicated to or obtained by the Person serving as such Agent or any of its Affiliates in any capacity.

The Administrative Agent shall not be liable for any action taken or not taken by it (i) with the consent or at the request of the Required Lenders (or such other number or percentage of the Lenders as shall be necessary, or as the Administrative Agent shall believe in good faith shall be necessary, under the circumstances as provided in Sections 8.02 and 10.01) or (ii) in the absence of its own gross negligence or willful misconduct as determined by a court of competent jurisdiction by final and nonappealable judgment. The Administrative Agent shall be deemed not to have knowledge of any Default unless and until it shall have received written notice from a Lender, an L/C Issuer or the Borrower referring to this Agreement, describing such Default and stating that such notice is a "notice of default."

No Agent or any of its Related Parties shall 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 or any other Loan Document, (ii) the contents of any certificate, report or other document delivered hereunder or thereunder or in connection herewith or therewith, (iii) the performance or observance of any of the covenants, agreements or other terms or conditions set forth herein or therein or the occurrence of any Default, (iv) the validity, enforceability, effectiveness or genuineness of this Agreement, any other Loan Document or any other agreement, instrument or document, or the creation, perfection or priority of any Lien purported to be created by the Collateral Documents, (v) the value or the sufficiency of any Collateral or (vi) the satisfaction of any condition set forth in Article 4 or elsewhere herein, other than, in the case of the Administrative Agent, to confirm receipt of items expressly required to be delivered to the Administrative Agent.

Section 9.04 *Reliance*. 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 (including any electronic message, Internet or intranet website posting or other distribution) believed by it to be genuine and to have been signed, sent or otherwise authenticated by the proper Person. Each Agent also may rely upon any statement made to it orally or by telephone and believed by it to have been made by the proper Person, and shall not incur any liability for relying thereon. In determining compliance with any condition hereunder to the making of a Loan, or the issuance of a Letter of Credit, that by its terms must be fulfilled to the satisfaction of a Lender or an L/C Issuer, the Administrative Agent may presume that such condition is satisfactory to such Lender or such L/C Issuer unless the Administrative Agent shall have received notice to the contrary from such Lender or such L/C Issuer prior to the making of such Loan or the issuance of such Letter of Credit. The Administrative Agent may consult with legal counsel (who may be counsel for the Borrower), independent accountants and other experts selected by it, and shall not be liable for any action taken or not taken by it in accordance with the advice of any such counsel, accountants or experts.

Section 9.05 *Delegation of Duties*. The Administrative Agent may perform any and all of its duties and exercise its rights and powers hereunder or under any other Loan Document by or through any one or more sub-agents appointed by the Administrative Agent. The Administrative Agent and any such sub-agent may perform any and all of its duties and exercise its rights and powers by or through their respective Related Parties. The exculpatory provisions of this Article shall apply to any such sub-agent and to the Related Parties of the Administrative Agent and any such sub-agent, and shall apply to their respective activities in connection with the syndication of the credit facilities provided for herein as well as activities as Administrative Agent. The

Administrative Agent shall not be responsible for the negligence or misconduct of any sub-agents except to the extent that a court of competent jurisdiction determines in a final and nonappealable judgment that the Administrative Agent acted with gross negligence or willful misconduct in the selection of such sub agents.

Section 9.06 *Resignation of Administrative Agent*. The Administrative Agent may at any time give notice of its resignation to the Lenders, the L/C Issuers and the Borrower. Upon receipt of any such notice of resignation, the Required Lenders shall have the right, in consultation with the Borrower, to appoint a successor, which shall be a financial institution with an office in the United States, or an Affiliate of any such financial institution with an office in the United States. If no such successor shall have been so appointed by the Required Lenders and shall have accepted such appointment within 30 days after the retiring Administrative Agent gives notice of its resignation, then the retiring Administrative Agent may on behalf of the Lenders and the L/C Issuers appoint a successor Administrative Agent meeting the qualifications set forth above; *provided* that if the Administrative Agent shall notify the Borrower and the Lenders that no qualifying Person has accepted such appointment, then such resignation shall nonetheless become effective in accordance with such notice and (a) the retiring Administrative Agent shall be discharged from its duties and obligations hereunder and under the other Loan Documents (except that in the case of any collateral security held by the Administrative Agent on behalf of the Lenders or the L/C Issuers under any of the Loan Documents, the retiring Administrative Agent shall continue to hold such collateral security until such time as a successor Administrative Agent is appointed) and (b) all payments, communications and determinations provided to be made by, to or through the Administrative Agent shall instead be made by or to each Lender and L/C Issuer directly, until such time as the Required Lenders appoint a successor Administrative Agent as provided for above in this Section. Upon the acceptance of a successor's appointment as Administrative Agent hereunder, such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring (or retired) Administrative Agent, and the retiring Administrative Agent shall be discharged from all of its duties and obligations hereunder or under the other Loan Documents (if not already discharged therefrom as provided above in this Section). The fees payable by the Borrower to a successor Administrative Agent shall be the same as those payable to its predecessor unless otherwise agreed between the Borrower and such successor. After the retiring Administrative Agent's resignation hereunder and under the other Loan Documents, the provisions of this Article and Section 10.04 shall continue in effect for the benefit of such retiring Administrative Agent, its sub-agents and their respective Related Parties in respect of any actions taken or omitted to be taken by any of them while the retiring Administrative Agent was acting as Administrative Agent.

Any resignation by the entity serving as Administrative Agent pursuant to this Section shall also constitute its resignation as an L/C Issuer (if applicable). Upon the acceptance of a successor's appointment as Administrative Agent hereunder, such successor may agree to succeed to and become vested with all of the rights, powers, privileges and duties of a retiring L/C Issuer, if applicable. In connection with any such agreement to succeed to the retiring L/C Issuer, the successor L/C Issuer, if applicable, shall issue letters of credit in substitution for the Letters of Credit, if any, outstanding at the time of such succession or make other arrangements reasonably satisfactory to the retiring L/C Issuer to effectively assume the obligations of such retiring L/C Issuer with respect to such Letters of Credit.

Notwithstanding the foregoing, the failure of any successor to agree to succeed to a retiring L/C Issuer shall not affect the resignation of such retiring L/C Issuer. The retiring L/C Issuer shall retain all the rights, powers, privileges and duties of an L/C Issuer hereunder with respect to all Letters of Credit issued by it and outstanding as of the effective date of its resignation as L/C Issuer and all L/C Obligations with respect thereto (including the right to require the Lenders to make Base Rate Loans or fund risk participations in Unreimbursed Amounts pursuant to Section 2.03(c)), but shall have no obligation to issue any additional Letters of Credit or to amend, extend or otherwise modify any existing Letters of Credit (except as required pursuant to the terms of any such existing Letters of Credit).

Section 9.07 *Non-Reliance on Administrative Agent and Other Lenders*. Each Lender and each L/C Issuer acknowledges that it has, independently and without reliance upon the Administrative Agent or any other Lender or 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 and each L/C Issuer also acknowledges that it will, independently and without reliance upon the Administrative Agent or any Lender or 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 this Agreement, any other Loan Document or any related agreement or any document furnished hereunder or thereunder.

Section 9.08 *No Other Duties, Etc.* Anything herein to the contrary notwithstanding, none of the Arrangers, Co-Managers or the Agents shall have any powers, duties or responsibilities under this Agreement or any of the other Loan Documents, except in its capacity, as applicable, as the Administrative Agent, a Lender or an L/C Issuer hereunder.

Section 9.09 *Administrative Agent May File Proofs of Claim*. In case of the pendency of any proceeding under any Debtor Relief Law or any other judicial proceeding relating to any Loan Party, the Administrative Agent (irrespective of whether the principal of any Loan or L/C Obligation shall then be due and payable as herein expressed or by declaration or otherwise and irrespective of whether the Administrative Agent shall have made any demand on the Borrower) shall be entitled and empowered (but not obligated), by intervention in such proceeding or otherwise:

(a) to file and prove a claim for the whole amount of the principal and interest owing and unpaid in respect of the Loans, L/C Obligations and all other Obligations that are owing and unpaid and to file such other documents as may be necessary or advisable in order to have the claims of the Lenders, the L/C Issuers and the Administrative Agent (including any claim for the reasonable compensation, expenses, disbursements and advances of the Lenders, the L/C Issuers and the Administrative Agent and their respective agents and counsel and all other amounts due the Lenders, the L/C Issuers and the Administrative Agent under Sections 2.03(h) and (i), 2.09 and 10.04) allowed in such judicial proceeding; and

(b) to collect and receive any monies or other property payable or deliverable on any such claims and to distribute the same; and any custodian, receiver, assignee, trustee, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized by each Lender and each L/C Issuer to make such payments to the Administrative Agent and, in the event that the Administrative Agent shall consent to the making of such payments directly to the Lenders and the L/C Issuers, to pay to the Administrative Agent any amount due for the reasonable compensation, expenses, disbursements and advances of the Administrative Agent and its agents and counsel, and any other amounts due the Administrative Agent under Sections 2.09 and 10.04.

Nothing contained herein shall be deemed to authorize the Administrative Agent to authorize or consent to or accept or adopt on behalf of any Lender or L/C Issuer any plan of reorganization, arrangement, adjustment or composition affecting the Obligations or the rights of any Lender or L/C Issuer to authorize the Administrative Agent to vote in respect of the claim of any Lender or L/C Issuer in any such proceeding.

Section 9.10 *Collateral and Guaranty Matters*. Each Lender (including in its capacities as a potential Cash Management Bank and as a potential Hedge Bank) and L/C Issuer irrevocably authorizes the Administrative Agent, at its option and in its discretion, after the Closing Date:

(a) to release any Lien to the extent securing the Obligations on any property granted to or held by the Administrative Agent under any Loan Document (i), upon termination of the Aggregate Commitments and payment in full of all Obligations (other than (A) contingent indemnification obligations as to which no claim has been asserted and (B) obligations and liabilities under Secured Cash Management Agreements and Secured Hedge Agreements), the termination or expiration with no pending drawings of all Letters of Credit (other than Letters of Credit which have been Cash Collateralized or as to which other arrangements satisfactory to the Administrative Agent and the applicable L/C Issuer shall have been made) and the termination and payment in full of all obligations and liabilities under Secured Cash Management Agreements and Secured Hedge Agreements in respect of which the Administrative Agent has received notice pursuant to Section 9.11 (other than any such agreements as to which other arrangements reasonably satisfactory to the applicable Cash Management Bank or Hedge Bank have been made), (ii) that is Disposed of in a transaction permitted hereunder the result of which is that, following the consummation thereof, no Loan Party has rights in the property being Disposed of or (iii) if approved, authorized or ratified in writing in accordance with Section 10.01;

(b) to release any Guarantor from its Guarantee of the Obligations under the Collateral Agreement (i) upon termination of the Aggregate Commitments and payment in full of all Obligations (other than (A) contingent indemnification obligations as to which no claim has been asserted and (B) obligations and liabilities under Secured Cash Management Agreements and Secured Hedge Agreements), the termination or expiration with no pending drawings of all Letters of Credit (other than Letters of Credit which have been Cash Collateralized or as to which other arrangements satisfactory to the Administrative Agent and the applicable L/C Issuer shall have been made) and the termination and payment in full of all obligations and liabilities under Secured Cash Management Agreements and Secured Hedge Agreements in respect of which the Administrative Agent has received notice pursuant to Section 9.11 (other than any such agreements as to which other arrangements reasonably satisfactory to the applicable Cash Management Bank or Hedge Bank have been made), or (ii) if approved, authorized or ratified in writing in accordance with Section 10.01;

(c) to release any Guarantor from its Guarantee of the Obligations and all Liens granted by any such Guarantor, and all pledges of Equity Interests in any such Guarantor under the Collateral Agreement if such Person ceases to be a Restricted Subsidiary (including by being designated an Unrestricted Subsidiary in accordance with Section 6.17 hereof, or by way of liquidation, merger, consolidation, amalgamation or dissolution or Disposition thereof as permitted by this Agreement), or becomes an Immaterial Subsidiary or an Excluded Subsidiary (unless such Person continues to guarantee any of the Senior Notes or any Permitted Refinancing thereof); *provided* that, if such Guarantor becomes an Excluded Subsidiary by virtue of being a first tier Affected Foreign Subsidiary, then the release of any pledge of Equity Interests therein shall be limited to 35% of the voting Equity Interests thereof and if such Affected Foreign Subsidiary is a direct or indirect Subsidiary of an Affected Foreign Subsidiary, then the release shall be 100% of any pledge of Equity Interests of such Subsidiary; *provided*, *however*, that if such Guarantor becomes an Excluded Subsidiary solely in reliance on clause (g) of the definition of "Excluded Subsidiary," then the release of such Guarantor from its Obligations under the Loan Documents shall only be permitted if at the time such Guarantor becomes an Excluded Subsidiary of such type, after giving pro forma effect to such release and consummation of the transaction that causes such Person to be an Excluded Subsidiary of such type, the Borrower is deemed to have made a new Investment in such Person on the date of such release in an amount equal to the portion of the fair market value of the net assets of such Person attributable to the Borrower's or any Restricted Subsidiary's Equity Interest therein and such Investment is permitted under Section 7.02 at such time;

(d) to execute any intercreditor agreements and/or subordination agreements with any holder of any Indebtedness or Liens permitted by this Agreement to the extent such intercreditor agreement and/or subordination agreement is required by the terms hereof; and

(e) to subordinate any Lien on any property granted to or held by the Administrative Agent under any Loan Document, to the extent securing the Obligations, to the holder of any Lien on such property that is permitted by Section 7.01(i).

Upon request by 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 Collateral, or to release any Guarantor from its Guarantee of the Obligations under the Collateral Agreement pursuant to this Section 9.10. In each case as specified in this Section 9.10, the Administrative Agent will, at the Borrower'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 or to subordinate its interest in such item, or to release such Guarantor from its Guarantee of the Obligations under the Collateral Agreement, in each case in accordance with the terms of the Loan Documents and this Section 9.10.

Notwithstanding anything to the contrary in this Agreement, upon a Subsidiary being designated an Unrestricted Subsidiary in accordance with Section 6.17 of this Agreement or otherwise ceasing to be a Restricted Subsidiary (including by way of liquidation, merger, consolidation or amalgamation or dissolution) in a transaction permitted by this Agreement, such Subsidiary shall be automatically released and relieved of any obligations under this Agreement, the Collateral Agreement and all other Loan Documents, all Liens granted by such Subsidiary in

its assets to the Administrative Agent shall be automatically released, all pledges to the Administrative Agent of Equity Interests in any such Subsidiary shall be automatically released, and the Administrative Agent is authorized to, and shall promptly, deliver to the Borrower any acknowledgement confirming such releases and all necessary releases and terminations, in each case as the Borrower may reasonably request to evidence such release and at the Borrower's expense. To the extent any Loan Document conflicts or is inconsistent with the terms of this Section, this Section shall govern and control in all respects.

Section 9.11 *Additional Secured Parties*. No Cash Management Bank or Hedge Bank that obtains the benefits of the Collateral Agreement or any Collateral by virtue of the provisions hereof or of the Collateral Agreement or any Collateral Document shall have any right to notice of any action or to consent to, direct or object to any action hereunder or under any other Loan Document or otherwise in respect of the Collateral (including the release or impairment of any Collateral) other than in its capacity as a Lender and, in such case, only to the extent expressly provided in the Loan Documents. Notwithstanding any other provision of this Article 9 to the contrary, the Administrative Agent shall not be required to verify the payment of, or that other satisfactory arrangements have been made with respect to, Obligations arising under Secured Cash Management Agreements and Secured Hedge Agreements unless the Administrative Agent has received written notice of such Obligations, together with such supporting documentation as the Administrative Agent may request, from the applicable Cash Management Bank or Hedge Bank, as the case may be.

Section 9.12 *Certain ERISA Matters*.

(a) Each Lender (x) represents and warrants, as of the date such Person became a Lender party hereto, to, and (y) covenants, from the date such Person became a Lender party hereto to the date such Person ceases being a Lender party hereto, for the benefit of, the Administrative Agent, the Co-Managers and the Arrangers and their respective Affiliates, and not, for the avoidance of doubt, to or for the benefit of the Borrower or any other Loan Party, that at least one of the following is and will be true:

(i) such Lender is not using "plan assets" (within the meaning of Section 3(42) of ERISA or otherwise for purposes of Title I of ERISA or Section 4975 of the Code) of one or more Benefit Plans in connection with the Loans, the Letters of Credit or the Commitments,

(ii) the prohibited transaction exemption set forth in one or more PTEs, such as PTE 84-14 (a class exemption for certain transactions determined by independent qualified professional asset managers), PTE 95-60 (a class exemption for certain transactions involving insurance company general accounts), PTE 90-1 (a class exemption for certain transactions involving insurance company pooled separate accounts), PTE 91-38 (a class exemption for certain transactions involving bank collective investment funds) or PTE 96-23 (a class exemption for certain transactions determined by in-house asset managers), is applicable so as to exempt from the prohibitions of Section 406 of ERISA and Section 4975 of the Code such Lender's entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments and this Agreement,

(iii) (A) such Lender is an investment fund managed by a "Qualified Professional Asset Manager" (within the meaning of Part VI of PTE 84-14), (B) such Qualified Professional Asset Manager made the investment decision on behalf of such Lender to enter into, participate in, administer and perform the Loans, the Letters of Credit, the Commitments and this Agreement, (C) the entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments and this Agreement satisfies the requirements of sub-sections (b) through (g) of Part I of PTE 84-14 and (D) to the best knowledge of such Lender, the requirements of subsection (a) of Part I of PTE 84-14 are satisfied with respect to such Lender's entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments and this Agreement, or

(iv) such other representation, warranty and covenant as may be agreed in writing between the Administrative Agent, in its sole discretion, and such Lender.

(b) In addition, unless either (1) sub-clause (i) in the immediately preceding clause (a) is true with respect to a Lender or (2) a Lender has provided another representation, warranty and covenant in accordance with sub-clause (iv) in the immediately preceding clause (a), such Lender further (x) represents and warrants, as of the date such Person became a Lender party hereto, and (y) covenants, from the date such Person became a Lender party hereto to the date such Person ceases being a Lender party hereto, for the benefit of, the Administrative Agent, the Co-Managers and the Arrangers and their respective Affiliates, and not, for the avoidance of doubt, to or for the benefit of the Borrower or any other Loan Party, that none of the Administrative Agent or any Arranger or any of their respective Affiliates is a fiduciary with respect to the assets of such Lender involved in the Loans, the Letters of Credit, 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 to hereto or thereto).

Section 9.13 *Acknowledgements of Lenders and L/C Issuers.*

(a) Each Lender and each L/C Issuer hereby agrees that (x) if the Administrative Agent notifies such Lender or L/C Issuer, as applicable, that the Administrative Agent has determined in its sole discretion that any funds received by such Lender or L/C Issuer 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 or L/C Issuer (whether or not known to such Lender or L/C Issuer), and demands the return of such Payment (or a portion thereof), such Lender or L/C Issuer, as applicable, 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 or L/C

Issuer, as applicable, 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 or L/C Issuer, as applicable, 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 or L/C Issuer under this Section 9.13(a) shall be conclusive, absent manifest error.

(b) Each Lender and L/C Issuer, as applicable, 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 and each L/C Issuer agrees that, in each such case, or if it otherwise becomes aware that 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 or L/C Issuer, as applicable, 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 or L/C Issuer that has received such Payment (or portion thereof) for any reason, the Administrative Agent shall be subrogated to all the rights of such Lender or such L/C Issuer, as applicable with respect to such amount 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 except, in each case, to the extent such erroneous Payment is, and with respect to the amount of such erroneous Payment that is, comprised of funds of the Borrower or any other Loan Party.

(d) Each party's obligations under this Section 9.13 shall survive the resignation or replacement of the Administrative Agent or any transfer of rights or obligations by, or the replacement of, a Lender or L/C Issuer, the termination of the Commitments or the repayment, satisfaction or discharge of all Obligations under any Loan Document.

ARTICLE 10.
MISCELLANEOUS

Section 10.01 *Amendments, Etc.* Except as set forth below in this Section 10.01, no amendment or waiver of any provision of this Agreement or any other Loan Document, and no consent to any departure by the Borrower or any other Loan Party therefrom, shall be effective unless in writing signed by the Required Lenders and the Borrower or the applicable Loan Party, as the case may be, and acknowledged by the Administrative Agent (or signed by the Administrative Agent on behalf of and with the written consent of the Required Lenders), and each such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given; *provided, however,* that (i) any term or provision of Section 7.11 or the definition of "Total Net Leverage Ratio" (or any of its component definitions (as used solely in such Section but not as used in other Sections of this Agreement)) may be amended, waived, consented to or otherwise modified with the consent of the Required Revolving Credit Lenders (and no other consents from any other Lenders or group thereof shall be necessary unless any such group of Lenders is given the benefit of such covenant in the applicable Joinder Agreement, in which case such additional consent of such Lenders shall be required to the extent set forth in such Joinder Agreement); and (ii) no such amendment, waiver, consent or other modification shall (and/or, in the case of clause (l) below, no document or instrument effectuating any subordination referred to therein shall):

(a) waive any condition set forth in Section 4.01 without the written consent of each Lender adversely affected thereby;

(b) without limiting the generality of clause (a) above, waive any condition set forth in Section 4.02 as to any Credit Extension under the Revolving Credit Facility without the written consent of the Required Revolving Credit Lenders;

(c) extend or increase the Commitment of any Lender (or reinstate any Commitment terminated pursuant to Section 2.06 or Section 8.02) without the written consent of such Lender;

(d) postpone any date fixed by this Agreement or any other Loan Document for any payment (excluding mandatory prepayments pursuant to Section 2.05(b)) of principal, interest, fees or other amounts due to the Lenders (or any of them) or any scheduled or mandatory reduction of any Facility hereunder or under any other Loan Document without the written consent of each Appropriate Lender directly affected thereby;

(e) reduce the principal of, or the rate of interest specified herein on, any Loan or L/C Borrowing, or any fees or other amounts payable hereunder or under any other Loan Document without the written consent of each Lender directly affected thereby; *provided, however,* that only the consent of the Required Lenders shall be necessary to amend (i) the definition of "**Default Rate**" or to waive any obligation of the Borrower to pay interest or Letter of Credit Fees at the Default Rate and (ii) except as set forth in clause (i) of the first proviso to this Section 10.01, any financial ratio (including any defined term used therein) or any definition relating to any (x) financial calculation or (y) currency exchange rate calculation affecting compliance with Sections 7.01, 7.02 and 7.03 with respect to the amount of Liens, Investments, or Indebtedness in currencies other than U.S. Dollars hereunder even if, in the case of clause (x) and (y), the effect of such amendment would be to reduce the rate of interest on any Loan or L/C Borrowing or to reduce any fee payable hereunder;

(f) change (i) Section 8.03 of this Agreement or Section 6.5 of the Collateral Agreement in a manner that would alter the order of application or pro rata sharing of payments required thereby without the written consent of each Lender or (ii) the definition of "Applicable Percentage," the definition of "Applicable Revolving Credit Percentage", the order of application or pro rata nature of application of any reduction in the Commitments or any prepayment of Loans within or among the Facilities from the application thereof set forth in the applicable provisions of Sections 2.05(a), 2.05(b) or 2.06(c), or other provisions in respect of the pro rata application of payments or offers hereunder under Section 2.12, 2.13, 2.14, 2.15, 2.16 or 10.06(b)(vii) in any manner that materially and adversely affects the Lenders under a Facility or Class without the written consent of the Lenders with respect to the relevant Facility or Class adversely affected thereby;

(g) change (i) any provision of this Section 10.01 or the definition of "Required Lenders" or any other provision hereof specifying the number or percentage of Lenders required to amend, waive or otherwise modify any rights hereunder or make any determination or grant any consent hereunder (other than the definitions specified in clause (ii) of this Section 10.01(g)), without the written consent of each Lender; (ii) the definition of "Required Lenders", "Required Facility Lenders" or "Required Revolving Credit Lenders" without the written consent of each Lender under the applicable Facility or (iii) any other provision of this Agreement or the other Loan Documents in a manner that creates a materially disadvantaged Class or otherwise materially adversely affects a Class, without the written consent of the Required Lenders with respect to such Class determined in a manner consistent with the definition of "Required Facility Lenders" (as if such Class constituted a Facility for purposes of such definition);

(h) release all or substantially all of the value of the Guarantees of the Obligations in any transaction or series of transactions without the written consent of each Lender, except to the extent the release of any Guarantor is permitted pursuant to Section 9.10 (in which case such release may be made by the Administrative Agent acting alone);

(i) release all or substantially all of the Collateral in any transaction or series of related transactions without the written consent of each Lender, except to the extent the release of any Collateral is permitted pursuant to Section 9.10 (in which case such release may be made by the Administrative Agent acting alone);

(j) impose any greater restriction on the ability of any Lender under a Facility to assign any of its rights or obligations hereunder without the written consent of the Required Facility Lenders with respect to the relevant Facility;

(k) amend the definition of "Alternative Currency" without the written consent of each Revolving Credit Lender and L/C Issuer;

(l) except, in each case, as otherwise permitted by this Agreement as of the date hereof, subordinate the Liens securing the Obligations to Liens securing any other Indebtedness for borrowed money or subordinate payment of the Obligations to any other Indebtedness for borrowed money or subordinate the obligations in respect of the Guarantees to any other Indebtedness for borrowed money without the written consent of each Lender adversely affected thereby; or

(m) amend clause (x) of Section 10.06(a) without the written consent of each Lender;

and, *provided*, *further*, that (i) no amendment, waiver, consent or modification shall, unless in writing and signed by the applicable L/C Issuer in addition to the Lenders required above, affect the rights or duties of such L/C Issuer under this Agreement or any Issuer Document, in each case, relating to any Letter of Credit issued or to be issued by it; (ii) no amendment, waiver, consent or modification shall, unless in writing and signed by the Administrative Agent in addition to the Lenders required above, affect the rights or duties of the Administrative Agent under this Agreement or any other Loan Document, (iii) no amendment, waiver, consent or modification shall, unless in writing and signed by any Person that formerly served as an administrative agent under this Agreement and the other Loan Documents in addition to the Lenders required above and the Administrative Agent, that adversely affects the rights or duties, taken as a whole, of such former administrative agent solely in such capacity under this Agreement or any other Loan Document and (iv) any Fee Letter may be amended, and rights or privileges thereunder may be waived, in a writing executed only by the parties thereto.

Notwithstanding anything to the contrary contained herein, if, following the Closing Date, the Administrative Agent and the Borrower shall have jointly identified an obvious error or any error or omission of a technical or immaterial nature, in each case, in any provision of this Agreement or any other Loan Document, then the Administrative Agent and the Borrower shall be permitted to amend such provision and such amendment shall become effective without any further action or consent of any other party to this Agreement or any other Loan Document if the same is not objected to in writing by the Required Lenders within three Business Days following receipt of notice thereof. It is understood that posting such amendment electronically on IntraLinks/IntraAgency, SyndTrak or another relevant website with notice of such posting by the Administrative Agent to the Required Lenders shall be deemed adequate receipt of notice thereof.

Section 10.02 *Notices; Effectiveness; Electronic Communication*.

(a) *Notices Generally*. Except as provided in Section 10.02(b), all notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by facsimile as follows:

(i) if to the Borrower, the Administrative Agent or any L/C Issuer party hereto on the Closing Date, to the address, facsimile number, or electronic mail address specified for such Person on Schedule 10.02; and

(ii) if to any other Lender, to the address, facsimile number, or electronic mail address specified in its Administrative Questionnaire.

Notices and other communications sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received; notices and other communications sent by facsimile shall be deemed to have been given when sent (except that, if not given during normal business hours for the recipient, shall be deemed to have been given at the opening of business on the next Business Day for the recipient). Notices and other communications delivered through electronic communications to the extent provided in Section 10.02(b) shall be effective as provided in such Section 10.02(b).

(b) *Electronic Communications*. Notices and other communications to the Lenders and the L/C Issuers hereunder may be delivered or furnished by electronic communication (including e-mail and Internet or intranet websites) pursuant to procedures approved by the Administrative Agent, *provided* that the foregoing shall not apply to notices to any Lender or L/C Issuer pursuant to Article 2 if such Lender or L/C Issuer, as applicable, has notified the Administrative Agent that it is incapable of receiving notices under such Article by electronic communication. The Administrative Agent or the Borrower may, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by it, *provided* that approval of such procedures may be limited to particular notices or communications.

Unless the Administrative Agent otherwise prescribes, (i) notices and other communications sent to an e-mail address shall be deemed received upon the sender's receipt of an acknowledgement from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgment), *provided* that if such notice or other communication is not sent during the normal business hours of the recipient, such notice or communication shall be deemed to have been sent at the opening of business on the next Business Day for the recipient, and (ii) notices or communications posted to an Internet or intranet website shall be deemed received upon the deemed receipt by the intended recipient at its e-mail address as described in the foregoing clause (i) of notification that such notice or communication is available and identifying the website address therefor.

(c) *The Platform*. THE PLATFORM IS PROVIDED "AS IS" AND "AS AVAILABLE." THE AGENT PARTIES DO NOT WARRANT THE ACCURACY OR COMPLETENESS OF THE BORROWER MATERIALS OR THE ADEQUACY OF THE PLATFORM, AND EXPRESSLY DISCLAIM LIABILITY FOR ERRORS IN OR OMISSIONS FROM THE BORROWER MATERIALS. NO WARRANTY OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY, INCLUDING ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OF THIRD PARTY RIGHTS OR FREEDOM FROM VIRUSES OR OTHER CODE DEFECTS, IS MADE BY ANY AGENT PARTY IN CONNECTION WITH THE BORROWER MATERIALS OR THE PLATFORM. In no event shall the Administrative Agent or any of its Related Parties (collectively, the "**Agent Parties**") have any liability to the Borrower, any Lender, any L/C Issuer or any other Person for losses, claims, damages, liabilities or expenses of any kind (whether in tort, contract or otherwise) arising out of the Borrower's or the Administrative Agent's transmission of Borrower Materials through the Internet, except to the extent that such losses, claims, damages, liabilities or expenses are determined by a court of competent jurisdiction by a final and nonappealable judgment to have resulted from the gross negligence or willful misconduct of such Agent Party; *provided, however,* that in no event shall any Agent Party have any liability to the Borrower, any Lender, any L/C Issuer or any other Person for indirect, special, incidental, consequential or punitive damages (as opposed to direct or actual damages).

(d) *Change of Address, Etc*. Each of the Borrower, the Administrative Agent and the L/C Issuers may change its address or facsimile for notices and other communications hereunder by notice to the other parties hereto. Each Lender may change its address or facsimile for notices and other communications hereunder by notice to the Borrower, the Administrative Agent and the L/C Issuers. In addition, each Lender agrees to notify the Administrative Agent from time to time to ensure that the Administrative Agent has on record (i) an effective address, contact name, facsimile number and electronic mail address to which notices and other communications may be sent and (ii) accurate wire instructions for such Lender. Furthermore, each Public Lender agrees to cause at least one individual at or on behalf of such Public Lender to at all times have selected the "Private Side Information" or similar designation on the content declaration screen of the Platform in order to enable such Public Lender or its delegate, in accordance with such Public Lender's compliance procedures and applicable Law, including United States Federal and state securities Laws, to make reference to Borrower Materials that are not made available through the "Public Side Information" portion of the Platform and that may contain MNPI with respect to the Borrower or any of its Subsidiaries or their respective securities for purposes of United States Federal or state securities laws.

(e) *Reliance by Administrative Agent, L/C Issuers and Lenders*. The Administrative Agent, the L/C Issuers and the Lenders shall be entitled to rely and act upon any notices purportedly given by or on behalf of the Borrower even if (i) such notices were not made in a manner specified herein, were incomplete or were not preceded or followed by any other form of notice specified herein, or (ii) the terms thereof, as understood by the recipient, varied from any confirmation thereof. The Borrower shall indemnify the Administrative Agent, the L/C Issuers, each Lender and the Related Parties of each of them from all losses, costs, expenses and liabilities resulting from the reliance by such Person on each notice purportedly given by or on behalf of the Borrower except to the extent that such losses, claims, damages, liabilities or related expenses are determined by a court of competent jurisdiction by final and nonappealable judgment to have resulted from the gross negligence or willful misconduct of such Person. All telephonic communications with the Administrative Agent may be recorded by the Administrative Agent, and each of the parties hereby consents to such recording.

Section 10.03 *No Waiver; Cumulative Remedies; Enforcement*. No failure by any Lender, any L/C Issuer or the Administrative Agent to exercise, and no delay by any such Person in exercising, any right, remedy, power or privilege hereunder shall operate as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. The rights, remedies, powers and privileges herein provided are cumulative and not exclusive of any rights, remedies, powers and privileges provided by law.

Notwithstanding anything to the contrary contained herein or in any other Loan Document, the authority to enforce rights and remedies hereunder and under the other Loan Documents against the Loan Parties or any of them shall be vested exclusively in, and all actions and proceedings at law in connection with such enforcement shall be instituted and maintained exclusively by, the Administrative Agent in accordance with Section 8.02 for the benefit of all the Lenders and the L/C Issuers and, in respect of the Collateral Documents, any other Secured Party; *provided, however,* that the foregoing shall not prohibit (a) the Administrative Agent from exercising on its own behalf the rights and remedies that inure to its benefit (solely in its capacity as Administrative Agent) hereunder and under the other Loan Documents, (b) each of the L/C Issuers from exercising the rights and remedies that inure to its benefit (solely in its capacity as L/C Issuer) hereunder and

under the other Loan Documents, (c) any Lender from exercising setoff rights in accordance with Section 10.08 (subject to the terms of Section 2.13), or (d) any Secured Party from filing proofs of claim or appearing and filing pleadings on its own behalf during the pendency of a proceeding relative to any Loan Party under any Debtor Relief Law and *provided, further,* that if at any time there is no Person acting as Administrative Agent hereunder and under the other Loan Documents, then (i) the Required Lenders shall have the rights otherwise ascribed to the Administrative Agent pursuant to Section 8.02 and (ii) in addition to the matters set forth in clauses (b), (c), and (d) of the preceding proviso and subject to Section 2.13, any Lender may, with the consent of the Required Lenders, enforce any rights and remedies available to it and as authorized by the Required Lenders.

Section 10.04 *Expenses; Indemnity; Damage Waiver*.

(a) *Costs and Expenses*. The Borrower shall pay (i) all reasonable out-of-pocket expenses incurred by the Administrative Agent and its Affiliates (including but not limited to expenses associated with the syndication of the Facilities, due diligence efforts, the reasonable fees, charges and disbursements of counsel, limited to a single counsel and, in each relevant jurisdiction, a single local counsel and one additional local counsel in each applicable jurisdiction for any such person in the event of a conflict of interest (including, without limitation, reasonable and actual travel expenses), in connection with the syndication of the credit facilities provided for herein, the preparation, negotiation, execution, delivery and administration of this Agreement and the other Loan Documents or any amendments, modifications or waivers of the provisions hereof or thereof (whether or not the transactions contemplated hereby or thereby shall be consummated), (ii) all reasonable out-of-pocket expenses incurred by any L/C Issuer in connection with the issuance, amendment, renewal or extension of any Letter of Credit or any demand for payment thereunder and (iii) all out-of-pocket expenses incurred by the Administrative Agent, any Lender or any L/C Issuer (including the fees, charges and disbursements of any counsel for the Administrative Agent, the Lenders and the L/C Issuers (but limited to the fees, disbursements, and other charges of a single law firm for the Administrative Agent, the Lenders and the L/C Issuers and, in each relevant jurisdiction, a single local counsel, in each case, representing the Administrative Agent, all Lenders and all L/C Issuers, and one additional counsel or local counsel, as applicable, in each applicable jurisdiction for any such person in the event of a conflict of interest)), in connection with the enforcement or protection of its rights (A) in connection with this Agreement and the other Loan Documents, including its rights under this Section or (B) in connection with the Loans made or Letters of Credit issued hereunder, including all such out-of-pocket expenses incurred during any workout, restructuring or negotiations in respect of such Loans or Letters of Credit.

(b) *Indemnification*. Each Loan Party shall indemnify the Administrative Agent (and any sub-agent thereof), each Lender and each L/C Issuer 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 and all losses, claims, damages, liabilities and related expenses (including the fees, charges and disbursements of any external counsel for any Indemnitee), and shall indemnify and hold harmless each Indemnitee from all fees and time charges and disbursements for attorneys who may be employees of any Indemnitee, incurred by any Indemnitee or asserted against any Indemnitee by any third party or by the Borrower or any other Loan Party arising out of, in connection with, or as a result of (i) the execution or delivery of this Agreement,

any other Loan Document or any agreement or instrument contemplated hereby or thereby, the performance by the parties hereto of their respective obligations hereunder or thereunder, the consummation of the Transactions and the transactions contemplated hereby or thereby, or, in the case of the Administrative Agent (and any sub-agent thereof) and its Related Parties only, the administration of this Agreement and the other Loan Documents (except for any taxes governed by Section 3.01), other than any Taxes that represent losses, claims or damages arising from any non-Tax claim), (ii) any Loan or Letter of Credit or the use or intended use of the proceeds therefrom (including any refusal by any L/C Issuer to honor a demand for payment under a Letter of Credit if the documents presented in connection with such demand do not strictly comply with the terms of such Letter of Credit), (iii) any actual or alleged presence or release of Hazardous Materials on, through, under or from any property currently or formerly owned, leased or operated by the Borrower or any of its Restricted Subsidiaries, or any Environmental Claim or Environmental Liability related in any way to any of the Loan Parties or any of their respective Restricted Subsidiaries or (iv) any claim, litigation, investigation, inquiry or proceeding relating to any of the foregoing, whether based on contract, tort or any other theory, whether brought by a Lender, a third party or by the Borrower or any other Loan Party, and regardless of whether any Indemnitee is a party thereto (collectively, the "**Indemnified Liabilities**"); *provided* that such indemnity shall not, as to any Indemnitee, be available to the extent that such losses, claims, damages, liabilities or related expenses are determined by a court of competent jurisdiction by final and nonappealable judgment to have resulted from (x) the gross negligence, bad faith or willful misconduct of such Indemnitee or (y) any proceedings between or among Indemnitees (other than any claims against an Indemnitee in its capacity as Administrative Agent, Arranger, Co-Manager or similar role under any Facility) that does not involve any act or omission of the Borrower or any of its Subsidiaries.

(c) *Reimbursement by Lenders*. To the extent that the Borrower for any reason fails to indefeasibly pay any amount required under subsection (a) or (b) of this Section to be paid by it to the Administrative Agent (or any sub-agent thereof), any L/C Issuer or any Related Party of any of the foregoing, each Lender severally agrees to pay to the Administrative Agent (or any such sub-agent), such L/C Issuer or such Related Party, as the case may be, such Lender's Applicable Percentage (determined as of the time that the applicable unreimbursed expense or indemnity payment is sought) of such unpaid amount, *provided* that the unreimbursed expense or indemnified loss, claim, damage, liability or related expense, as the case may be, was incurred by or asserted against the Administrative Agent (or any such sub-agent) or such L/C Issuer in its capacity as such, or against any Related Party of any of the foregoing acting for the Administrative Agent (or any such sub-agent) or such L/C Issuer in connection with such capacity; *provided* that in respect of the proviso in Section 10.04(b), it is understood and agreed that any action taken by the Administrative Agent (and any sub-agent thereof) and/or any of its Related Parties in accordance with the directions of the Required Lenders or any other appropriate group of Lenders pursuant to Section 10.01 shall not be deemed to constitute gross negligence or willful misconduct for purposes of such proviso. The obligations of the Lenders under this subsection (c) are subject to the provisions of Section 2.12(e).

(d) *Waiver of Consequential Damages, Etc.* To the fullest extent permitted by applicable law, the Borrower waives and releases, and hereby waives, any claim against the Administrative Agent (and any sub-agent thereof), any Lender, any L/C Issuer or their respective affiliates or their or their respective affiliates' officers, directors, employees, advisors and agents

(each, a "**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, this Agreement, any other Loan Document or any agreement or instrument contemplated hereby, the transactions contemplated hereby or thereby, any Loan or Letter of Credit or the use of the proceeds thereof. No Lender Related Person shall be liable for any damages arising from the use by unintended recipients of any information or other materials distributed to such unintended recipients by such Lender Related Person through telecommunications, electronic or other information transmission systems in connection with this Agreement or the other Loan Documents or the transactions contemplated hereby or thereby other than for direct or actual damages resulting from the gross negligence or willful misconduct of such Lender Related Person as determined by a final and nonappealable judgment of a court of competent jurisdiction.

(e) *Payments*. All amounts due under this Section shall be payable not later than ten Business Days after demand therefor.

(f) *Survival*. The agreements in this Section 10.04 shall survive the resignation of the Administrative Agent and any L/C Issuer, the replacement of the Administrative Agent, any Lender or any L/C Issuer, the termination of the Aggregate Commitments, the repayment, satisfaction or discharge of all the other Obligations and the termination of this Agreement.

Section 10.05 *Payments Set Aside*. To the extent that any payment by or on behalf of the Borrower is made to the Administrative Agent, any L/C Issuer or any Lender, or the Administrative Agent, any L/C Issuer or any Lender exercises its right of setoff, and such payment or the proceeds of such setoff or any part thereof is subsequently invalidated, declared to be fraudulent or preferential, set aside or required (including pursuant to any settlement entered into by the Administrative Agent, such L/C Issuer or such Lender in its discretion) to be repaid to a trustee, receiver or any other party, in connection with any proceeding under any Debtor Relief Law or otherwise, then (a) to the extent of such recovery, the obligation or part thereof originally intended to be satisfied shall be revived and continued in full force and effect as if such payment had not been made or such setoff had not occurred and (b) each Lender and L/C Issuer severally agrees to pay to the Administrative Agent upon demand its applicable share (without duplication) of any amount so recovered from or repaid by the Administrative Agent, plus interest thereon from the date of such demand to the date such payment is made at a rate per annum equal to the Federal Funds Effective Rate from time to time in effect. The obligations of the Lenders and the L/C Issuers under clause (b) of the preceding sentence shall survive the payment in full of the Obligations, the termination of the Commitments and the termination of this Agreement.

Section 10.06 *Successors and Assigns*.

(a) *Successors and Assigns Generally*. 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, except that (x) the Borrower may not assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of the Administrative Agent and each Lender and (y) no Lender may assign or otherwise transfer any of its rights or obligations hereunder except (i) to an assignee in accordance with the provisions of subsection (b) of this Section, (ii) by way of participation in accordance with the provisions of subsection (d) of this Section or (iii) by way of pledge or assignment of a security interest subject to the restrictions of

subsection (f) of this Section (and any other attempted assignment or transfer by the Borrower shall be null and void). 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, Participants to the extent provided in subsection (d) of this Section and, to the extent expressly contemplated hereby, the Indemnitees and the Related Parties of each of the Administrative Agent, the L/C Issuers and the Lenders) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(b) *Assignments by Lenders*. Any Lender may at any time assign to one or more assignees all or a portion of its rights and obligations under this Agreement (including all or a portion of its Commitment and the Loans (including for purposes of this subsection (b), participations in L/C Obligations) at the time owing to it); *provided* that any such assignment shall be subject to the following conditions:

(i) *Minimum Amounts*.

(A) In the case of an assignment of the entire remaining amount of the assigning Lender's Commitment under any Facility and the Loans at the time owing to it under such Facility, no minimum amount need be assigned; and

(B) in any case not described in subsection (b)(i)(A) of this Section, the aggregate amount of the Commitment (which for this purpose includes Loans outstanding thereunder) or, if the Commitment is not then in effect, the principal outstanding balance of the Loans (including such Lender's participations in L/C Obligations) of the assigning Lender subject to each such assignment, determined as of the date the Assignment and Assumption with respect to such assignment is delivered to the Administrative Agent or, if "Trade Date" is specified in the Assignment and Assumption, as of the Trade Date, shall not be less than $5,000,000 (and whole multiples of $1,000,000 in excess thereof), in the case of any assignment in respect of the Revolving Credit Facility, or $1,000,000 (and whole multiples of $1,000,000 in excess thereof), in the case of any assignment in respect of the Term Loans, unless each of the Administrative Agent and, so long as no Event of Default under Sections 8.01(a), (f) or (g) has occurred and is continuing, the Borrower otherwise consents (each such consent not to be unreasonably withheld or delayed); *provided, however,* that concurrent assignments to members of an Assignee Group and concurrent assignments from members of an Assignee Group to a single Eligible Assignee (or to an Eligible Assignee and members of its Assignee Group) will be treated as a single assignment for purposes of determining whether such minimum amount has been met.

(ii) *Proportionate Amounts*. Each partial assignment shall be made as an assignment of a proportionate part of all the assigning Lender's rights and obligations under this Agreement with respect to the Loans or the Commitment assigned, except that this clause (ii) shall not prohibit any Lender from assigning all or a portion of its rights and obligations among separate Facilities on a non-pro rata basis.

(iii) *Required Consents*. No consent shall be required for any assignment except to the extent required by subsection (b)(i)(B) of this Section and, in addition:

(A) the consent of the Borrower (such consent not to be unreasonably withheld or delayed) shall be required unless (1) an Event of Default under Sections 8.01(a), (f) or (g) has occurred and is continuing at the time of such assignment or (2) such assignment is to a Lender, an Affiliate of a Lender or an Approved Fund; *provided* that the Borrower shall be deemed to have consented to any such assignment unless it shall object thereto by written notice to the Administrative Agent within five (5) Business Days after having received notice thereof in the case of assignments of any Term Loans and ten (10) Business Days after having received notice thereof in the case of assignments of the Revolving Credit Facility;

(B) the consent of the Administrative Agent (such consent not to be unreasonably withheld or delayed) shall be required for assignments in respect of (1) any Commitment if such assignment is to a Person that is not a Lender with a Commitment in respect of the applicable Facility, an Affiliate of such Lender or an Approved Fund with respect to such Lender or (2) any Term Loan to a Person that is not a Lender, an Affiliate of a Lender or an Approved Fund; and

(C) the consent of the L/C Issuers (each such consent not to be unreasonably withheld or delayed) shall be required for any assignment in respect of any Revolving Credit Facility.

(iv) *Assignment and Assumption*. The parties to each assignment shall execute and deliver to the Administrative Agent an Assignment and Assumption, together with a processing and recordation fee in the amount of $3,500; *provided, however,* that the Administrative Agent may, in its sole discretion, elect to waive such processing and recordation fee in the case of any assignment. The assignee, if it is not a Lender, shall deliver to the Administrative Agent an Administrative Questionnaire.

(v) *No Assignment to Certain Persons*. No such assignment shall be made (A) to the Borrower or any of the Borrower's Affiliates or Subsidiaries, except as provided below in clause (vii) or (B) to a Defaulting Lender, a Disqualified Lender or any Person who, upon becoming a Lender hereunder, would constitute any of the foregoing Persons described in this clause (B).

(vi) *No Assignment to Natural Persons*. No such assignment shall be made to a natural person (or a holding company, investment vehicle or trust for, or owned and operated for the primary benefit of, a natural Person).

(vii) *Borrower Purchases*. Notwithstanding anything to the contrary contained in this Section 10.06 or any other provision of this Agreement, so long as no Event of Default under Sections 8.01(a), (f) or (g) has occurred and is continuing or would result therefrom, the Borrower may repurchase outstanding Term Loans of any Facility on the following basis:

(A) the Borrower may conduct one or more auctions (each, an "**Auction**") to repurchase all or any portion of the applicable Term Loans of a given Class (such Term Loans, the "**Offer Loans**") of Term Lenders; *provided* that (1) the Borrower delivers to the Administrative Agent (for distribution to all Lenders holding Term Loans of such Class) a notice of the aggregate principal amount of the Offer Loans that will be subject to such Auction no later than 12:00 p.m. at least five Business Days (or such shorter period as may be agreed to by the Administrative Agent) in advance of a proposed consummation date of such Auction indicating (a) the date on which the Auction will conclude, (b) the maximum principal amount of the Offer Loans the Borrower is willing to purchase in the Auction and (c) the range of discounts to par at which the Borrower would be willing to repurchase the Offer Loans; (2) the minimum dollar amount of the Auction shall be no less than $10,000,000 or whole multiples of $1,000,000 in excess thereof; (3) the Borrower shall hold the Auction open for a minimum period of three Business Days; (4) a Lender who elects to participate in the Auction may choose to tender all or part of such Lender's Offer Loans; (5) the Auction shall be made to the Lenders holding the Offer Loans (and purchases of Offer Loans held by Lenders who elect to participate shall be made by the Borrower) on a pro rata basis in accordance with the respective principal amount then due and owing to the applicable Term Lenders; and (6) the Auction shall be conducted pursuant to such procedures as the Administrative Agent may establish which are consistent with this Section 10.06 and are reasonably acceptable to the Borrower, which procedures must be followed by a Lender in order to have its Offer Loans repurchased;

(B) with respect to all repurchases made pursuant to this Section 10.06(vii), (1) the Borrower shall pay to the applicable selling Lender all accrued and unpaid interest, if any, on the repurchased Offer Loans to the date of repurchase of such Offer Loans, (2) such repurchases shall not be deemed to be optional prepayments pursuant to Section 2.05(a), (3) the amount of the Loans so repurchased shall be applied on a pro rata basis to reduce the scheduled remaining installments of principal on the Offer Loans, and (4) the purchase consideration for such Auction shall in no event be funded with the proceeds of Revolving Credit Loans; and

(C) following a repurchase pursuant to this Section 10.06, the Offer Loans so repurchased shall, without further action by any Person, be deemed cancelled for all purposes and no longer outstanding (and may not be resold) for all purposes of this Agreement and all the other Loan Documents, including, but not limited to (1) the making of, or the application of, any payments to the Lenders under this Agreement or any other Loan Document, (2) the making of any request, demand, authorization, direction, notice, consent or waiver under this Agreement or any other Loan Document or (3) the determination of Required Lenders, or for any similar or related purpose, under this Agreement or any other Loan Document. In connection with any Term Loans repurchased and cancelled pursuant to this Section 10.06, the Administrative Agent is authorized to make appropriate entries in the Register to reflect any such cancellation.

(viii) *Certain Additional Payments*. In connection with any assignment of rights and obligations of any Defaulting Lender hereunder, no such assignment shall be effective unless and until, in addition to the other conditions thereto set forth herein, the parties to the assignment shall make such additional payments to the Administrative Agent in an aggregate amount sufficient, upon distribution thereof as appropriate (which may be outright payment, purchases by the assignee of participations or subparticipations, or other compensating actions, including funding, with the consent of the Borrower and the Administrative Agent, the applicable pro rata share of Loans previously requested but not funded by the Defaulting Lender, to each of which the applicable assignee and assignor hereby irrevocably consent), to (x) pay and satisfy in full all payment liabilities then owed by such Defaulting Lender to the Administrative Agent and any Lender hereunder (and interest accrued thereon) and (y) acquire (and fund as appropriate) its full pro rata share of all Loans and participations in Letters of Credit in accordance with its Applicable Percentage. Notwithstanding the foregoing, in the event that any assignment of rights and obligations of any Defaulting Lender hereunder shall become effective under applicable Law without compliance with the provisions of this paragraph, then the assignee of such interest shall be deemed to be a Defaulting Lender for all purposes of this Agreement until such compliance occurs.

Subject to acceptance and recording in the Register thereof by the Administrative Agent pursuant to subsection (c) of this Section, from and after the effective date specified in each Assignment and Assumption, the assignee thereunder shall be a party to this Agreement 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 3.01, 3.04, 3.05 and 10.04 with respect to facts and circumstances occurring prior to the effective date of such assignment. Upon request, the Borrower (at its expense) shall execute and deliver a Note to the assignee Lender. Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this subsection 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 subsection (d) of this Section.

Notwithstanding anything contained herein to the contrary, any assignment or transfer by a Lender (including to a Disqualified Lender) of rights or obligations under this Agreement that does not comply with this Section 10.06 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 Section 10.06(d) below.

(c) *Register*. The Administrative Agent, acting solely for this purpose as a non-fiduciary agent of the Borrower (and such agency being solely for Tax purposes), shall maintain at the Administrative Agent's Office a copy of each Assignment and Assumption delivered to it and a register for the recordation of the names and addresses of the Lenders, and the Commitments of, and principal amounts (and stated interest) of the Loans and L/C Obligations owing to, each Lender pursuant to the terms hereof from time to time (the "**Register**"). Upon its receipt of a duly completed and executed Assignment and Assumption, the Administrative Agent shall record the information contained therein in the Register. The entries in the Register shall be conclusive absent manifest error, and the Borrower, 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. In addition, the Administrative Agent shall maintain on the Register information regarding the designation, and revocation of designation, of any Lender as a Defaulting Lender. The Register is intended to cause each Loan and other obligation hereunder to be in registered form within the meaning of Section 5f.103-1(c) of the United States Treasury Regulations and Proposed Treasury Regulations Section 1.163-5(b) (or any amended or successor version) and within the meaning of Section 163(f), 871(h)(2) and 881(c)(2) of the Code. The Register shall be available for inspection by the Borrower and any Lender (with respect to such Lender's entry), at any reasonable time and from time to time upon reasonable prior notice.

(d) *Participations*. Any Lender may at any time, without the consent of, or notice to, the Borrower, any L/C Issuer or the Administrative Agent, sell participations to any Person (other than a natural person (or a holding company, investment vehicle or trust for, or owned and operated for the primary benefit of, a natural Person), a Defaulting Lender or the Borrower or any of the Borrower's Affiliates or Subsidiaries) (each, a "**Participant**") in all or a portion of such Lender's rights and/or obligations under this Agreement (including all or a portion of its Commitment and/or Loans (including such Lender's participations in L/C Obligations) 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 Borrower, the Administrative Agent, the Lenders and the L/C Issuers 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 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 Participant, agree to any amendment, waiver or other modification described in clause (ii) of the first proviso to Section 10.01 requiring the consent of each Lender affected thereby and that affects such Participant. Subject to subsection (e) of this Section, the Borrower agrees that each Participant shall be entitled to the benefits of Sections 3.01, 3.04 and 3.05 to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to subsection (b) of this Section; *provided*, *further* that such agreement or instrument shall provide that the Participant understands that the value of the loan asset (including Participant's pro rata share thereof) may increase or decrease based on fluctuations in currency exchange rates and agrees that any losses (gains) experienced as a result of changes in currency exchange rates shall be shared by such Participant in accordance with the Participant's pro rata share. To the extent permitted by law, each Participant shall also be entitled to the benefits of Section 10.08 as though it were a Lender, *provided* that such Participant agrees to be subject to Section 2.13 as though it were a Lender. Each Lender that sells a participation shall, acting solely for this purpose as an non-fiduciary agent

of the Borrower (such agency being solely for Tax purposes), 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 (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) to any Person except to the extent that such disclosure is necessary to establish that such commitment, loan, letter of credit or other obligation is in registered form under United States Treasury Regulations Section 5f.103-1(c) and Proposed Treasury Regulations Section 1.163-5(b) (or, in each case, any amended or successor version) and within the meaning of Sections 163(f), 871(h)(2) and 881(c)(2) of the Code. 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.

(e) *Limitations upon Participant Rights*. A Participant shall not be entitled to receive any greater payment under Section 3.01 or 3.04 than the applicable Lender would have been entitled to receive with respect to the participation sold to such Participant, unless the sale of the participation to such Participant is made with the Borrower's prior written consent or except to the extent such entitlement to receive a greater payment results from a Change in Law that occurs after the Participant acquired the applicable participation. A Participant shall be entitled to the benefits of Section 3.01 if such Participant agrees, for the benefit of the Borrower, to comply with Section 3.01(e) as though it were a Lender (*provided* that all forms required under Section 3.01(e) shall instead be delivered to the applicable Lender).

(f) *Certain Pledges*. Any Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement (including under its Note, if any) to secure obligations of such Lender, including any pledge or assignment to secure obligations to a Federal Reserve Bank; *provided* that no such pledge or assignment shall release such Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto.

(g) *Resignation as L/C Issuer after Assignment*. Notwithstanding anything to the contrary contained herein, if at any time a Lender serving as an L/C Issuer assigns all of its Revolving Credit Commitment and Revolving Credit Loans pursuant to subsection (b) above, such Lender may upon 30 days' notice to the Borrower and the other Lenders, resign as an L/C Issuer. In the event of any such resignation as L/C Issuer, the Borrower shall be entitled to appoint from among the Revolving Credit Lenders a successor L/C Issuer hereunder if such Revolving Credit Lender is willing to act in such capacity; *provided, however,* that no failure by the Borrower to appoint any such successor shall affect the resignation of the retiring entity as L/C Issuer. If any entity serving as L/C Issuer resigns as an L/C Issuer, it shall retain all the rights, powers, privileges and duties of an L/C Issuer hereunder with respect to all Letters of Credit outstanding as of the effective date of its resignation as an L/C Issuer and all L/C Obligations with respect thereto (including the right to require the Lenders to make Base Rate Loans or fund risk participations in Unreimbursed Amounts pursuant to Section 2.03(c)). Upon the appointment of a successor L/C

Issuer and the acceptance of such appointment by such successor, (a) such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring L/C Issuer and (b) the successor L/C Issuer shall issue letters of credit in substitution for the Letters of Credit, if any, outstanding at the time of such succession or make other arrangements reasonably satisfactory to the retiring L/C Issuer to effectively assume the obligations of such L/C Issuer with respect to such Letters of Credit.

(h) *Disqualified Lenders*.

(i) No assignment or participation shall be made to any Person that was a Disqualified Lender as of the date (the "**Trade Date**") on which the assigning or transferring Lender entered into a binding agreement to sell and assign, or grant a participation in, all or a portion of its rights and obligations under this Agreement, as applicable, to such Person. For the avoidance of doubt, no assignment or participation shall be retroactively invalidated pursuant to this Section 10.06(h) if the Trade Date therefor occurred prior to the assignee's or participant's becoming a Disqualified Lender.

(ii) The Administrative Agent and each assignor of a Loan or Commitment or seller of a participation hereunder shall be entitled to rely conclusively on a representation of the assignee Lender or Participant in the relevant Assignment and Assumption or participation agreement, as applicable, that such assignee or purchaser is not a Disqualified Lender. The Administrative Agent shall have the right, and the Borrower hereby expressly authorizes the Administrative Agent, to provide the list of Disqualified Lenders to each Lender upon request.

(iii) If any assignment or participation is made to any Disqualified Lender without the Borrower's prior written consent in violation of clause (i) above, the Borrower may, at its sole expense and effort, upon notice to the applicable Disqualified Lender and the Administrative Agent, (A) terminate any Revolving Credit Commitment of such Disqualified Lender and repay all obligations of the Borrower owing to such Disqualified Lender in connection with such Revolving Credit Commitment or in accordance with and subject to the provisions of Section 10.13, require such Disqualified Lender to assign and delegate all of its interests, rights (other than its existing rights to payments pursuant to Section 3.01 or Section 3.04) and obligations under this Agreement and the related Loan Documents to an Eligible Assignee as if such Disqualified Lender were required to do so pursuant to Section 10.13 and (B) in the case of Term Loans held by a Disqualified Lender, (1) purchase or prepay such Term Loans by paying the lesser of (x) the principal amount thereof and (y) the amount that such Disqualified Lender paid to acquire such Term Loans and/or (2) require such Disqualified Lender to assign, without recourse (in accordance with and subject to the restrictions contained in this Section 10.06) all of its interest, rights and obligations under this Agreement to one or more Eligible Assignees that agrees to such assignment in writing at a price equal to the lesser of (x) the principal amount thereof and (y) the amount that such Disqualified Lender paid to acquire such interests, rights and obligations.

(iv) Notwithstanding anything to the contrary contained in this Agreement, Disqualified Lenders (1) will not have the right to (x) receive information, reports or other materials provided to the Administrative Agent or the Lenders by the Borrower or any of its Subsidiaries, the Administrative Agent or any other Lender, (y) attend or participate (including by telephone) in meetings attended by any of the Lenders and/or the Administrative Agent, or (z) access any electronic site established for the Lenders or confidential communications from counsel to or financial advisors of the Administrative Agent or the Lenders and (2) (x) for purposes of any consent to any amendment, waiver or modification of, or any action under, and for the purpose of any direction to the Administrative Agent or any Lender to undertake any action (or refrain from taking any action) under this Agreement or any other Loan Document, each Disqualified Lender will be deemed to have consented to such matter in the same proportion as the Lenders that are not Disqualified Lenders consented to such matter; *provided*, *however*, that any Disqualified Lender's consent shall be required for any amendment, waiver or other modification described in clause (c) of Section 10.01 with respect to any increase to the Commitments of such Disqualified Lender, and (y) for purposes of voting on any plan of reorganization pursuant to Section 1126 of the Bankruptcy Code of the United States or any similar plan or proposal under any other Debtor Relief Law with respect to the Borrower or any of its Subsidiaries, each Disqualified Lender hereby agrees (1) not to vote on such plan, (2) if such Disqualified Lender does vote on such plan notwithstanding the restriction in the immediately foregoing clause (1), such vote will be deemed not to be in good faith and shall be "designated" pursuant to Section 1126(e) of the Bankruptcy Code of the United States (or any similar provision in any other similar federal, state or foreign law affecting creditor's rights, including any Debtor Relief Law), and such vote shall not be counted in determining whether the applicable class has accepted or rejected such plan in accordance with Section 1126(c) of the Bankruptcy Code of the United States (or any similar provision in any other similar federal, state or foreign law affecting creditor's rights including any Debtor Relief Laws) and (3) not to contest any request by any party for a determination by the bankruptcy court (or other applicable court of competent jurisdiction) effectuating the foregoing clause (2).

(v) Notwithstanding anything to the contrary in this Agreement, the Loan Parties and the Lenders acknowledge and agree that in no event shall the Administrative Agent or any of its Affiliates or Related Parties 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 Lenders. Without limiting the generality of the foregoing, the Administrative Agent shall not (x) be obligated to ascertain, monitor or inquire as to whether any Lender or Participant or prospective Lender or Participant is a Disqualified Lender or (y) have any liability with respect to or arising out of any assignment or participation of Loans, or disclosure of confidential information, to any Disqualified Lender.

Section 10.07 *Treatment of Certain Information; Confidentiality*. Each of the Administrative Agent, the Lenders and the L/C Issuers agrees to maintain the confidentiality of the Information, except that Information may be disclosed (a) to its Affiliates and to its and its Affiliates' respective partners, directors, officers, employees, agents, trustees, advisors and representatives (it being understood that the Persons to whom such disclosure is made will be informed of the confidential nature of such Information and instructed to keep such Information

confidential), (b) to the extent required or requested by any regulatory authority purporting to have jurisdiction over it or its Affiliates (including any self-regulatory authority, such as the National Association of Insurance Commissioners), in which case each of the Administrative Agent, the Lenders and the L/C Issuers agrees to inform the Borrower promptly thereof prior to such disclosure to the extent not prohibited by law, rule or regulation, as applicable (except with respect to any audit or examination conducted by bank accountants or any governmental or regulatory authority exercising examination or regulatory authority over the Administrative Agent, such Lender or such L/C Issuer) and to use commercially reasonable efforts to ensure that any such information so disclosed is accorded confidential treatment, (c) pursuant to the order of any court or administrative agency or in any pending legal or administrative proceeding, or otherwise as required by applicable law or compulsory legal process or to the extent required by applicable laws or regulations or by any subpoena or similar legal process, in which case each of the Administrative Agent, the Lenders and the L/C Issuers agrees to inform the Borrower promptly thereof prior to such disclosure to the extent not prohibited by law, rule or regulation, as applicable (except with respect to any audit or examination conducted by bank accountants or any governmental or regulatory authority exercising examination or regulatory authority over the Administrative Agent, such Lender or such L/C Issuer) and to use commercially reasonable efforts to ensure that any such information so disclosed is accorded confidential treatment, (d) to any other party hereto, (e) in connection with the exercise of any remedies hereunder or under any other Loan Document or any action or proceeding relating to this Agreement or any other Loan Document or the enforcement of rights hereunder or thereunder, (f) subject to an agreement containing provisions substantially the same as those of this Section, to (i) any assignee of or Participant in, or any prospective assignee of or Participant in, any of its rights or obligations under this Agreement or any Eligible Assignee invited to be a Lender or (ii) any actual or prospective counterparty (or its advisors) to any swap or derivative transaction relating to the Borrower and its obligations, (g) with the consent of the Borrower, (h) on a confidential basis to (i) any rating agency in connection with rating the Borrower or its Restricted Subsidiaries or any Facility or (ii) the CUSIP Service Bureau or any similar agency in connection with the issuance and monitoring of CUSIP numbers with respect to any Facility or (i) to the extent such Information (x) becomes publicly available other than as a result of a breach of this Section, (y) becomes available to the Administrative Agent, any Lender, any L/C Issuer or any of their respective Affiliates on a nonconfidential basis from a source other than the Borrower or (z) is independently developed by the Administrative Agent, any Lender, any L/C Issuer or any of their respective Affiliates without reliance on any confidential Information of the Borrower and its Subsidiaries. In addition, each of the Administrative Agent, the Lenders and the L/C Issuers may disclose the existence of this Agreement and information about this Agreement to market data collectors, similar service providers to the lending industry and service providers to the Administrative Agent, the Lenders and the L/C Issuers in connection with the administration of this Agreement, the other Loan Documents and the Credit Extensions.

Any Person required to maintain the confidentiality of Information as provided in this Section shall be considered to have complied with its obligation to do so if such Person has exercised the same degree of care to maintain the confidentiality of such Information as such Person would accord to its own confidential information.

Each of the Administrative Agent, the Lenders and the L/C Issuers acknowledges that (a) the Information may include MNPI concerning the Borrower or a Subsidiary, as the case may be, (b) it has developed compliance procedures regarding the use of MNPI and (c) it will handle such MNPI in accordance with applicable Law, including United States Federal and state securities Laws.

Section 10.08 *Right of Setoff*. If an Event of Default shall have occurred and be continuing, each Lender, each L/C Issuer and each of their respective Affiliates is hereby authorized at any time and from time to time, to the fullest extent permitted by applicable Law, to set off and apply any and all deposits (general or special, time or demand, provisional or final, in whatever currency) at any time held and other obligations (in whatever currency) at any time owing by such Lender, such L/C Issuer or any such Affiliate to or for the credit or the account of the Borrower against any and all of the obligations of the Borrower now or hereafter existing under this Agreement or any other Loan Document to such Lender or such L/C Issuer, irrespective of whether or not such Lender or such L/C Issuer shall have made any demand under this Agreement or any other Loan Document and although such obligations of the Borrower may be contingent or unmatured or are owed to a branch or office of such Lender or such L/C Issuer different from the branch or office holding such deposit or obligated on such indebtedness; *provided* that in the event that any Defaulting Lender shall exercise any such right of setoff, (x) all amounts so set off shall be paid over immediately to the Administrative Agent for further application in accordance with the provisions of Section 2.16 and, pending such payment, shall be segregated by such Defaulting Lender from its other funds and deemed held in trust for the benefit of the Administrative Agent and the Lenders and (y) the Defaulting Lender shall provide promptly to the Administrative Agent a statement describing in reasonable detail the Obligations owing to such Defaulting Lender as to which it exercised such right of setoff. The rights of each Lender, each L/C Issuer and their respective Affiliates under this Section are in addition to all other rights and remedies (including other rights of setoff) that such Lender, such L/C Issuer or their respective Affiliates may have under applicable Law or otherwise. Each Lender and L/C Issuer agrees to notify the Borrower and the Administrative Agent promptly after any such setoff and application; *provided* that the failure to give such notice shall not affect the validity of such setoff and application.

Section 10.09 *Interest Rate Limitation*. Notwithstanding anything to the contrary contained in any Loan Document, the interest paid or agreed to be paid under the Loan Documents shall not exceed the maximum rate of non-usurious interest permitted by applicable Law (the "**Maximum Rate**"). If the Administrative Agent or any Lender shall receive interest in an amount that exceeds the Maximum Rate, the excess interest shall be applied to the unpaid principal of the Loans or, if it exceeds such unpaid principal, refunded to the Borrower. In determining whether the interest contracted for, charged, or received by the Administrative Agent or any Lender exceeds the Maximum Rate, such Person may, to the extent permitted by applicable Law, (a) characterize any payment that is not principal as an expense, fee, or premium rather than interest, (b) exclude optional prepayments and the effects thereof and (c) amortize, prorate, allocate, and spread in equal or unequal parts the total amount of interest throughout the contemplated term of the Obligations hereunder.

Section 10.10 *Counterparts; Integration; Effectiveness*. This Agreement may be executed in counterparts (and by different parties hereto in different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Agreement, the Fee Letters and the other Loan Documents 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. Delivery of an executed counterpart of a signature page of this Agreement by facsimile or other electronic imaging means shall be effective as delivery of a manually executed counterpart of this Agreement.

Section 10.11 *Survival of Representations and Warranties*. All representations and warranties made hereunder and in any other Loan Document or other document delivered pursuant hereto or thereto or in connection herewith or therewith shall survive the execution and delivery hereof and thereof. Such representations and warranties have been or will be relied upon by the Administrative Agent, each Lender and each L/C Issuer, regardless of any investigation made by the Administrative Agent, any Lender or any L/C Issuer or on their behalf and notwithstanding that the Administrative Agent, any Lender or any L/C Issuer may have had notice or knowledge of any Default at the time of any Credit Extension, and shall continue in full force and effect as long as any Loan or any other Obligation (other than contingent indemnification obligations as to which no claim has been asserted and obligations and liabilities under Secured Cash Management Agreements and Secured Hedge Agreements) hereunder shall remain unpaid or unsatisfied, any Commitment remains in effect or any Letter of Credit shall remain outstanding.

Section 10.12 *Severability*. If any provision of this Agreement or the other Loan Documents is held to be illegal, invalid or unenforceable, then, to the fullest extent permitted by law, (a) the legality, validity and enforceability of the remaining provisions of this Agreement and the other Loan Documents shall not be affected or impaired thereby and (b) the parties shall endeavor in good faith negotiations to replace the illegal, invalid or unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the illegal, invalid or unenforceable provisions. The invalidity of a provision in a particular jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. Without limiting the foregoing provisions of this Section 10.12, if and to the extent that the enforceability of any provisions in this Agreement relating to Defaulting Lenders shall be limited by Debtor Relief Laws, as determined in good faith by the Administrative Agent or any L/C Issuer, as applicable, then such provisions shall be deemed to be in effect only to the extent not so limited.

Section 10.13 *Replacement of Lenders*. If any Lender requests compensation under Section 3.04, or if the Borrower is required to pay any additional amount to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 3.01, or if any Lender shall have not consented to any proposed amendment, modification, termination, waiver or consent requiring the consent of all Lenders or all affected Lenders as contemplated by Section 10.01 and the consent of the Required Lenders, the Required Revolving Credit Lenders or the Required Facility Lenders, as applicable, has been obtained, or if any Lender is a Defaulting Lender, then the Borrower 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, and consents required by, Section 10.06), all of its interests, rights (other than its existing rights to payments pursuant to Section 3.01 and Section 3.04) and obligations under this Agreement and the related Loan Documents to an assignee that shall assume such obligations (which assignee may be another Lender, if a Lender accepts such assignment), *provided* that:

(a) the Borrower shall have paid to the Administrative Agent the assignment fee specified in Section 10.06(b);

(b) such Lender shall have received payment of an amount equal to the outstanding principal of its Loans, L/C Advances, if any, accrued interest thereon, accrued fees and all other amounts payable to it hereunder and under the other Loan Documents (including any amounts under Section 3.05) from the assignee (to the extent of such outstanding principal, L/C Advances, if any, and accrued interest and fees) or the Borrower (in the case of all other amounts);

(c) in the case of any such assignment resulting from a claim for compensation under Section 3.04 or payments required to be made pursuant to Section 3.01, such assignment will result in a reduction in such compensation or payments thereafter;

(d) such assignment does not conflict with applicable Laws; and

(e) in the case of any such assignment resulting from a Lender becoming a non-consenting Lender, the applicable assignee shall have consented to the applicable amendment, modification, termination, waiver or consent.

A Lender shall not be required to make any such assignment or delegation if, prior thereto, as a result of a waiver by such Lender or otherwise, the circumstances entitling the Borrower to require such assignment and delegation cease to apply. Each Lender and L/C Issuer hereby agrees and acknowledges that, with regard to any Assignment and Assumption necessary to effectuate any assignment of such Lender's or L/C Issuer's interests hereunder in the circumstances contemplated by this Section 10.13, consent to such Assignment and Assumption shall have been deemed to have been given if such Lender or L/C Issuer has not responded within one Business Day of a request for such consent.

Section 10.14 *Governing Law; Jurisdiction; Etc.*

(a) Governing Law. THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS AND ALL CLAIMS OR CAUSES OF ACTION (WHETHER IN CONTRACT, TORT OR OTHERWISE) THAT MAY BE BASED UPON, ARISE OUT OF OR RELATE IN ANY WAY HERETO OR THERETO OR THE NEGOTIATION, EXECUTION OR PERFORMANCE HEREOF OR THEREOF OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY, UNLESS OTHERWISE EXPRESSLY SET FORTH THEREIN, SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK.

(b) Submission to Jurisdiction. THE BORROWER IRREVOCABLY AND UNCONDITIONALLY SUBMITS, FOR ITSELF AND ITS PROPERTY, TO THE EXCLUSIVE JURISDICTION OF THE COURTS OF THE STATE OF NEW YORK SITTING IN THE BOROUGH OF MANHATTAN AND OF THE UNITED STATES DISTRICT COURT OF THE SOUTHERN DISTRICT OF NEW YORK, AND ANY APPELLATE COURT FROM ANY THEREOF, IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT, OR FOR RECOGNITION OR ENFORCEMENT OF ANY JUDGMENT, AND EACH OF THE PARTIES HERETO IRREVOCABLY AND UNCONDITIONALLY AGREES THAT ALL CLAIMS IN RESPECT OF ANY SUCH ACTION OR PROCEEDING SHALL BE HEARD AND DETERMINED IN SUCH NEW YORK STATE COURT OR, TO THE FULLEST EXTENT PERMITTED BY

APPLICABLE LAW, IN SUCH FEDERAL COURT. EACH OF THE PARTIES HERETO AGREES THAT A FINAL JUDGMENT IN ANY SUCH ACTION OR PROCEEDING SHALL BE CONCLUSIVE AND MAY BE ENFORCED IN OTHER JURISDICTIONS BY SUIT ON THE JUDGMENT OR IN ANY OTHER MANNER PROVIDED BY LAW. NOTHING IN THIS AGREEMENT OR IN ANY OTHER LOAN DOCUMENT SHALL AFFECT ANY RIGHT THAT THE ADMINISTRATIVE AGENT, ANY LENDER OR ANY L/C ISSUER MAY OTHERWISE HAVE TO BRING ANY ACTION OR PROCEEDING RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT AGAINST THE BORROWER OR ITS PROPERTIES IN THE COURTS OF ANY JURISDICTION.

(c) Waiver of Venue. THE BORROWER IRREVOCABLY AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY OBJECTION THAT IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE OF ANY 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 OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE DEFENSE OF AN INCONVENIENT FORUM TO THE MAINTENANCE OF SUCH ACTION OR PROCEEDING IN ANY SUCH COURT.

(d) Service of Process. EACH PARTY HERETO IRREVOCABLY CONSENTS TO SERVICE OF PROCESS IN THE MANNER PROVIDED FOR NOTICES IN SECTION 10.02. NOTHING IN THIS AGREEMENT WILL AFFECT THE RIGHT OF ANY PARTY HERETO TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY APPLICABLE LAW.

Section 10.15 *Waiver of Jury Trial*. EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PERSON HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PERSON WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

Section 10.16 *California Judicial Reference*. If any action or proceeding is filed in a court of the State of California by or against any party hereto in connection with any of the transactions contemplated by this Agreement or any other Loan Document, (a) the court shall, and is hereby directed to, make a general reference pursuant to California Code of Civil Procedure Section 638 to a referee (who shall be a single active or retired judge) to hear and determine all of the issues in such action or proceeding (whether of fact or of law) and to report a statement of decision, *provided*

that at the option of any party to such proceeding, any such issues pertaining to a "provisional remedy" as defined in California Code of Civil Procedure Section 1281.8 shall be heard and determined by the court, and (b) without limiting the generality of Section 10.04, the Borrower shall be solely responsible to pay all fees and expenses of any referee appointed in such action or proceeding.

Section 10.17 *No Advisory or Fiduciary Responsibility*. In connection with all aspects of each transaction contemplated hereby (including in connection with any amendment, waiver or other modification hereof or of any other Loan Document), the Borrower acknowledges and agrees that: (i) (A) the arranging and other services regarding this Agreement provided by the Administrative Agent, the Arrangers, the Co-Managers and the Lenders are arm's-length commercial transactions between the Borrower and its Affiliates, on the one hand, and the Administrative Agent, the Arrangers, the Co-Managers and the Lenders, on the other hand, (B) the Borrower has consulted its own legal, accounting, regulatory and tax advisors to the extent it has deemed appropriate, and (C) the Borrower is capable of evaluating, and understands and accepts, the terms, risks and conditions of the transactions contemplated hereby and by the other Loan Documents; (ii) (A) the Administrative Agent and each of the Arrangers, the Co-Managers 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 the Borrower or any of its Affiliates, or any other Person and (B) none of the Administrative Agent, the Arrangers, the Co-Managers or the Lenders has any obligation to the Borrower or any of its Affiliates with respect to the transactions contemplated hereby except those obligations expressly set forth herein and in the other Loan Documents; and (iii) the Administrative Agent and each of the Arrangers, the Co-Managers and the Lenders and their respective Affiliates may be engaged in a broad range of transactions that involve interests that differ from those of the Borrower and its Affiliates, and the Administrative Agent, the Arrangers, the Co-Managers and the Lenders do not have any obligation to disclose any of such interests to the Borrower or its Affiliates. To the fullest extent permitted by law, the Borrower hereby agrees not to assert any claims that it may have against the Administrative Agent and each of the Arrangers, the Co-Managers and the Lenders with respect to any breach or alleged breach of agency or fiduciary duty in connection with any aspect of any transaction contemplated hereby.

Section 10.18 *Electronic Execution of Assignments and Certain Other Documents*. The words "execution," "signed," "signature," and words of like import in or related to any document to be signed in connection with this Agreement and the transactions contemplated hereby (including, without limitation, Assignment and Assumptions or in any amendment or other modification hereof (including waivers and consents)) shall be deemed to include electronic signatures, the electronic matching of assignment terms and contract formations on electronic platforms approved by the Administrative Agent, or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act.

Section 10.19 *USA PATRIOT Act*. Each Lender and each L/C Issuer that is subject to the Act and the Administrative Agent (for itself and not on behalf of any Lender or L/C Issuer) hereby notifies the Borrower that pursuant to the requirements of the USA PATRIOT Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)) (the "**Act**") and the Beneficial Ownership Regulation, it is required to obtain, verify and record information that identifies the Borrower and each Guarantor, which information includes the name, tax identification number and address of the Borrower and each Guarantor and other information that will allow such Lender or L/C Issuer or the Administrative Agent, as applicable, to identify the Borrower and each Guarantor in accordance with the Act and the Beneficial Ownership Regulation. The Borrower shall, and shall cause each Guarantor to, promptly following a request by the Administrative Agent or any Lender or L/C Issuer, provide all documentation and other information that the Administrative Agent or L/C Issuer or such Lender requests in order to comply with its ongoing obligations under applicable "know your customer" and anti-money laundering rules and regulations, including the Act and the Beneficial Ownership Regulation.

Section 10.20 *Judgment Currency*. If, for the purposes of obtaining judgment in any court, it is necessary to convert a sum due hereunder or under any other Loan Document in one currency into another currency, the rate of exchange used shall be that at which in accordance with normal banking procedures the Administrative Agent could purchase the first currency with such other currency on the Business Day preceding that on which final judgment is given. The obligation of the Borrower in respect of any such sum due from it to the Administrative Agent or any Lender or L/C Issuer hereunder or under the other Loan Documents shall, notwithstanding any judgment in a currency (the "**Judgment Currency**") other than that in which such sum is denominated in accordance with the applicable provisions of this Agreement (the "**Agreement Currency**"), be discharged only to the extent that on the Business Day following receipt by the Administrative Agent or such Lender or L/C Issuer, as the case may be, of any sum adjudged to be so due in the Judgment Currency, the Administrative Agent or such Lender or L/C Issuer, as the case may be, may in accordance with normal banking procedures purchase the Agreement Currency with the Judgment Currency. If the amount of the Agreement Currency so purchased is less than the sum originally due to the Administrative Agent or any Lender or L/C Issuer from the Borrower in the Agreement Currency, the Borrower agrees, as a separate obligation and notwithstanding any such judgment, to indemnify the Administrative Agent or such Lender or L/C Issuer, as the case may be, against such loss. The provisions of this Section 10.20 shall survive the payment in full of the Obligations, the termination of the Commitments and the termination of this Agreement.

Section 10.21 *Pari Passu Intercreditor Agreement*. Notwithstanding anything to the contrary in this Agreement or in any other Loan Document: (i) the Liens granted to the Administrative Agent in favor of the Secured Parties pursuant to the Loan Documents and the exercise of any right related to any Collateral shall be subject, in each case, to the terms of the Pari Passu Intercreditor Agreement (if in effect), (ii) in the event of any conflict between the express terms and provisions of this Agreement or any other Loan Document, on the one hand, and of the Pari Passu Intercreditor Agreement, on the other hand, the terms and provisions of the Pari Passu Intercreditor Agreement shall control and (iii) each Lender and L/C Issuer (A) authorizes the Administrative Agent to execute the Pari Passu Intercreditor Agreement on behalf of such Lender and L/C Issuer, and (B) agrees to be bound by the terms of the Pari Passu Intercreditor Agreement and agrees that any action taken by the Administrative Agent under the Pari Passu Intercreditor Agreement shall be binding upon such Lender and L/C Issuer.

Section 10.22 *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 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 Write-Down and Conversion Powers of the applicable Resolution Authority and agrees and consents to, and acknowledges and agrees to be bound by:

(a) the application of any Write-Down and Conversion Powers by the applicable Resolution Authority to any such liabilities arising hereunder which may be payable to it by any Lender 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 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 10.23 *Acknowledgement Regarding Any Supported QFCs*. To the extent that the Loan Documents provide support, through a guarantee or otherwise, for Swap Contracts 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):

(a) In the event a Covered Entity that is party to a Supported QFC (each, a "**Covered Party**") becomes subject to a proceeding under a U.S. Special Resolution Regime, the transfer of such Supported QFC and the benefit of such QFC Credit Support (and any interest and obligation in or under such Supported QFC and such QFC Credit Support, and any rights in property securing such Supported QFC or such QFC Credit Support) from such Covered Party will be effective to the same extent as the transfer would be effective under the U.S. Special Resolution Regime if the Supported QFC and such QFC Credit Support (and any such interest, obligation and rights in property) were governed by the laws of the United States or a state of the United States. In the event a Covered Party or a BHC Act Affiliate of a Covered Party becomes subject to a

proceeding under a U.S. Special Resolution Regime, Default Rights under the 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; and

(b) As used in this Section 10.23, the following terms have the following meanings:

"**BHC Act Affiliate**" of a party means an "affiliate" (as such term is defined under, and interpreted in accordance with, 12 U.S.C. 1841(k)) of such party.

"**Covered Entity**" means any of the following:

(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).

"**Default Right**" has the meaning assigned to that term in, and shall be interpreted in accordance with, 12 C.F.R. §§ 252.81, 47.2 or 382.1, as applicable.

"**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).

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IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the date first above written.

BELLRING BRANDS, INC.

By: /s/ Paul A. Rode
Name: Paul A. Rode
Title: Chief Financial Officer

JPMORGAN CHASE BANK, N.A., as
Administrative Agent, an L/C Issuer, and a Lender

By: /s/ Brendan Korb
Name: Brendan Korb
Title: Vice President

CREDIT SUISSE AG, NEW YORK BRANCH, as a Lender

By: /s/ Doreen Barr
Name: Doreen Barr
Title: Authorized Signatory

By: /s/ Heesu Sin
Name: Heesu Sin
Title: Authorized Signatory

BANK OF AMERICA, N.A., as a Lender

By: /s/ Gregory Roetting
Name: Gregory Roetting
Title: Managing Director

BARCLAYS BANK PLC, as a Lender

By: /s/ Regina Tarone
Name: Regina Tarone
Title: Managing Director

CITIBANK, N.A., as a Lender

By: /s/ Albert Sutton
Name: Albert Sutton
Title: Vice President

GOLDMAN SACHS BANK USA, as a Lender

By: /s/ Charles Johnston
Name: Charles Johnston
Title: Authorized Signatory

MORGAN STANLEY SENIOR FUNDING, INC., as a Lender

By: /s/ Michael King
Name: Michael King
Title: Vice President

WELLS FARGO BANK, NATIONAL ASSOCIATION,
as a Lender

By: /s/ Mark Holm
Name: Mark Holm
Title: Managing Director

BMO HARRIS BANK, N.A., as a Lender

By: /s/ Andrew Berryman
Name: Andrew Berryman
Title: Director

COÖPERATIEVE RABOBANK U.A., NEW YORK BRANCH, as a Lender

By: /s/ Michael Falter
Name: Michael Falter
Title: Managing Director

By: /s/ Shane Koonce
Name: Shane Koonce
Title: Executive Director

TRUIST BANK as a Lender

By: /s/ Tesha Winslow
Name: Tesha Winslow
Title: Director

STIFEL BANK & TRUST as a Lender

By: /s/ Daniel P. McDonald
Name: Daniel P. McDonald
Title: Vice President

Post Holdings and BellRing Brands Announce Completion of the Spin-Off of 80.1% of Post's Interest in BellRing

ST. LOUIS, March 10, 2022—Post Holdings, Inc. (NYSE:POST) ("Post") and BellRing Brands, Inc. (NYSE:BRBR) ("New BellRing") today announced the completion of the spin-off of 80.1% of Post's interest in New BellRing to Post shareholders.

Under the previously disclosed terms of the transaction, Post distributed an aggregate of 78,076,841 shares of common stock of New BellRing (which was previously named "BellRing Distribution, LLC" and was renamed "BellRing Brands, Inc." upon conversion into a Delaware corporation) after market close at 4:01 p.m. Eastern Time on March 10, 2022 (the "distribution date") on a pro rata basis to Post shareholders (the "distribution"). Based on the shares of Post common stock outstanding as of February 25, 2022, the record date for the distribution, Post shareholders received 1.267788 shares of New BellRing common stock in the distribution for each share of Post common stock held. No fractional shares of New BellRing were issued in the distribution, and instead, Post shareholders will receive cash in lieu of any fractional shares of New BellRing common stock. The spin-off was structured in a manner intended to qualify as a tax-free distribution to Post shareholders for U.S. federal income tax purposes, except to the extent of any cash received in lieu of fractional shares of New BellRing common stock.

Upon completion of the distribution, a subsidiary of New BellRing merged (the "merger") with and into BellRing Intermediate Holdings, Inc. (which was previously named "BellRing Brands, Inc.") ("Old BellRing") and each outstanding share of Old BellRing Class A common stock was converted into one share of New BellRing common stock and $2.97 in cash, which amount was determined in accordance with the agreement that governed the transaction. New BellRing common stock will be traded under the ticker symbol "BRBR".

As a result of certain contributions made in connection with the transaction, Post received incremental value in an amount that, based on the percentage of the outstanding BellRing Brands, LLC nonvoting membership units owned by Post prior to the distribution, was $289.5 million.

Following the distribution and the merger, Post owns 14.2% of the New BellRing common stock and Post shareholders own 57.3% of the New BellRing common stock. The holders of Old BellRing Class A common stock prior to the merger maintained their 28.5% effective ownership interest in the BellRing business. In addition, as a result of the completion of the transaction, including the contribution by Post of the sole outstanding share of Old BellRing Class B common stock (which represented 67% of the total voting power of the outstanding Old BellRing common stock), the dual class voting structure in the BellRing business has been eliminated.

Two-Way Trading for Post Common Stock on the NYSE

Beginning on February 24, 2022, and continuing through the close of trading on March 10, 2022, there were two markets in Post common stock on the New York Stock Exchange (the "NYSE"): a "regular way" market and an "ex-distribution" market. During this period of two-way trading in Post common stock, a Post shareholder could sell the right to his or her shares of New BellRing common stock that he or she would receive pursuant to the distribution in a "when issued" market. Starting tomorrow, March 11, 2022, the "when issued" market will be discontinued. In all cases, investors are encouraged to consult with their financial advisors regarding the specific implications of any sales of Post common stock through the close of trading today.

Forward-Looking Statements

Certain matters discussed in this press release are forward-looking statements. These forward-looking statements are made based on known events and circumstances at the time of release, and as such, are subject to uncertainty and changes in circumstances. These forward-looking statements include statements regarding the intended tax treatment of the distribution to Post shareholders. There are a number of risks, uncertainties and assumptions that could cause actual results to differ materially from the forward-looking statements made herein, including risks relating to unanticipated developments that negatively impact the New BellRing common stock, the ongoing conflict in Ukraine, the rapidly changing situation related to the COVID-19 pandemic and other financial, operational and legal risks and uncertainties described in Post's and BellRing's filings with the Securities and Exchange Commission (the "SEC"). These forward-looking statements represent Post's and BellRing's judgment as of the date of this release. Post and BellRing disclaim, however, any intent or obligation to update these forward-looking statements.

About Post Holdings, Inc.

Post Holdings, Inc., headquartered in St. Louis, Missouri, is a consumer packaged goods holding company operating in the center-of-the-store, refrigerated, foodservice and food ingredient food categories. Its businesses include Post Consumer Brands, Weetabix, Michael Foods and Bob Evans Farms. Post Consumer Brands is a leader in the North American ready-to-eat cereal category and also markets *Peter Pan*® nut butters. Weetabix is home to the United Kingdom's number one selling ready-to-eat cereal brand, *Weetabix*®. Michael Foods and Bob Evans Farms are leaders in refrigerated foods, delivering innovative, value-added egg and refrigerated potato side dish products to the foodservice and retail channels. Post participates in the global convenient nutrition category through its minority ownership of BellRing Brands, Inc., a publicly-traded holding company offering ready-to-drink shake and powder protein products. Post participates in the private brand food category through its investment with third parties in 8th Avenue Food & Provisions, Inc., a leading, private brand centric, consumer products holding company. For more information, visit www.postholdings.com.

About BellRing Brands, Inc.

BellRing Brands, Inc. is a rapidly growing leader in the global convenient nutrition category offering ready-to-drink shake and powder protein products. Its primary brands, *Premier Protein*® and *Dymatize*®, appeal to a broad range of consumers and are distributed across a diverse network of channels including club, food, drug, mass, eCommerce, specialty and convenience. BellRing's commitment to consumers is to strive to make highly effective products that deliver best-in-class nutritionals and superior taste. For more information, visit www.bellring.com.

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