

UNITED STATES SECURITIES AND EXCHANGE COMMISSION  
Washington, DC 20549

FORM 10-K

ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934  
For The Fiscal Year Ended **June 3, 2023**

TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934  
For the transition period from \_\_\_\_\_ to \_\_\_\_\_

Commission file number: 001-38695

**CAL-MAINE FOODS, INC.**

(Exact name of registrant as specified in its charter)

**Delaware**

**64-0500378**

(State or other Jurisdiction of Incorporation or Organization)

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

**1052 Highland Colony Pkwy, Suite 200, Ridgeland, Mississippi 39157**

(Address of principal executive offices) (Zip Code)

**(601) 948-6813**

(Registrant's telephone number, including area code)

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	CALM	The NASDAQ Global Select Market

Securities registered pursuant to Section 12 (g) of the Act: NONE

Indicate by check mark if the registrant is a well-known seasoned issuer as defined in Rule 405 of the Securities Act. Yes  No

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act. Yes  No

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes  No

Indicate by check mark whether the registrant has submitted electronically every Interactive Data File required to be submitted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit such files). Yes  No

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

Large accelerated filer	<input checked="" type="checkbox"/>	Accelerated filer	<input type="checkbox"/>
Non-accelerated filer	<input type="checkbox"/>	Smaller reporting company	<input type="checkbox"/>
		Emerging growth company	<input type="checkbox"/>

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

Indicate by check mark whether the registrant has filed a report on and attestation to its management's assessment of the effectiveness of its internal control over financial reporting under Section 404(b) of the Sarbanes-Oxley Act (15 U.S.C. 7262(b)) by the registered public accounting firm that prepared or issued its audit report.

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Act). Yes  No

The aggregate market value, as reported by The NASDAQ Global Select Market, of the registrant's Common Stock, \$0.01 par value, held by non-affiliates at November 25, 2022, which was the date of the last business day of the registrant's most recently completed second fiscal quarter, was \$2,435,832,883.

As of July 25, 2023, 44,184,049 shares of the registrant's Common Stock, \$0.01 par value, and 4,800,000 shares of the registrant's Class A Common Stock, \$0.01 par value, were outstanding.

DOCUMENTS INCORPORATED BY REFERENCE

The information called for by Part III of this Form 10-K is incorporated herein by reference from the registrant's Definitive Proxy Statement for its 2023 annual meeting of stockholders which will be filed pursuant to Regulation 14A not later than 120 days after the end of the fiscal year covered by this report.

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## **PART I.**

### **FORWARD-LOOKING STATEMENTS**

This report contains numerous forward-looking statements within the meaning of Section 27A of the Securities Act of 1933 (the "Securities Act") and Section 21E of the Securities Exchange Act of 1934 (the "Exchange Act") relating to our shell egg business, including estimated future production data, expected construction schedules, projected construction costs, potential future supply of and demand for our products, potential future corn and soybean price trends, potential future impact on our business of inflation and rising interest rates, potential future impact on our business of new legislation, rules or policies, potential outcomes of legal proceedings, and other projected operating data, including anticipated results of operations and financial condition. Such forward-looking statements are identified by the use of words such as "believes," "intends," "expects," "hopes," "may," "should," "plans," "projected," "contemplates," "anticipates," or similar words. Actual outcomes or results could differ materially from those projected in the forward-looking statements. The forward-looking statements are based on management's current intent, belief, expectations, estimates, and projections regarding the Company and its industry. These statements are not guarantees of future performance and involve risks, uncertainties, assumptions, and other factors that are difficult to predict and may be beyond our control. The factors that could cause actual results to differ materially from those projected in the forward-looking statements include, among others, (i) the risk factors set forth in Item 1A Risk Factors and elsewhere in this report as well as those included in other reports we file from time to time with the Securities and Exchange Commission (the "SEC") (including our Quarterly Reports on Form 10-Q and Current Reports on Form 8-K), (ii) the risks and hazards inherent in the shell egg business (including disease, pests, weather conditions, and potential for product recall), including but not limited to the current outbreak of highly pathogenic avian influenza ("HPAI") affecting poultry in the United States ("U.S."), Canada and other countries that was first detected in commercial flocks in the U.S. in February 2022, (iii) changes in the demand for and market prices of shell eggs and feed costs, (iv) our ability to predict and meet demand for cage-free and other specialty eggs, (v) risks, changes, or obligations that could result from our future acquisition of new flocks or businesses and risks or changes that may cause conditions to completing a pending acquisition not to be met, (vi) risks relating to increased costs, rising inflation and rising interest rates, which began in response to market conditions caused in part by the COVID-19 pandemic and which generally have been exacerbated by the Russia-Ukraine War that began in February 2022, (vii) our ability to retain existing customers, acquire new customers and grow our product mix and (viii) adverse results in pending litigation matters. Readers are cautioned not to place undue reliance on forward-looking statements because, while we believe the assumptions on which the forward-looking statements are based are reasonable, there can be no assurance that these forward-looking statements will prove to be accurate. Further, forward-looking statements included herein are only made as of the respective dates thereof, or if no date is stated, as of the date hereof. Except as otherwise required by law, we disclaim any intent or obligation to update publicly these forward-looking statements, whether because of new information, future events, or otherwise.

### **ITEM 1. BUSINESS**

#### **Our Business**

We are the largest producer and distributor of shell eggs in the United States. Our mission is to be the most sustainable producer and reliable supplier of consistent, high quality fresh shell eggs and egg products in the country, demonstrating a "Culture of Sustainability" in everything we do, and creating value for our shareholders, customers, team members and communities. We sell most of our shell eggs in the southwestern, southeastern, mid-western and mid-Atlantic regions of the U.S. and aim to maintain efficient, state-of-the-art operations located close to our customers. We were founded in 1957 by the late Fred R. Adams, Jr. and are headquartered in Ridgeland, Mississippi.

The Company has one reportable operating segment, which is the production, grading, packaging, marketing and distribution of shell eggs. Our integrated operations consist of hatching chicks, growing and maintaining flocks of pullets, layers and breeders, manufacturing feed, and producing, processing, packaging, and distributing shell eggs. Layers are mature female chickens, pullets are female chickens usually less than 18 weeks of age, and breeders are male and female chickens used to produce fertile eggs to be hatched for egg production flocks. Our total flock as of June 3, 2023 consisted of approximately 41.2 million layers and 10.8 million pullets and breeders.

Many of our customers rely on us to provide most of their shell egg needs, including specialty and conventional eggs. Specialty eggs encompass a broad range of products. We classify cage-free, organic, brown, free-range, pasture-raised and nutritionally enhanced as specialty eggs for accounting and reporting purposes. We classify all other shell eggs as conventional products. While we report separate sales information for these egg types, there are many cost factors that are not specifically available for conventional or specialty eggs due to the nature of egg production. We manage our operations and allocate resources to these types of eggs on a consolidated basis based on the demands of our customers.

We believe that an important competitive advantage for Cal-Maine Foods is our ability to meet our customers' evolving needs with a favorable product mix of conventional and specialty eggs, including cage-free, organic and other specialty offerings, as well as egg products. We have also enhanced our efforts to provide free-range and pasture-raised eggs that meet consumers' evolving choice preferences. While a small part of our current business, the free-range and pasture-raised eggs we produce and sell represent attractive offerings to a subset of consumers, and therefore our customers, and help us continue to serve as the trusted provider of quality food choices.

Throughout the Company's history, we have acquired other companies in our industry. Since 1989 through our fiscal year ended June 3, 2023, we have completed 23 acquisitions ranging in size from 160 thousand layers to 7.5 million layers. Most recently, effective on May 30, 2021, the Company acquired the remaining 50% membership interest in Red River Valley Egg Farm, LLC ("Red River"), which owns and operates a specialty shell egg production complex that includes 1.7 million cage-free hens. For a further description of this transaction, refer to Part II, Item 8. Notes to the Consolidated Financial Statements, [Note 2 – Acquisition](#). We are also focused on additional ways to enhance our product mix and support new opportunities in the restaurant, institutional and commercial food preparation area. Beginning in fiscal 2022, we have invested approximately \$32.3 million in Meadowcreek Foods, LLC ("Meadowcreek"), an egg products operation focused on offering hard-cooked eggs. In addition to growth through acquisitions, we have also grown by making substantial investments in our business, primarily to increase our cage-free production capacity.

When we use "we," "us," "our," or the "Company" in this report, we mean Cal-Maine Foods, Inc. and our consolidated subsidiaries, unless otherwise indicated or the context otherwise requires. The Company's fiscal year-end is on the Saturday closest to May 31. Our fiscal year 2023 and fourth quarter ended June 3, 2023, included 53 weeks and 14 weeks, respectively. The first three fiscal quarters of fiscal 2023 ended August 27, 2022, November 26, 2022, and February 25, 2023, all included 13 weeks. All references herein to a fiscal year means our fiscal year and all references to a year mean a calendar year.

### **Industry Background**

According to the U.S. Department of Agriculture ("USDA") Agricultural Marketing Service, in 2022 approximately 71% of table eggs produced in the U.S. were sold as shell eggs, with 56.6% sold through food at home outlets such as grocery and convenience stores, 12.4% sold to food-away-from home channels such as restaurants and 1.7% exported. The USDA estimated that in 2022 approximately 29.6% of eggs produced in the U.S. were sold as egg products (shell eggs broken and sold in liquid, frozen, or dried form) to institutions (e.g. companies producing baked goods). For information about egg producers in the U.S., see "Competition" below.

Our industry has been greatly impacted by the outbreaks of highly pathogenic avian influenza ("HPAI"), first detected in commercial flocks in the U.S. in February 2022 and continuing during our fiscal 2023. For additional information regarding HPAI and its impact on our industry and business, see [Part II, Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations](#).

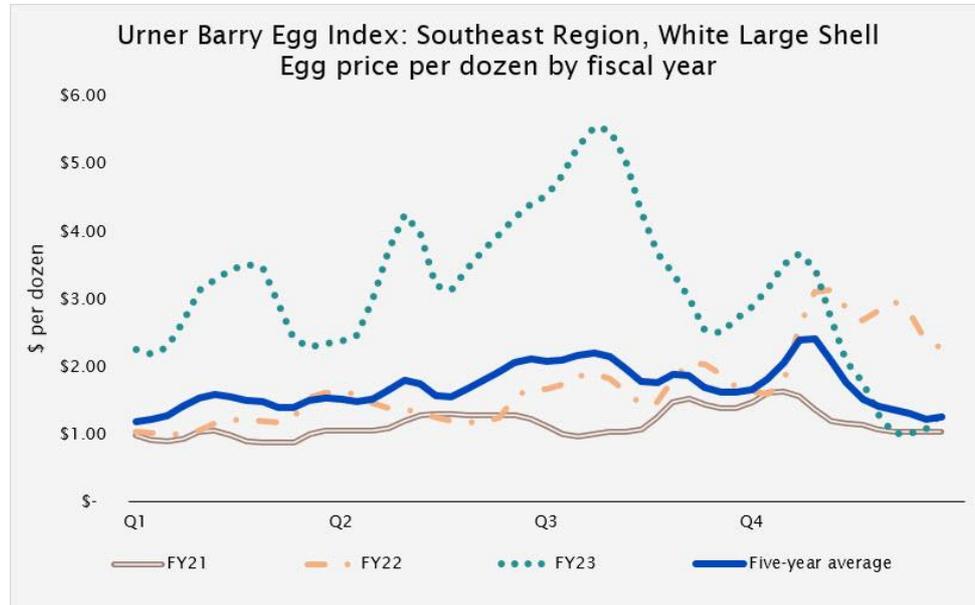
Given historical consumption trends, we believe that general demand for eggs in the U.S. increases basically in line with the overall U.S. population growth; however, specific events can impact egg supply and consumption in a particular period, as occurred with the 2015 HPAI outbreak, the COVID-19 pandemic (particularly during 2020), and the most recent HPAI outbreak starting in early 2022. According to the USDA's Economic Research Service, estimated annual per capita consumption in the United States between 2018 and 2022 varied, ranging from 279 to 292 eggs. In calendar year 2022, per capita U.S. consumption was estimated to be 279 eggs, or approximately 5.4 eggs per person per week. According to the USDA, the decline in consumption was primarily due to limited availability caused by the outbreak of HPAI. As of July 18, 2023, the USDA projects that the per capita consumption will increase in calendar year 2023 and 2024 to 282.6 and 292.7, respectively. The USDA calculates per capita consumption by dividing total shell egg disappearance in the U.S. by the U.S. population.

### **Prices for Shell Eggs**

Wholesale shell egg sales prices are a critical component of revenue for the Company. Wholesale shell egg prices are volatile, cyclical, and impacted by a number of factors, including consumer demand, seasonal fluctuations, the number and productivity of laying hens in the U.S. and outbreaks of agricultural diseases such as HPAI. While we use several different pricing mechanisms in pricing agreements with our customers, we believe the majority of conventional shell eggs sold in the U.S. in the retail and foodservice channels are sold at prices that take into account, in varying ways, independently quoted wholesale market prices, such as those published by Urner Barry Publications, Inc. ("UB") for shell eggs, however, grain-based and cost plus arrangements are being utilized in the food service channel and some western markets. We sell the majority of our conventional shell eggs based on formulas that take into account, in varying ways, independently quoted regional wholesale market prices for shell eggs

or formulas related to our costs of production, which include the cost of corn and soybean meal. We do not sell eggs directly to consumers or set the prices at which eggs are sold to consumers.

The weekly average price for the southeast region for large white conventional shell eggs as quoted by UB is shown below for the past three fiscal years along with the five-year average price. As further discussed in [Part II, Item 7, Management's Discussion and Analysis – Results of Operations](#), conventional shell egg prices rose during the fourth quarter of fiscal 2022 and first three quarters of fiscal 2023, due to the reduced supply related to the HPAI outbreak first detected in commercial flocks in February 2022, steady shell egg demand and higher production costs. Conventional shell egg prices continued to rise into the fourth quarter of fiscal 2023 followed by a substantial decline, as demand for shell eggs began to decrease in line with typical seasonal variance and as supply increased due to the repopulating of HPAI-affected layer flocks. The actual prices that we realize on any given transaction will not necessarily equal quoted market prices because of the individualized terms that we negotiate with individual customers which are influenced by many factors. Depending on market conditions, input costs and individualized contract terms, the price we receive per dozen eggs in any given transaction may be more than or less than our farm production and other costs per dozen.



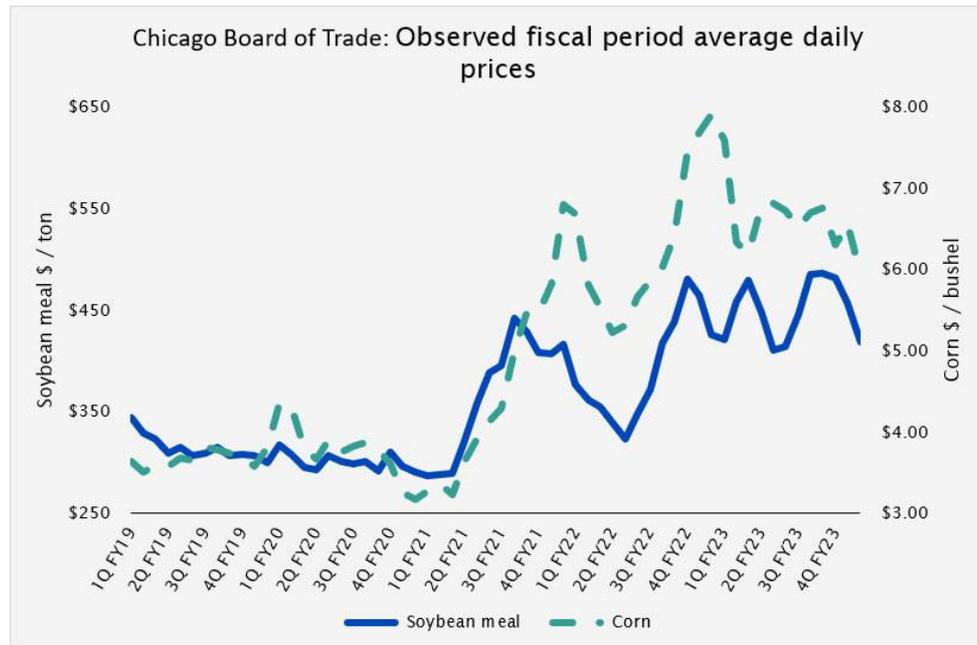
Specialty eggs are typically sold at prices and terms negotiated directly with customers. Historically, prices for specialty eggs have experienced less volatility than prices for conventional shell eggs and have generally been higher due to customer and consumer willingness to pay more for specialty eggs. However, throughout most of fiscal 2023 conventional egg prices exceeded specialty egg prices. Conventional egg prices generally respond more quickly to market conditions because we sell the majority of our conventional shell eggs based on formulas that adjust periodically and take into account, in varying ways, independently quoted regional wholesale market prices for shell eggs or formulas related to our costs of production. Because the majority of our specialty eggs are typically sold at prices and terms negotiated directly with customers, specialty egg prices do not fluctuate as much as conventional pricing.

#### Feed Costs for Shell Egg Production

Feed is a primary cost component in the production of shell eggs and represented 63.1% of our fiscal 2023 farm production costs. We routinely fill our storage bins during harvest season when prices for feed ingredients, primarily corn and to a lesser extent soybean meal, are generally lower. To ensure continued availability of feed ingredients, we may enter into contracts for future purchases of corn and soybean meal, and as part of these contracts, we may lock-in the basis portion of our grain purchases several months in advance. Basis is the difference between the local cash price for grain and the applicable futures price. A basis

contract is a common transaction in the grain market that allows us to lock-in a basis level for a specific delivery period and wait to set the futures price at a later date. Furthermore, due to the more limited supply for organic ingredients, we may commit to purchase organic ingredients in advance to help assure supply. Ordinarily, we do not enter into long-term contracts beyond a year to purchase corn and soybean meal or hedge against increases in the prices of corn and soybean meal. As the quality and composition of feed is a critical factor in the nutritional value of shell eggs and health of our chickens, we formulate and produce the vast majority of our own feed at our feed mills located near our production plants. Our annual feed requirements for fiscal 2023 were 2.0 million tons of finished feed, of which we manufactured 1.9 million tons. We currently have the capacity to store 182 thousand tons of corn and soybean meal, and we replenish these stores as needed throughout the year.

Our primary feed ingredients, corn and soybean meal, are commodities subject to volatile price changes due to weather, various supply and demand factors, transportation and storage costs, speculators and agricultural, energy and trade policies in the U.S. and internationally and most recently the Russia-Ukraine War. While we do not import corn or soy directly from the region, the Russia-Ukraine War has had a negative impact on the worldwide supply of grain, including corn, putting upward pressure on prices. We purchase the vast majority of our corn and soybean meal from U.S. sources but may be forced to purchase internationally when U.S. supplies are not readily available. Feed grains are currently available from an adequate number of sources in the U.S. As a point of reference, a multi-year comparison of the average of daily closing prices per Chicago Board of Trade for each period in our fiscal calendar are shown below for corn and soybean meal:



**Shell Egg Production**

Our percentage of dozens produced to sold was 92.3% of our total shell eggs sold in fiscal 2023, with 91.8% of such production coming from company-owned facilities, and 8.2% from contract producers. Under a typical arrangement with a contract producer, we own the flock, furnish all feed and critical supplies, own the shell eggs produced and assume market risks. The contract producers own and operate their facilities and are paid a fee based on production with incentives for performance.

The commercial production of shell eggs requires a source of baby chicks for laying flock replacement. We hatch the majority of our chicks in our own breeder farms and hatcheries in a computer-controlled environment and obtain the balance from commercial sources. The chicks are grown in our own pullet farms and are placed into the laying flock once they reach maturity.

After eggs are produced, they are cleaned, graded and packaged. Substantially all our farms have modern “in-line” facilities which mechanically gather, clean, grade and package the eggs at the location where they are laid. The in-line facilities generate significant efficiencies and cost savings compared to the cost of eggs produced from non-in-line facilities, which process eggs that have been laid at another location and transported to the processing facility. The in-line facilities also produce a higher percentage of USDA Grade A eggs, which sell at higher prices. Eggs produced on farms owned by contractors are brought to our processing plants to be graded and packaged. Because shell eggs are perishable, we do not maintain large egg inventories. Our egg inventory averaged six days of sales during fiscal 2023. We believe our constant focus on production efficiencies and automation throughout the supply chain enable us to be a low-cost supplier in our markets.

We are proud to have created and upheld what we believe is a leading poultry Animal Welfare Program (“AWP”). We have aligned our AWP with regulatory, veterinary and our third-party certifying bodies’ guidance to govern welfare of animals in our direct care, our contract farmers’ care and our farmer-suppliers’ care. We continually review our program to monitor and evolve standards that guide how we hatch chicks, rear pullets and nurture breeder and layer hens. At each stage of our animals’ lives, we are dedicated to providing welfare conditions aligned to our commitment to the principles of the internationally recognized *Five Freedoms of Animal Welfare*. Our standards apply to our enterprise and are tailored for our owned and contract grower operations with oversights and approvals from senior members of our compliance team.

We do not use artificial hormones in the production of our eggs. Hormone use in the poultry and egg production industry has been effectively banned in the U.S. since the 1950s. We have an extensive written protocol that allows the use of medically important antibiotics only when animal health is at risk, consistent with guidance from the United States Food and Drug Administration (“FDA”) and the Guidance for Judicious Therapeutic Use of Antimicrobials in Poultry, developed by the American Association of Avian Pathologists. When antibiotics are medically necessary, a licensed veterinary doctor will approve and administer approved doses for a restricted period. Our programs are designed to ensure antibiotics are ordered and used only when necessary and records of their usage – when and where – are maintained to monitor compliance with our protocols. We do not use antibiotics for growth promotion or performance enhancement.

### **Specialty Eggs**

We are one of the largest producers and marketers of value-added specialty shell eggs in the U.S., which continues to be a significant and growing segment of the market. We classify cage-free, organic, brown, free-range, pasture-raised and nutritionally enhanced as specialty eggs for accounting and reporting purposes. Specialty eggs are intended to meet the demands of consumers sensitive to environmental, health and/or animal welfare issues and to comply with state requirements for cage-free eggs.

As defined by the USDA, eggs packed in USDA grade marked consumer packages labeled as cage-free are laid by hens that are able to roam vertically and horizontally in indoor houses and have access to fresh food and water. Cage-free systems must allow hens to exhibit natural behaviors and include enrichments such as scratch areas, perches and nests. Hens must have access to litter, protection from predators and be able to move in a barn in a manner that promotes bird welfare.

Ten states have passed legislation or regulations mandating minimum space or cage-free requirements for egg production or mandated the sale of only cage-free eggs and egg products in their states, with implementation of these laws ranging from January 2022 to January 2026. These states represent approximately 27% of the U.S. total population according to the 2020 U.S. Census. California, Massachusetts, and Colorado, which collectively represent approximately 16% of the total estimated U.S. population have cage-free legislation in effect currently. In May 2023, the U.S. Supreme Court upheld as constitutional California’s law that requires the sale of only cage-free eggs in that state and regardless of the state in which the eggs are produced. Although we do not sell the majority of our eggs in these ten states, these state laws have impacted egg production practices nationally.

A significant number of our customers previously announced goals to offer cage-free eggs exclusively on or before 2026, subject in most cases to availability of supply, affordability and consumer demand, among other contingencies. Some of these customers have recently changed those goals to offer 70% cage-free eggs by the end of 2030. Our customers typically do not commit to long-term purchases of specific quantities or types of eggs with us, and as a result, it is difficult to accurately predict customer requirements for cage-free eggs. We are focused on adjusting our cage-free production capacity with a goal of meeting the future needs of our customers in light of changing state requirements and our customer’s goals. As always, we strive to offer a product mix that aligns with current and anticipated customer purchase decisions. We are engaging with our customers to help them meet their announced goals and needs. We have invested significant capital in recent years to acquire and construct cage-free facilities, and we expect our focus for future expansion will continue to include cage-free facilities. Our volume of cage-free egg sales has continued to increase and account for a larger share of our product mix. Cage-free sales represented approximately 20.1% of our total net shell sales for fiscal year 2023. At the same time, we understand the importance of our continued ability to provide conventional eggs in order to provide our customers with a variety of egg choices and to address hunger in our communities.

We are a member of the Egglard's Best, Inc. cooperative ("EB") and produce, market, distribute and sell *Egg-Land's Best*® and *Land O' Lakes*® branded eggs under license from EB at our facilities under EB guidelines. *Land O' Lakes*® branded eggs are produced by hens that are fed a whole-grain vegetarian diet. Our *Farmhouse Eggs*® brand eggs are produced at our facilities by cage-free hens that are provided with a vegetarian diet. We market organic, vegetarian and omega-3 eggs under our *4-Grain*® brand, which consists of conventional and cage-free eggs. We also produce, market and distribute private label specialty shell eggs to several customers.

### Egg Products

Egg products are shell eggs broken and sold in liquid, frozen, or dried form. We sell liquid and frozen egg products primarily to the institutional, foodservice and food manufacturing sectors in the U.S. Our egg products are primarily sold through our wholly owned subsidiaries American Egg Products, LLC located in Georgia and Texas Egg Products, LLC located in Texas.

During March 2023, MeadowCreek Food, LLC ("Meadowcreek"), a majority-owned subsidiary, began operations with a focus on being a leading provider of hard-cooked eggs. We serve as the preferred provider to supply specialty and conventional eggs that MeadowCreek needs to manufacture egg products. MeadowCreek's marketing plan is designed to extend our reach in the foodservice and retail marketplace and bring new opportunities in the restaurant, institutional and industrial food products arenas.

### Summary of Conventional and Specialty Shell Egg and Egg Product Sales

The following table sets forth the contribution as a percentage of revenue and volumes of dozens sold of conventional and specialty shell egg and egg product sales for the following fiscal years:

	2023		2022		2021	
	Revenue	Volume	Revenue	Volume	Revenue	Volume
Conventional Eggs	65.2 %	65.3 %	59.8 %	69.0 %	56.8 %	73.2 %
Specialty Eggs						
Egg-Land's Best®	14.7 %	16.6 %	19.2 %	15.9 %	20.9 %	13.5 %
Other Specialty Eggs	15.7 %	18.1 %	17.3 %	15.1 %	19.1 %	13.3 %
Total Specialty Eggs	30.4 %	34.7 %	36.5 %	31.0 %	40.0 %	26.8 %
Egg Products	3.9 %		3.4 %		2.7 %	

### Marketing and Distribution

In fiscal 2023, we sold our shell eggs in 38 states through the southwestern, southeastern, mid-western and mid-Atlantic regions of the U.S. through our extensive distribution network to a diverse group of customers, including national and regional grocery store chains, club stores, companies servicing independent supermarkets in the U.S., foodservice distributors and egg product consumers. Some of our sales are completed through co-pack agreements – a common practice in the industry whereby production and processing of certain products are outsourced to another producer. Although we face intense competition from numerous other companies, we believe that we have the largest market share for the sale of shell eggs in the grocery segment, including large U.S. food retailers.

The majority of eggs sold are based on the daily or short-term needs of our customers. Most sales to established accounts are on payment terms ranging from seven to 30 days. Although we have established long-term relationships with many of our customers, most of them are free to acquire shell eggs from other sources.

The shell eggs we sell are either delivered to our customers' warehouse or retail stores, by our own fleet or contracted refrigerated delivery trucks, or are picked up by our customers at our processing facilities.

We are a member of the Egglard's Best, Inc. cooperative and produce, market, distribute and sell *Egg-Land's Best*® and *Land O' Lakes*® branded eggs directly and through our joint ventures, Specialty Eggs, LLC and Southwest Specialty Eggs, LLC, under exclusive license agreements in Alabama, Arizona, Florida, Georgia, Louisiana, Mississippi and Texas, and in portions of Arkansas, California, Nevada, North Carolina, Oklahoma and South Carolina. We also have an exclusive license in New York City in addition to exclusivity in select New York metropolitan areas, including areas within New Jersey and Pennsylvania. As discussed above under "Specialty Eggs," we also sell our own *Farmhouse Eggs*® and *4Grain*® branded eggs.

During 2022, the Company joined in the formation of a new egg farmer cooperative in the western United States. ProEgg, Inc. ("ProEgg") is comprised of leading egg production companies, including Cal-Maine Foods, servicing retail and foodservice shell egg customers in 13 western states. ProEgg is a producer-owned cooperative organized under the Capper-Volstead Act.

The Company's top priority in joining as a member of ProEgg is serving our valued customers in this important market region. Our membership in ProEgg is expected to provide benefits for its customers, including supply chain stability and enhanced reliability. Initially, Cal-Maine Foods' customer relationships and customer support are expected to remain the same. We expect that starting January 1, 2024, each producer member will sell through ProEgg the shell eggs it produces for sale in the western states covered by the cooperative. Customers will have a single point of contact for their shell egg purchases, as ProEgg will have a dedicated team to market and sell the members' combined egg production in the region.

#### **Customers**

Our top three customers accounted for an aggregate of 50.1%, 45.9% and 48.6% of net sales dollars for fiscal 2023, 2022, and 2021, respectively. Our largest customer, Walmart Inc. (including Sam's Club), accounted for 34.2%, 29.5% and 29.8% of net sales dollars for fiscal 2023, 2022 and 2021, respectively.

In fiscal 2023, approximately 85.3% of our revenue related to sales to retail customers, 10.8% to sales to foodservice providers and 3.9% to egg products sales. Retail customers include primarily national and regional grocery store chains, club stores, and companies servicing independent supermarkets in the U.S. Foodservice customers include primarily companies that sell food products and related items to restaurants, healthcare and education facilities and hotels.

#### **Competition**

The production, processing, and distribution of shell eggs is an intensely competitive business, which has traditionally attracted large numbers of producers in the United States. Shell egg competition is generally based on price, service and product quality. The shell egg production industry remains highly fragmented. According to *Egg Industry Magazine*, the ten largest producers owned approximately 53% of industry table egg layer hens at year-end 2022 and 2021. We believe industry consolidation may continue, and we plan to capitalize on opportunities as they arise. We believe further concentration could result in reduced cyclicity of shell egg prices, but no assurance can be given in that regard.

#### **Seasonality**

Retail sales of shell eggs historically have been highest during the fall and winter months and lowest during the summer months. Prices for shell eggs fluctuate in response to seasonal demand factors and a natural increase in egg production during the spring and early summer. Historically, shell egg prices tend to increase with the start of the school year and tend to be highest prior to holiday periods, particularly Thanksgiving, Christmas and Easter. Consequently, and all other things being equal, we would expect to experience lower selling prices, sales volumes and net income (and may incur net losses) in our first and fourth fiscal quarters ending in August/September and May/June, respectively. Accordingly, we generally expect our need for working capital to be highest during those quarters.

#### **Growth Strategy**

Our growth strategy is focused on remaining a low-cost provider of shell eggs located near our customers, offering our customers choices that meet their requirements for eggs and egg products and continuing to grow our focus on specialty eggs and egg products. For example, our recent investment in MeadowCreek, discussed under the heading "Egg Products" above, is intended to extend our reach in the foodservice and retail marketplace and bring new opportunities in the restaurant, institutional and industrial food products arenas.

In light of the growing customer demand and increased legal requirements for cage-free eggs, we intend to continue to closely evaluate the need to expand through selective acquisitions, with a priority on those that will facilitate our ability to expand our cage-free shell egg production capabilities in key locations and markets. We will also continue to closely evaluate the need to continue to expand and convert our own facilities to increase production of cage-free eggs based on a timeline designed to meet the anticipated needs of our customers and comply with evolving legal requirements. As the ongoing production of cage-free eggs is more costly than the production of conventional eggs, aligning our cage-free production capabilities with changing demand for cage-free eggs is important to the success of our business.

## **Trademarks and License Agreements**

We own the trademarks *Farmhouse Eggs*®, *Sunups*®, *Sunny Meadow*® and *4Grain*®. We produce and market *Egg-Land's Best*® and *Land O' Lakes*® branded eggs under license agreements with EB. We believe these trademarks and license agreements are important to our business.

## **Government Regulation**

Our facilities and operations are subject to regulation by various federal, state, and local agencies, including, but not limited to, the FDA, USDA, Environmental Protection Agency ("EPA"), Occupational Safety and Health Administration ("OSHA") and corresponding state agencies or laws. The applicable regulations relate to grading, quality control, labeling, sanitary control and reuse or disposal of waste. Our shell egg facilities are subject to periodic USDA, FDA, EPA and OSHA inspections. Our feed production facilities are subject to FDA, EPA and OSHA regulation and inspections. We maintain our own inspection program to monitor compliance with our own standards and customer specifications. It is possible that we will be required to incur significant costs for compliance with such statutes and regulations. In the future, additional rules could be proposed that, if adopted, could increase our costs.

Ten states have passed legislation or regulations mandating minimum space or cage-free requirements for egg production or mandated the sale of only cage-free eggs and egg products in their states, with implementation of these laws ranging from January 2022 to January 2026. These states represent approximately 27% of the U.S. total population according to the 2020 U.S. Census. California, Massachusetts, and Colorado, which collectively represent approximately 16% of the total estimated U.S. population have cage-free legislation in effect currently. In May 2023, the U.S. Supreme Court upheld as constitutional California's law that requires the sale of only cage-free eggs in that state and regardless of the state in which the eggs are produced.

## **Environmental Regulation**

Our operations and facilities are subject to various federal, state, and local environmental, health and safety laws and regulations governing, among other things, the generation, storage, handling, use, transportation, disposal, and remediation of hazardous materials. Under these laws and regulations, we must obtain permits from governmental authorities, including, but not limited to, wastewater discharge permits. We have made, and will continue to make, capital and other expenditures relating to compliance with existing environmental, health and safety laws and regulations and permits. We are not currently aware of any major capital expenditures necessary to comply with such laws and regulations; however, as environmental, health and safety laws and regulations are becoming increasingly more stringent, including those relating to animal wastes and wastewater discharges, it is possible that we will have to incur significant costs for compliance with such laws and regulations in the future.

## **Human Capital Resources**

As of June 3, 2023, we had 2,976 employees, of whom 2,305 worked in egg production, processing, and marketing, 207 worked in feed mill operations and 464, including our executive officers, were administrative employees. Approximately 5.4% of our personnel are part-time, and we utilize temporary employment agencies and independent contractors to augment our staffing needs when necessary. For fiscal 2023, the average monthly full-time equivalent for contingent workers was 1,349. None of our employees are covered by a collective bargaining agreement. We consider our relations with employees to be good.

### *Culture and Values*

We are proud to be contributing corporate citizens where we live and work and to help create healthy, prosperous communities. Our colleagues help us continue to enhance our community contributions, which are driven by our longstanding culture that strives to promote an environment that upholds integrity and respect and provides opportunities for each colleague to realize full potential. These commitments are encapsulated in the *Cal-Maine Foods Code of Ethics and Business Conduct* and in our *Human Rights Statement*.

### *Health and Safety*

Our top priority is the health and safety of our employees, who continue to produce high-quality, affordable egg choices for our customers and contribute to a stable food supply. Our enterprise safety committee comprises two corporate safety managers, eight area compliance managers (three specifically for worker health and safety), 55 local site compliance managers, feedmill managers and general managers. The committee that oversees health and safety regularly reviews our written policies and changes to OSHA regulation standards and shares information as it relates to outcomes from incidents in order to improve future performance. The

committee's goals include working to help ensure that our engagements with our consumers, customers, and regulators evidence our strong commitment to our workers' health and safety.

Our commitment to our colleagues' health includes a strong commitment to on-site worker safety, including a focus on accident prevention and life safety. Our Safety and Health Program is designed to promote best practices that help prevent and minimize workplace accidents and illnesses. The scope of our Safety and Health Program applies to all enterprise colleagues. Additionally, to help protect the health and well-being of our colleagues and people in our value chain, we require that any contractors or vendors acknowledge and agree to comply with the guidelines governed by our Safety and Health Program. At each of our locations, our general managers are expected to uphold and implement our Safety and Health Program in alignment with OSHA requirements. We believe that this program, which is reviewed annually by our senior management team, contributes to strong safety outcomes. As part of our Safety and Health Program, we conduct multi-lingual training that covers topics such as slip-and-fall avoidance, respiratory protection, prevention of hazardous communication of chemicals, the proper use of personal protective equipment, hearing conservation, emergency response, lockout and tagout of equipment and forklift safety, among others. We have also installed dry hydrogen peroxide biodefense systems in our processing facilities to help protect our colleagues' respiratory health. To help drive our focus on colleague safety, we developed safety committees at each of our sites with employee representation from each department.

We review the success of our safety programs on a monthly basis to monitor their effectiveness and the development of any trends that need to be addressed. During fiscal year 2023 our recordable incident rates decreased by 29% compared to fiscal 2022.

#### *Diversity, Equity and Inclusion*

Our culture seeks to embrace the diversity and inclusion of all our team members. This culture is driven by our board and executive management team. Our board comprises seven members, four of whom are independent. Women comprise 29% of our board and 14% of our board members identify as a racial or ethnic minority. As of June 3, 2023, our total workforce comprised 29% women and 53% of colleagues who identify as racial or ethnic minorities. Our Policy against Harassment, Discrimination, Unlawful or Unethical Conduct and Retaliation; Reporting Procedure affirms our commitment to supporting our employees regardless of race, color, religion, sex, national origin or any other basis protected by applicable law.

Cal-Maine Foods strives to ensure that our colleagues are treated equitably. We are an Equal Opportunity Employer that prohibits, by policy and practice, any violation of applicable federal, state, or local law regarding employment. Discrimination because of race, color, religion, sex, pregnancy, age, national origin, citizenship status, veteran status, physical or mental disability, genetic information, or any other basis protected by applicable law is prohibited. We value diversity in our workplaces or in work-related situations. We maintain strong protocols to help our colleagues perform their jobs free from harassment and discrimination. Our focus on equitable treatment extends to recruitment, employment applications, hiring, placement, job assignments, career development, training, remuneration, benefits, discharge and other matters tied to terms and conditions of employment. We are committed to offering our colleagues opportunities commensurate with our operational needs, their experiences, goals and contributions.

#### *Recruitment, Development and Retention*

We believe in compensating our colleagues with fair and competitive wages, in addition to offering competitive benefits. Approximately 76% of our employees are paid at hourly rates, which are all paid at rates above the federal minimum wage requirement. We offer our full-time eligible employees a range of benefits, including company-paid life insurance. The Company provides a comprehensive self-insured health plan and pays approximately 84% of the costs of the plan for participating employees and their families as of December 31, 2022. Recent benchmarking of our health plan indicates comparable benefits, at lower employee contributions, when compared to an applicable Agriculture and Food Manufacturing sector grouping, as well as peer group data. In addition, we offer employees the opportunity to purchase an extensive range of other group plan benefits, such as dental, vision, accident, critical illness, disability and voluntary life. After one year of employment, full-time employees who meet eligibility requirements may elect to participate in our KSOP retirement plan, which offers a range of investment alternatives and includes many positive features, such as automatic enrollment with scheduled automatic contribution increases and loan provisions. Regardless of the employees' elections to contribute to the KSOP, the Company contributes shares of Company stock or cash equivalent to 3% of participants' eligible compensation for each pay period that hours are worked.

We provide extensive training and development related to safety, regulatory compliance, and task training. We invest in developing our future leaders through our Management Intern, Management Trainee and informal mentoring programs.

## Sustainability

We understand that climate, and the potential consequences of climate change, freshwater availability and preservation of global biodiversity, in addition to responsible management of our flocks, are vital to the production of high-quality eggs and egg products and to the success of our Company. We have engaged in agricultural production for more than 60 years. Our agricultural practices continue to evolve as we continue to strive to meet the need for nutritious, affordable foods to feed a growing population even as we exercise responsible natural resource stewardship. We plan to publish our most recent sustainability report on or around early August 2023, which will be available on our website. Information contained on our website is not a part of this report on Form 10-K.

## Our Corporate Information

We maintain a website at [www.calmainefoods.com](http://www.calmainefoods.com) where general information about our business and corporate governance matters is available. The information contained in our website is not a part of this report. Our Annual Reports on Form 10-K, Quarterly Reports on Form 10-Q, Current Reports on Form 8-K, proxy statements, and all amendments to those reports filed or furnished pursuant to Section 13(a) or 15(d) of the Exchange Act are available, free of charge, through our website as soon as reasonably practicable after we file them with, or furnish them to, the SEC. In addition, the SEC maintains a website at [www.sec.gov](http://www.sec.gov) that contains reports, proxy and information statements, and other information regarding issuers that file electronically with the SEC. Cal-Maine Foods, Inc. is a Delaware corporation, incorporated in 1969.

## **ITEM 1A. RISK FACTORS**

*Our business and results of operations are subject to numerous risks and uncertainties, many of which are beyond our control. The following is a description of the known factors that may materially affect our business, financial condition or results of operations. They should be considered carefully, in addition to the information set forth elsewhere in this Annual Report on Form 10-K, including under Part II, Item 7, Management's Discussion and Analysis of Financial Condition and Results of Operations, in making any investment decisions with respect to our securities. Additional risks or uncertainties that are not currently known to us, or that we are aware of but currently deem to be immaterial or that could apply to any company could also materially adversely affect our business, financial condition or results of operations.*

### **INDUSTRY RISK FACTORS**

#### **Market prices of wholesale shell eggs are volatile, and decreases in these prices can adversely impact our revenues and profits.**

Our operating results are significantly affected by wholesale shell egg market prices, which fluctuate widely and are outside our control. As a result, our prior performance should not be presumed to be an accurate indication of future performance. Under certain circumstances, small increases in production, or small decreases in demand, within the industry might have a large adverse effect on shell egg prices. Low shell egg prices adversely affect our revenues and profits.

Market prices for wholesale shell eggs have been volatile and cyclical. Shell egg prices have risen in the past during periods of high demand such as the initial outbreak of the COVID-19 pandemic and periods when high protein diets are popular. Shell egg prices have also risen during periods of constrained supply, such as the latest highly pathogenic avian influenza ("HPAI") outbreak that was first detected in domestic commercial flocks in February 2022. During times when prices are high, the egg industry has typically geared up to produce more eggs, primarily by increasing the number of layers, which historically has ultimately resulted in an oversupply of eggs, leading to a period of lower prices.

As discussed above in [Part I, Item 1, Business – Seasonality](#), seasonal fluctuations impact shell egg prices. Therefore, comparisons of our sales and operating results between different quarters within a single fiscal year are not necessarily meaningful comparisons.

#### **A decline in consumer demand for shell eggs can negatively impact our business.**

We believe the increase in meals prepared at home due to concerns and restrictions during the initial outbreak of the COVID-19 pandemic, high-protein diet trends, industry advertising campaigns and the improved nutritional reputation of eggs have all contributed at one time or another to increased shell egg demand. However, it is possible that the demand for shell eggs will decline in the future. Adverse publicity relating to health or safety concerns and changes in the perception of the nutritional value of shell eggs, changes in consumer views regarding consumption of animal-based products, as well as movement away from high protein diets, could adversely affect demand for shell eggs, which would have a material adverse effect on our future results of operations and financial condition.

**Feed costs are volatile and increases in these costs can adversely impact our results of operations.**

Feed costs are the largest element of our shell egg (farm) production cost, ranging from 55% to 63% of total farm production cost in the last five fiscal years.

Although feed ingredients, primarily corn and soybean meal, are available from a number of sources, we do not have control over the prices of the ingredients we purchase, which are affected by weather, various global and U.S. supply and demand factors, transportation and storage costs, speculators, and agricultural, energy and trade policies in the U.S. and internationally. More recently, the Russia-Ukraine War has had a negative impact on the worldwide supply of grain, including corn, putting upward pressure on prices. We saw increasing prices for corn and soybean meal for fiscal years 2022 and 2023 as a result of weather-related shortfalls in production and yields, ongoing supply chain disruptions and the Russia-Ukraine War and its impact on the export markets. Our costs for corn and soybean meal are also affected by local basis prices. Factors that can affect basis levels include transportation and storage costs. We saw basis levels increase in our areas of operation during fiscal 2023 as a result of higher transportation and storage costs, resulting in higher farm production costs during the year.

Increases in feed costs unaccompanied by increases in the selling price of eggs can have a material adverse effect on the results of our operations and cash flow. Alternatively, low feed costs can encourage industry overproduction, possibly resulting in lower egg prices and lower revenue.

**Agricultural risks, including outbreaks of avian disease, could harm our business.**

Our shell egg production activities are subject to a variety of agricultural risks. Unusual or extreme weather conditions, disease and pests can materially and adversely affect the quality and quantity of shell eggs we produce and distribute. Outbreaks of avian influenza among poultry occur periodically worldwide and have occurred sporadically in the U.S. Most recently, an outbreak of HPAI, which was first detected in February 2022, has impacted the industry. Prior to 2022, there was another significant HPAI outbreak in the U.S. impacting poultry during 2015. There have been no positive tests for HPAI at any Cal-Maine Foods' owned or contracted facility as of July 25, 2023. The Company maintains controls and procedures designed to reduce the risk of exposing our flocks to harmful diseases; however, despite these efforts, outbreaks of avian disease can and do still occur and may adversely impact the health of our flocks. An outbreak of avian disease could have a material adverse impact on our financial results by increasing government restrictions on the sale and distribution of our products and requiring us to euthanize the affected layers. Negative publicity from an outbreak within our industry can negatively impact customer perception, even if the outbreak does not directly impact our flocks. If a substantial portion of our layers or production facilities are affected by any of these factors in any given quarter or year, our business, financial condition, and results of operations could be materially and adversely affected.

**Shell eggs and shell egg products are susceptible to microbial contamination, and we may be required to, or we may voluntarily, recall contaminated products.**

Shell eggs and shell egg products are vulnerable to contamination by pathogens such as Salmonella. The Company maintains policies and procedures designed to comply with the complex rules and regulations governing egg production, such as The Final Egg Rule issued by the FDA "Prevention of Salmonella Enteritidis in Shell Eggs During Production, Storage, and Transportation," and the FDA's Food Safety Modernization Act. Shipment of contaminated products, even if inadvertent, could result in a violation of law and lead to increased risk of exposure to product liability claims, product recalls and scrutiny by federal and state regulatory agencies. We have little, if any, control over proper handling once the product has been shipped or delivered. In addition, products purchased from other producers could contain contaminants that might be inadvertently redistributed by us. As such, we might decide or be required to recall a product if we, our customers or regulators believe it poses a potential health risk. Any product recall could result in a loss of consumer confidence in our products, adversely affect our reputation with existing and potential customers and have a material adverse effect on our business, results of operations and financial condition. We currently maintain insurance with respect to certain of these risks, including product liability insurance, business interruption insurance and general liability insurance, but in many cases such insurance is expensive, difficult to obtain and no assurance can be given that such insurance can be maintained in the future on acceptable terms, or in sufficient amounts to protect us against losses due to any such events, or at all.

**Our profitability may be adversely impacted by increases in other input costs such as packaging materials and delivery expenses, including as a result of inflation.**

In addition to feed ingredient costs, other significant input costs include costs of packaging materials and delivery expenses. Our costs of packing materials increased during fiscal 2023 and 2022 due to rising inflation and labor costs, and during 2022 also as a result of supply chain constraints initially caused by the pandemic, and these costs may continue to increase. We also

experienced increases in delivery expenses during fiscal 2023 and 2022 due to increases in fuel and labor costs for both our fleet and contract trucking, and these costs may continue to increase. Increases in these costs are largely outside of our control and have an adverse effect on our profitability and cash flow.

## **BUSINESS AND OPERATIONAL RISK FACTORS**

### **Global or regional health crises including pandemics or epidemics could have an adverse impact on our business and operations.**

The effects of global or regional pandemics or epidemics can significantly impact our operations. Although demand for our products could increase as a result of restrictions such as travel bans and restrictions, quarantines, shelter-in-place orders, and business and government shutdowns, which can prompt more consumers to eat at home, these restrictions could also significantly increase our cost of doing business due to labor shortages, supply-chain disruptions, increased costs and decreased availability of packaging supplies, and increased medical and other costs. We experienced these impacts as a result of the COVID-19 pandemic, primarily during our fiscal years 2020 and 2021. The pandemic recovery also contributed to increasing inflation and interest rates, which persist and may continue to persist. The impacts of health crises are difficult to predict and depend on numerous factors including the severity, length and geographic scope of the outbreak, resurgences of the disease and variants, availability and acceptance of vaccines, and governmental, business and individuals' responses. A resurgence of COVID-19 and/or variants, or any future major public health crisis, would disrupt our business and could have a material adverse effect on our financial results.

### **Our acquisition growth strategy subjects us to various risks.**

As discussed in [Part I, Item I, Business – Growth Strategy](#), we plan to pursue a growth strategy that includes selective acquisitions of other companies engaged in the production and sale of shell eggs, with a priority on those that will facilitate our ability to expand our cage-free shell egg production capabilities in key locations and markets. We may over-estimate or under-estimate the demand for cage-free eggs, which could cause our acquisition strategy to be less-than-optimal for our future growth and profitability. The number of existing companies with cage-free capacity that we may be able to purchase is limited, as most production of shell eggs by other companies in our markets currently does not meet customer demands or legal requirements to be designated as cage-free. Conversely, if we acquire cage-free production capacity, which is more expensive to purchase and operate, and customer demands or legal requirements for cage-free eggs were to change, the resulting lack of demand for cage-free eggs may result in higher costs and lower profitability.

Acquisitions require capital resources and can divert management's attention from our existing business. Acquisitions also entail an inherent risk that we could become subject to contingent or other liabilities, including liabilities arising from events or conduct prior to our acquisition of a business that were unknown to us at the time of acquisition. We could incur significantly greater expenditures in integrating an acquired business than we anticipated at the time of its purchase.

We cannot assure you that we:

- will identify suitable acquisition candidates;
- can consummate acquisitions on acceptable terms;
- can successfully integrate an acquired business into our operations; or
- can successfully manage the operations of an acquired business.

No assurance can be given that companies we acquire in the future will contribute positively to our results of operations or financial condition. In addition, federal antitrust laws require regulatory approval of acquisitions that exceed certain threshold levels of significance, and we cannot guarantee that such approvals would be obtained.

The consideration we pay in connection with any acquisition affects our financial results. If we pay cash, we could be required to use a portion of our available cash or credit facility to consummate the acquisition. To the extent we issue shares of our Common Stock, existing stockholders may be diluted. In addition, acquisitions may result in additional debt. Our ability to access any additional capital that may be needed for an acquisition may be adversely impacted by higher interest rates and economic uncertainty.

### **Our largest customers have accounted for a significant portion of our net sales volume. Accordingly, our business may be adversely affected by the loss of, or reduced purchases by, one or more of our large customers.**

Our customers, such as supermarkets, warehouse clubs and food distributors, have continued to consolidate and consolidation is expected to continue. These consolidations have produced larger customers and potential customers with increased buying power who are more capable of operating with reduced inventories, opposing price increases, and demanding lower pricing, increased

promotional programs and specifically tailored products. Because of these trends, our volume growth could slow or we may need to lower prices or increase promotional spending for our products, any of which could adversely affect our financial results.

Our top three customers accounted for an aggregate of 50.1%, 45.9% and 48.6% of net sales dollars for fiscal 2023, 2022, and 2021, respectively. Our largest customer, Walmart Inc. (including Sam's Club), accounted for 34.2%, 29.5% and 29.8% of net sales dollars for fiscal 2023, 2022, and 2021, respectively. Although we have established long-term relationships with most of our customers who continue to purchase from us based on our ability to service their needs, they are generally free to acquire shell eggs from other sources. If, for any reason, one or more of our large customers were to purchase significantly less of our shell eggs in the future or terminate their purchases from us, and we were not able to sell our shell eggs to new customers at comparable levels, it would have a material adverse effect on our business, financial condition, and results of operations.

**Our business is highly competitive.**

The production and sale of fresh shell eggs, which accounted for virtually all of our net sales in recent years, is intensely competitive. We compete with a large number of competitors that may prove to be more successful than we are in producing, marketing and selling shell eggs. We cannot provide assurance that we will be able to compete successfully with any or all of these companies. Increased competition could result in price reductions, greater cyclicity, reduced margins and loss of market share, which would negatively affect our business, results of operations, and financial condition.

**We are dependent on our management team, and the loss of any key member of this team may adversely affect the implementation of our business plan in a timely manner.**

Our success depends largely upon the continued service of our senior management team. The loss or interruption of service of one or more of our key executive officers could adversely affect our ability to manage our operations effectively and/or pursue our growth strategy. We have not entered into any employment or non-compete agreements with any of our executive officers. Competition could cause us to lose talented employees, and unplanned turnover could deplete institutional knowledge and result in increased costs due to increased competition for employees.

**Our business is dependent on our information technology systems and software, and failure to protect against or effectively respond to cyber-attacks, security breaches, or other incidents involving those systems, could adversely affect day-to-day operations and decision making processes and have an adverse effect on our performance and reputation.**

The efficient operation of our business depends on our information technology systems, which we rely on to effectively manage our business data, communications, logistics, accounting, regulatory and other business processes. If we do not allocate and effectively manage the resources necessary to build and sustain an appropriate technology environment, our business, reputation, or financial results could be negatively impacted. In addition, our information technology systems may be vulnerable to damage or interruption from circumstances beyond our control, including systems failures, natural disasters, terrorist attacks, viruses, ransomware, security breaches or cyber incidents. Cyber-attacks are becoming more sophisticated and are increasing in the number of attempts and frequency by groups and individuals with a wide range of motives. We have experienced and expect to continue to experience attempted cyber-attacks of our information technology systems or networks.

A security breach of sensitive information could result in damage to our reputation and our relations with our customers or employees. Any such damage or interruption could have a material adverse effect on our business.

Technology and business and regulatory requirements continue to change rapidly. Failure to update or replace legacy systems to address these changes could result in increased costs, including remediation costs, system downtime, third party litigation, regulatory actions or cyber security vulnerabilities which could have a material adverse effect on our business.

**Labor shortages or increases in labor costs could adversely impact our business and results of operations.**

Labor is a primary component of our farm production costs. Our success is dependent upon recruiting, motivating, and retaining staff to operate our farms. Approximately 76% of our employees are paid at hourly rates, often in entry-level positions. While all our employees are paid at rates above the federal minimum wage requirements, any significant increase in local, state or federal minimum wage requirements could increase our labor costs. In addition, any regulatory changes requiring us to provide additional employee benefits or mandating increases in other employee-related costs, such as unemployment insurance or workers compensation, would increase our costs. A shortage in the labor pool, which may be caused by competition from other employers, the remote locations of many of our farms, decreased labor participation rates or changes in government-provided support or immigration laws, particularly in times of lower unemployment, could adversely affect our business and results of operations. A shortage of labor available to us could cause our farms to operate with reduced staff, which could negatively impact our production capacity and efficiencies. In fiscal 2021 and 2022, our labor costs increased primarily due to the pandemic and its effects, which

caused us to increase wages in response to labor shortages. In fiscal 2023, labor wages continued to rise due to increasing inflation and low unemployment. Accordingly, any significant labor shortages or increases in our labor costs could have a material adverse effect on our results of operations.

**We are controlled by the family of our late founder, Fred R. Adams, Jr., and Adolphus B. Baker, Chairman of our Board of Directors, controls the vote of 100% of our outstanding Class A Common Stock.**

Fred R. Adams, Jr., our Founder and Chairman Emeritus died on March 29, 2020. Mr. Adams' son-in-law, Adolphus B. Baker, Chairman of our board of directors, Mr. Baker's spouse and her three sisters (Mr. Adams' four daughters) (collectively, the "Family") beneficially own, directly or indirectly through related entities, 100% of our outstanding Class A Common Stock (which has 10 votes per share), controlling approximately 52.1% of our total voting power. Such persons also have additional voting power due to beneficial ownership of our Common Stock (which has one vote per share), directly or indirectly through related entities, resulting in family voting control of approximately 53.8% of our total voting power. Mr. Baker controls the vote of 100% of our outstanding Class A Common Stock.

We understand that the Family intends to retain ownership of a sufficient amount of our Common Stock and our Class A Common Stock to assure continued ownership of more than 50% of the voting power of our outstanding shares of capital stock. As a result of this ownership, the Family has the ability to exert substantial influence over matters requiring action by our stockholders, including amendments to our certificate of incorporation and by-laws, the election and removal of directors, and any merger, consolidation, or sale of all or substantially all of our assets, or other corporate transactions. Delaware law provides that the holders of a majority of the voting power of shares entitled to vote must approve certain fundamental corporate transactions such as a merger, consolidation and sale of all or substantially all of a corporation's assets; accordingly, such a transaction involving us and requiring stockholder approval cannot be effected without the approval of the Family. Such ownership will make an unsolicited acquisition of our Company more difficult and discourage certain types of transactions involving a change of control of our Company, including transactions in which the holders of our Common Stock might otherwise receive a premium for their shares over then current market prices. The Family's controlling ownership of our capital stock may adversely affect the market price of our Common Stock.

**The price of our Common Stock may be affected by the availability of shares for sale in the market, and you may experience significant dilution as a result of future issuances of our securities, which could materially and adversely affect the market price of our Common Stock.**

The sale or availability for sale of substantial amounts of our Common Stock could adversely impact its price. The Family holds approximately 1.4 million shares of Common Stock (the "Subject Shares") that are subject to an Agreement Regarding Common Stock (the "Agreement") filed as an exhibit to this report. The Subject Shares remain subject to potential sale under the Agreement. The Agreement generally provides that if a holder of Subject Shares intends to sell any of the Subject Shares, such party must give the Company a right of first refusal to purchase all or any of such shares. The price payable by the Company to purchase shares pursuant to the exercise of the right of first refusal will reflect a 6% discount to the then-current market price based on the 20 business-day volume-weighted average price. If the Company does not exercise its right of first refusal and purchase the shares offered, such party will, subject to the approval of a special committee of independent directors of the Board of Directors, be permitted to sell the shares not purchased by the Company pursuant to a Company registration statement, Rule 144 under the Securities Act of 1933, or another manner of sale agreed to by the Company. Although pursuant to the Agreement the Company will have a right of first refusal to purchase all or any of those shares, the Company may elect not to exercise its rights of first refusal, and if so such shares would be eligible for sale pursuant to the registration rights in the Agreement or pursuant to Rule 144 under the Securities Act of 1933. Sales, or the availability for sale, of a large number of shares of our Common Stock could result in a decline in the market price of our Common Stock.

In addition, our articles of incorporation authorize us to issue 120,000,000 shares of our Common Stock. As of June 3, 2023, there were 44,184,048 shares of our Common Stock outstanding. Accordingly, a substantial number of shares of our Common Stock are outstanding and are, or could become, available for sale in the market. In addition, we may be obligated to issue additional shares of our Common Stock in connection with employee benefit plans (including equity incentive plans).

In the future, we may decide to raise capital through offerings of our Common Stock, additional securities convertible into or exchangeable for Common Stock, or rights to acquire these securities or our Common Stock. The issuance of additional shares of our Common Stock or additional securities convertible into or exchangeable for our Common Stock could result in dilution of existing stockholders' equity interests in us. Issuances of substantial amounts of our Common Stock, or the perception that such issuances could occur, may adversely affect prevailing market prices for our Common Stock, and we cannot predict the effect this dilution may have on the price of our Common Stock.

## LEGAL AND REGULATORY RISK FACTORS

**Pressure from animal rights groups regarding the treatment of animals may subject us to additional costs to conform our practices to comply with developing standards or subject us to marketing costs to defend challenges to our current practices and protect our image with our customers. In particular, changes in customer preferences and new legislation have accelerated an increase in demand for cage-free eggs, which increases uncertainty in our business and increases our costs.**

We and many of our customers face pressure from animal rights groups, such as People for the Ethical Treatment of Animals and the Humane Society of the United States, to require companies that supply food products to operate their business in a manner that treats animals in conformity with certain standards developed or approved by these groups. In general, we may incur additional costs to conform our practices to address these standards or to defend our existing practices and protect our image with our customers. The standards promoted by these groups change over time, but typically require minimum cage space for hens, among other requirements, and some of these groups have led successful legislative efforts to ban any form of caged housing in various states.

As discussed in [Part I, Item 1, Business - Government Regulation](#), ten states have passed minimum space and/or cage-free requirements for hens, and other states are considering such requirements. In addition, in recent years, many large restaurant chains, foodservice companies and grocery chains, including our largest customers, announced goals to transition to an exclusively cage-free egg supply chain by specified future dates. A significant number of our customers previously announced goals to offer cage-free eggs exclusively on or before 2026, in most cases subject to available supply, affordability and consumer demand, among other contingencies. Some of these customers have recently changed those goals to offer 70% cage-free eggs by the end of 2030. While we anticipate that our retail and foodservice customers will continue to transition to selling cage-free eggs given public commitments, there is no assurance that this transition will take place or take place according to the timeline of current cage-free commitments. For example, customers may accelerate their transition to stocking cage-free eggs, which may challenge our ability to meet the cage-free volume needs of those customers and result in a loss of shell egg sales. Similarly, customers who commit to stock greater proportional quantities of cage-free eggs are under no obligation to continue to do so, which may result in an oversupply of cage-free eggs and result in lower specialty egg prices, which could reduce the return on our capital investment in cage-free production.

Changing our infrastructure and operating procedures to conform to consumer preferences, customer demands and new laws has resulted and will continue to result in additional costs, including capital and operating cost increases. The USDA reported that the estimated U.S. cage-free flock was 121.6 million hens as of June 30, 2023, which is approximately 38.3% of the total U.S. table egg layer hen population. According to the USDA Agricultural Marketing Service, as of May 2023 approximately 221 million hens, or about 70.5% of the U.S. non-organic laying flock would have to be in cage-free production by 2026 to meet projected demand from the retailers, foodservice providers and food manufacturers that have made goals to transition to cage-free eggs.

In response to our customers' announced goals and increased legal requirements for cage-free eggs, we have increased capital expenditures to increase our cage-free production capacity. We are also enhancing our focus on cage-free capacity when considering acquisition opportunities. Our customers typically do not commit to long-term purchases of specific quantities or type of eggs with us, and as a result, we cannot predict with any certainty which types of eggs they will require us to supply in future periods. The production of cage-free eggs is more costly than the production of conventional eggs, and these higher production costs contribute to the prices of cage-free eggs, which historically have typically been higher than conventional egg prices. Many consumers prefer to buy less expensive conventional shell eggs. These consumer preferences may in turn influence our customers' future needs for cage-free and conventional eggs. Due to these uncertainties, we may over-estimate future demand for cage-free eggs, which could increase our costs unnecessarily, or we may under-estimate future demand for cage-free eggs, which could harm us competitively. If our competitors obtain non-cancelable long-term contracts to provide cage-free eggs to our existing or potential customers, then there may be decreased demand for our cage-free eggs due to these lost potential sales. If we and our competitors increase cage-free egg production and there is no commensurate increase in demand for cage-free eggs, this overproduction could lead to an oversupply of cage-free eggs, reducing the sales price for specialty eggs and our return on capital investments in cage-free production.

**Failure to comply with applicable governmental regulations, including environmental regulations, could harm our operating results, financial condition, and reputation. Further, we may incur significant costs to comply with any such regulations.**

We are subject to federal, state and local regulations relating to grading, quality control, labeling, sanitary control, waste disposal, and other areas of our business. As a fully-integrated shell egg producer, our shell egg facilities are subject to regulation and inspection by the USDA, OSHA, EPA and FDA, as well as state and local health and agricultural agencies, among others. All of

our shell egg production and feed mill facilities are subject to FDA, EPA and OSHA regulation and inspections. In addition, rules are often proposed that, if adopted as proposed, could increase our costs.

Our operations and facilities are subject to various federal, state and local environmental, health, and safety laws and regulations governing, among other things, the generation, storage, handling, use, transportation, disposal, and remediation of hazardous materials. Under these laws and regulations, we are required to obtain permits from governmental authorities, including, but not limited to wastewater discharge permits and manure and litter land applications.

If we fail to comply with applicable laws or regulations, or fail to obtain necessary permits, we could be subject to significant fines and penalties or other sanctions, our reputation could be harmed, and our operating results and financial condition could be materially adversely affected. In addition, because these laws and regulations are becoming increasingly more stringent, it is possible that we will be required to incur significant costs for compliance with such laws and regulations in the future.

**Climate change and legal or regulatory responses may have an adverse impact on our business and results of operations.**

Extreme weather events, such as derechos, wildfires, drought, tornadoes, hurricanes, storms, floods or other natural disasters could materially and adversely affect our operating results and financial condition. In fact, derechos, fires, floods, tornadoes and hurricanes have affected our facilities or the facilities of other egg producers in the past. Increased global temperatures and more frequent occurrences of extreme weather events, which may be exacerbated by climate change, may cause crop and livestock areas to become unsuitable, including due to water scarcity or high or unpredictable temperatures, which may result in much greater stress on food systems and more pronounced food insecurity globally. Lower global crop production, including corn and soybean meal, which are the primary feed ingredients that support the health of our animals, may result in significantly higher prices for these commodity inputs, impact our ability to source the commodities we use to feed our flocks, and negatively impact our ability to maintain or grow our operations. Climate change may increasingly expose workers and animals to high heat and humidity stressors that adversely impact poultry production. Increased greenhouse gas emissions may also negatively impact air quality, soil quality and water quality, which may hamper our ability to support our operations, particularly in higher water- and soil-stressed regions.

Increasing frequency of severe weather events, whether tied to climate change or any other cause, may negatively impact our ability to raise poultry and produce eggs profitably or to operate our transportation and logistics supply chains. Regulatory controls and market pricing may continue to drive the costs of fossil-based fuels higher, which could negatively impact our ability to source commodities necessary to operate our farms or plants and our current fleet of vehicles. These changes may cause us to change, significantly, our day-to-day business operations and our strategy. Climate change and extreme weather events may also impact demand for our products given evolution of consumer food preferences. Even if we take measures to position our business in anticipation of such changes, future compliance with legal or regulatory requirements may require significant management time, oversight and enterprise expense. We may also incur significant expense tied to regulatory fines if laws and regulations are interpreted and applied in a manner that is inconsistent with our business practices. We can make no assurances that our efforts to prepare for these adverse events will be in line with future market and regulatory expectations and our access to capital to support our business may also be adversely impacted.

**Current and future litigation could expose us to significant liabilities and adversely affect our business reputation.**

We and certain of our subsidiaries are involved in various legal proceedings. Litigation is inherently unpredictable, and although we believe we have meaningful defenses in these matters, we may incur liabilities due to adverse judgments or enter into settlements of claims that could have a material adverse effect on our results of operations, cash flow and financial condition. For a discussion of our ongoing legal proceedings see [Part I, Item 3, Legal Proceedings](#) below and Part II, Item 8, Notes to the Consolidated Financial Statements, [Note 16 – Commitments and Contingencies](#). Such lawsuits are expensive to defend, divert management's attention, and may result in significant adverse judgments or settlements. Legal proceedings may expose us to negative publicity, which could adversely affect our business reputation and customer preference for our products and brands.

**FINANCIAL AND ECONOMIC RISK FACTORS**

**Weak or unstable economic conditions, including continued higher inflation and rising interest rates, could negatively impact our business.**

Weak or unstable economic conditions, including continued higher inflation and rising interest rates, may adversely affect our business by:

- Limiting our access to capital markets or increasing the cost of capital we may need to grow our business;
- Changing consumer spending and habits and demand for eggs, particularly higher-priced eggs;

- Restricting the supply of energy sources or increasing our cost to procure energy; or
- Reducing the availability of feed ingredients, packaging material, and other raw materials, or increasing the cost of these items.

Deterioration of economic conditions could also negatively impact:

- The financial condition of our suppliers, which may make it more difficult for them to supply raw materials;
- The financial condition of our customers, which may decrease demand for eggs or increase our bad debt expense; or
- The financial condition of our insurers, which could increase our cost to obtain insurance, and/or make it difficult for or insurers to meet their obligations in the event we experience a loss due to an insured peril.

According to the U.S. Bureau of Labor Statistics, from May 2021 to May 2022, the Consumer Price Index for All Urban Consumers (“CPI-U”) increased 8.5 percent, the largest 12-month increase since the period ending December 1981. The CPI-U increased 4.1% from May 2022 to May 2023. Inflationary costs have increased our input costs, and if we are unable to pass these costs through to the customer it could have an adverse effect on our business.

We hold significant cash balances in deposit accounts with deposits in excess of the amounts insured by the Federal Deposit Insurance Corporation (“FDIC”). In the event of a bank failure at an institution where we maintain deposits in excess of the FDIC-insured amount, we may lose such excess deposits.

**The loss of any registered trademark or other intellectual property could enable other companies to compete more effectively with us.**

We utilize intellectual property in our business. For example, we own the trademarks *Farmhouse Eggs*®, *4Grain*®, *Sunups*®, and *Sunny Meadow*®. We produce and market *Egg-Land’s Best*® and *Land O’ Lakes*® under license agreements with EB. We have invested a significant amount of money in establishing and promoting our trademarked brands. The loss or expiration of any intellectual property could enable our competitors to compete more effectively with us by allowing them to make and sell products substantially similar to those we offer. This could negatively impact our ability to produce and sell those products, thereby adversely affecting our operations.

**Impairment in the carrying value of goodwill or other assets could negatively affect our results of operations or net worth.**

Goodwill represents the excess of the cost of business acquisitions over the fair value of the identifiable net assets acquired. Goodwill is reviewed at least annually for impairment by assessing qualitative factors to determine whether the existence of events or circumstances leads to a determination that it is more likely than not that the fair value of a reporting unit is less than its carrying amount. As of June 3, 2023, we had \$44.0 million of goodwill. While we believe the current carrying value of this goodwill is not impaired, future goodwill impairment charges could adversely affect our results of operations in any particular period and our net worth.

**Events beyond our control such as extreme weather and natural disasters could negatively impact our business.**

Fire, bioterrorism, pandemics, extreme weather or natural disasters, including droughts, floods, excessive cold or heat, water rights restrictions, hurricanes or other storms, could impair the health or growth of our flocks, decrease production or availability of feed ingredients, or interfere with our operations due to power outages, fuel shortages, discharges from overtopped or breached wastewater treatment lagoons, damage to our production and processing facilities, labor shortages or disruption of transportation channels, among other things. Any of these factors could have a material adverse effect on our financial results.

**ITEM 1B. UNRESOLVED STAFF COMMENTS**

None.

## **ITEM 2. PROPERTIES**

The table below provides summary information about the primary operational facilities we use in our business as of June 3, 2023.

Type	Quantity <sup>(a)</sup>	Owned	Leased	Production Capacity	Location
Breeding Facilities	3	3	—	House up to 255,000 hens	GA, MS
Distribution Centers	6	6	—	NA	FL, GA, NC, TX
Feed Mills	25	24	1	Production capacity of 859 tons of feed per hour	AL, AR, FL, GA, KS, KY, LA, MS, OH, OK, SC, TN, TX, UT
Hatcheries	2	1	1	Hatch up to 407,600 chicks per week	FL, MS
Processing and Packaging	43	43	—	Approximately 587,700 dozen shell eggs per hour	AL, AR, FL, GA, KS, KY, LA, MS, OH, OK, SC, TX, UT
Pullet Facilities	29	29	—	Grow 27.1 million pullets annually	AR, FL, GA, KS, KY, MS, SC, TX, UT
Shell Egg Production	42	42	—	House up to 46.6 million layers	AL, AR, FL, GA, KS, KY, LA, MS, OH, OK, SC, TX, UT
Egg Products Processing Facilities	3	3	—	Production capacity of 43,140 lbs. per hour	GA, TX, MO

(a) Does not include idled facilities.

We also have ongoing construction projects to further expand the Company's cage-free egg production capabilities. These projects include expanding our cage-free egg production at existing farms or converting conventional housing with cage-free production. These projects will phase into production through fiscal 2027. For additional information, see [Part II, Item 7, Management's Discussion and Analysis – Results of Operations – Liquidity and Capital Resources](#).

As of June 3, 2023, we owned approximately 28.0 thousand acres of land. There are no material mortgages or liens on our properties.

## **ITEM 3. LEGAL PROCEEDINGS**

Refer to the description of certain legal proceedings pending against us under Part II, Item 8, Notes to the Consolidated Financial Statements, [Note 16 – Commitments and Contingencies](#), which discussion is incorporated herein by reference.

## **ITEM 4. MINE SAFETY DISCLOSURES**

Not applicable.

## **PART II.**

### **ITEM 5. MARKET FOR REGISTRANT'S COMMON EQUITY, RELATED STOCKHOLDER MATTERS AND ISSUER PURCHASES OF EQUITY SECURITIES**

We have two classes of capital stock, Common Stock and Class A Common Stock. Our Common Stock trades on the NASDAQ Global Select Market under the symbol "CALM". There is no public trading market for the Class A Common Stock.

All outstanding Class A shares are owned by a limited liability company of which Adolphus Baker, our Chairman, is the sole managing member and will be voted at the direction of Mr. Baker. At July 14, 2023, there were approximately 319 record holders of our Common Stock and approximately 73,626 beneficial owners whose shares were held by nominees or broker dealers. For additional information about our capital structure, see [Note 11 - Equity](#) in Part II, Item 8, Notes to the Consolidated Financial Statements.

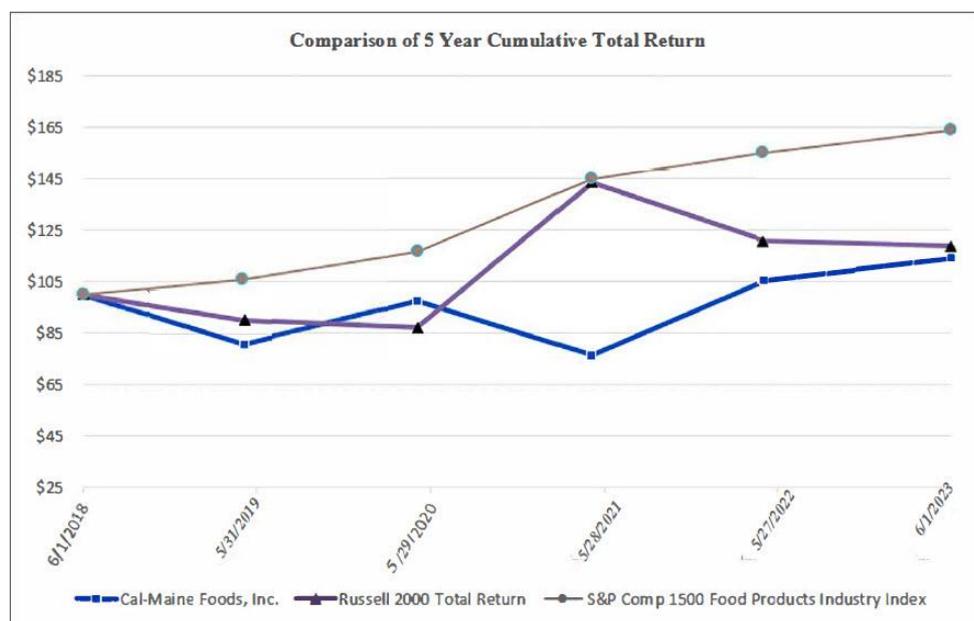
#### **Dividends**

Cal-Maine has a variable dividend policy adopted by its Board of Directors. Pursuant to the policy, Cal-Maine pays a dividend to shareholders of its Common Stock and Class A Common Stock on a quarterly basis for each quarter for which the Company reports net income attributable to Cal-Maine Foods, Inc. computed in accordance with GAAP in an amount equal to one-third

(1/3) of such quarterly income. Dividends are paid to shareholders of record as of the 60th day following the last day of such quarter, except for the fourth fiscal quarter. For the fourth quarter, the Company will pay dividends to shareholders of record on the 65th day after the quarter end. Dividends are payable on the 15th day following the record date. Following a quarter for which the Company does not report net income attributable to Cal-Maine Foods, Inc., the Company will not pay a dividend for a subsequent profitable quarter until the Company is profitable on a cumulative basis computed from the date of the last quarter for which a dividend was paid. Under the Company's Credit Facility, dividends are restricted to the amount permitted under the Company's current dividend policy, and may not be paid if a default exists or will arise after giving effect to the dividend or if the sum of cash and cash equivalents of the Company and its subsidiaries plus availability under the Credit Facility equals less than \$50 million.

### Stock Performance Graph

The Company utilized the (i) Russell 2000 Total Return, and (ii) S&P Composite 1500 Food Products Industry Index to benchmark the Company's total shareholder return. The Company is a member of each of these indexes and believes the other companies included in these indexes provide products and services similar to Cal-Maine Foods. The graph presents total shareholder return and assumes \$100 was invested on June 1, 2018 in the stock or index and dividends were reinvested.



	June 1, 2018	May 31, 2019	May 29, 2020	May 28, 2021	May 27, 2022	June 3, 2023
Cal-Maine Foods, Inc.	\$ 100.00	\$ 80.69	\$ 97.12	\$ 76.16	\$ 105.31	\$ 114.38
Russell 2000 Total Return	100.00	90.16	87.06	143.27	120.53	118.75
S&P Composite 1500 Food Products Industry Index	100.00	105.74	116.41	144.80	155.14	163.85

### Issuer Purchases of Equity Securities

The following table is a summary of our fourth quarter 2023 share repurchases:

Issuer Purchases of Equity Securities				
Period	Total Number of Shares Purchased (1)	Average Price Paid per Share	Total Number of Shares Purchased as Part of Publicly Announced Plans Or Programs	Maximum Number of Shares that May Yet Be Purchased Under the Plans or Programs
2/26/23 to 3/25/23	—	\$ —	—	—
3/26/23 to 4/22/23	10,551	48.62	—	—
4/23/23 to 6/03/23	—	—	—	—
	10,551	\$ 48.62	—	—

(1) As permitted under our Amended and Restated 2012 Omnibus Long-Term Incentive Plan, these shares were withheld by us to satisfy tax withholding obligations for employees in connection with the vesting of restricted common stock.

### Recent Sales of Unregistered Securities

No sales of securities without registration under the Securities Act of 1933 occurred during our fiscal year ended June 3, 2023.

### Securities Authorized for Issuance under Equity Compensation Plans

Equity Compensation Plan Information		
(a)	(b)	(c)
Number of securities to be issued upon exercise of outstanding options, warrants and rights	Weighted average exercise price of outstanding options, warrants and rights	Number of securities remaining available for future issuance under equity compensation plans (excluding securities reflected in column (a))
Equity compensation plans approved by shareholders	— \$	294,140
Equity compensation plans not approved by shareholders	—	—
Total	— \$	294,140

(a) There were no outstanding options, warrants or rights as of June 3, 2023. There were 941,593 shares of restricted stock outstanding under our Amended and Restated 2012 Omnibus Long-Term Incentive Plan as of June 3, 2023.

(b) There were no outstanding options, warrants or rights as of June 3, 2023.

(c) Reflects shares available for future issuance as of June 3, 2023 under our Amended and Restated 2012 Omnibus Long-Term Incentive Plan.

For additional information, see [Note 14 – Stock Compensation Plans](#) in Part II. Item 8. Notes to the Consolidated Financial Statements.

### ITEM 6. RESERVED

**ITEM 7. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS**

**RISK FACTORS; FORWARD -LOOKING STATEMENTS**

For information relating to important risks and uncertainties that could materially adversely affect our business, securities, financial condition, operating results, or cash flow, reference is made to the disclosure set forth under [Part I, Item 1A, Risk Factors](#). In addition, because the following discussion includes numerous forward-looking statements relating to our business, securities, financial condition, operating results and cash flow, reference is made to the disclosure set forth under [Part I, Item 1A, Risk Factors](#) and to the information set forth in the section of Part I immediately preceding Item 1 above under the caption "[Forward-Looking Statements](#)."

**COMPANY OVERVIEW**

Cal-Maine Foods, Inc. is primarily engaged in the production, grading, packaging, marketing and distribution of fresh shell eggs. Our fiscal year end is the Saturday closest to May 31. The fiscal year 2023 and 2022 included 53 weeks and 52 weeks, respectively. The Company, which is headquartered in Ridgeland, Mississippi, is the largest producer and distributor of fresh shell eggs in the United States ("U.S."). In fiscal 2023, we sold approximately 1,147.4 million dozen shell eggs, which we believe represented approximately 21% of domestic shell egg consumption. Our total flock as of June 3, 2023 of approximately 41.2 million layers and 10.8 million pullets and breeders is the largest in the U.S. We sell most of our shell eggs to a diverse group of customers, including national and regional grocery store chains, club stores, companies servicing independent supermarkets in the U.S., food service distributors, and egg product consumers in states across the southwestern, southeastern, mid-western and mid-Atlantic regions of the U.S.

The Company has one reportable operating segment, which is the production, grading, packaging, marketing and distribution of shell eggs. Many of our customers rely on us to provide most of their shell egg needs, including specialty and conventional eggs. Specialty eggs represent a broad range of products. We classify cage-free, organic, brown, free-range, pasture-raised and nutritionally enhanced as specialty eggs for accounting and reporting purposes. We classify all other shell eggs as conventional eggs. While we report separate sales information for these types of eggs, there are a number of cost factors which are not specifically available for conventional or specialty eggs due to the nature of egg production. We manage our operations and allocate resources to these types of eggs on a consolidated basis based on the demands of our customers. For further description of our business, refer to [Part I, Item 1, Business](#).

**HPAI**

Since the first detection in a U.S. commercial flock in February 2022, outbreaks of highly pathogenic avian influenza ("HPAI") continued to occur in U.S. poultry flocks throughout calendar year 2022 and, less frequently, in calendar year 2023, which is more than twice the length of time of the last HPAI outbreak in 2014-2015. HPAI affected more than 58 million birds in 47 states and resulted in the depopulation of 43.3 million commercial layer hens and 1.0 million pullets leading to higher prices for conventional shell eggs beginning in the fourth quarter of fiscal 2022 and continuing through the third quarter of fiscal 2023. Though the virus is still present, due to seasonal migratory patterns of wild birds (which serve as carriers for the disease) the rate of outbreaks has substantially decreased and the last occurrence in a commercial egg laying flock was in December 2022. The USDA attributes this, in large part, to improved biosecurity measures by the commercial poultry industry. The industry and USDA have devoted significant resources to attempt to prevent future outbreaks. With the spring wild bird migration complete in the U.S., focus is on the fall migration season.

We believe the HPAI outbreak will continue to impact the overall supply of eggs until the layer hen flock is fully replenished. The egg industry typically experiences lower sales during the summer. The layer hen flock five-year average from 2020-2022 for the month of June is 321.5 million hens. According to the USDA the U.S. flock consisted of 317.4 million layers producing table or market type eggs as of July 1, 2023, which is 0.9% below the five-year average and reflects efforts by U.S. producers to repopulate their flocks. As the layer flock began to recover in the fourth quarter of fiscal 2023, prices for conventional shell eggs decreased from previous highs. There have been no positive tests for HPAI at any Cal-Maine Foods' owned or contracted production facility as of July 25, 2023. While no farm is immune from HPAI, we believe we have implemented and continue to maintain robust biosecurity programs across our locations. We are also working closely with federal, state and local government officials and focused industry groups to mitigate the risk of this and future outbreaks and effectively manage our response, if needed.

**Executive Overview of Results – Fiscal Years Ended June 3, 2023, May 28, 2022 and May 29, 2021**

	Fiscal Years Ended		
	June 3, 2023	May 28, 2022	May 29, 2021
Net sales (in thousands)	\$ 3,146,217	\$ 1,777,159	\$ 1,348,987
Gross profit (in thousands)	\$ 1,196,457	\$ 337,059	\$ 160,661
Net income attributable to Cal-Maine Foods, Inc.	\$ 758,024	\$ 132,650	\$ 2,060
Net income per share attributable to Cal-Maine Foods, Inc.			
Basic	\$ 15.58	\$ 2.73	\$ 0.04
Diluted	\$ 15.52	\$ 2.72	\$ 0.04
Net average shell egg price <sup>(a)</sup>	\$ 2.622	\$ 1.579	\$ 1.217
Average UB Southeast Region - Shell Eggs - White Large	\$ 3.115	\$ 1.712	\$ 1.155
Feed costs per dozen produced	\$ 0.676	\$ 0.571	\$ 0.446

(a) The net average shell egg selling price is the blended price for all sizes and grades of shell eggs, including non-graded shell egg sales, breaking stock and undergrades.

For fiscal 2022, net sales increased to \$1.8 billion, gross profit to \$337.1 million and net income to \$132.7 million from fiscal 2021 net sales of \$1.3 billion, gross profit of \$160.7 million and net income of \$2.1 million. The increases resulted primarily from higher selling prices for conventional eggs as well as an increased volume of specialty eggs sold, partially offset by a decline in the volume of conventional eggs sold. Gross profit and net income increases were partially offset by increased cost of feed ingredients and increased processing costs. Consumer demand maintained a steady growth throughout our first three quarters of fiscal 2021 but began trending down during our fourth quarter of fiscal 2021 as consumers started to resume pre-pandemic activities. We believe the decreased demand in foodservice seen throughout the first three quarters of fiscal 2021 due to the pandemic contributed to the depressed price of shell eggs for fiscal 2021 in the retail market due to the extra supply entering the retail channel from the foodservice channel.

For fiscal 2022, we believe prices for conventional eggs were positively impacted by a better alignment of the size of the conventional production layer hen flock and customer and consumer demand through the first three fiscal quarters of 2022. Conventional egg prices further increased in the fourth quarter of fiscal 2022 primarily due to decreased supply caused by the HPAI outbreak compounded with good customer demand. Throughout fiscal 2022 the hen numbers reported by the USDA remained below the five-year average.

For fiscal 2023, net sales increased to \$3.1 billion, gross profit to \$1.2 billion and net income to \$758.0 million. The increases primarily resulted from significantly higher average egg selling prices, primarily due to the reduction in egg supply caused by HPAI and higher grain and other input costs, as some of our egg sales prices are based on formulas related to our costs of production. Gross profit and net income increases were partially offset by the increased cost of feed ingredients and increased processing, packaging and warehouse costs. The impact of HPAI continued throughout the first three quarters of fiscal 2023 as prices continued to increase. For the first three quarters of fiscal 2023, the average UB southeastern large index price was 138.8% higher than the average price of the first three quarters in fiscal 2022. For the fourth quarter of fiscal 2023 the average UB southeastern large index price decreased 13.8% to \$2.163 from the same period in the prior year as the egg supply improved from the effects of HPAI. Conventional egg selling prices declined significantly during the latter part of the fourth quarter of fiscal 2023.

Our dozens sold increased by 5.9% for fiscal 2023 compared to fiscal 2022, primarily due to an increase in specialty egg sales. According to Information Resources, Inc. ("IRI"), for the 52 weeks ended June 4, 2023, which approximately aligns with our fiscal year 2023, conventional egg dozens sold in the U.S. at multi-retail outlets decreased 9.3%, while specialty egg dozens sold increased 9.9% versus the prior-year comparable period. Our conventional eggs dozens sold increased 0.2% and specialty egg dozens sold increased 18.6% as compared to fiscal 2022, with most of the increase due to an increase in cage-free eggs sold.

Our feed costs per dozen produced increased to \$0.676 in fiscal 2023, compared to \$0.571 in fiscal 2022. For fiscal year 2023, the average Chicago Board of Trade ("CBOT") daily market price was \$6.57 per bushel for corn and \$450 per ton for soybean meal, representing increases of 4.1% and 14.7%, respectively, compared to the daily average CBOT prices for fiscal 2022. Supplies of corn and soybean meal remained tight relative to demand in throughout fiscal 2023, as evidenced by a low stock-to-use ratio for corn, as a result of weather-related shortfalls in production and yields, ongoing supply chain disruptions and the Russia-Ukraine War and its impact on the export markets. Basis levels for corn and soybean meal, which impact our costs for

these feed ingredients, ran significantly higher in fiscal 2023 in our areas of operation compared to our prior year fiscal year as a result of higher transportation and storage costs, adding to our expense.

## RESULTS OF OPERATIONS

The following table sets forth, for the fiscal years indicated, certain items from our Consolidated Statements of Income expressed as a percentage of net sales.

	Fiscal Year Ended	
	June 3, 2023	May 28, 2022
Net sales	100.0 %	100.0 %
Cost of sales	62.0 %	81.0 %
Gross profit	38.0 %	19.0 %
Selling, general and administrative	7.4 %	11.2 %
Gain on insurance recoveries	(0.1) %	(0.3) %
(Gain) loss on disposal of fixed assets	— %	— %
Operating income	30.7 %	8.1 %
Total other income	1.0 %	1.3 %
Income before income taxes	31.7 %	9.4 %
Income tax expense	7.7 %	1.9 %
Net income	24.0 %	7.5 %
Less: Net loss attributable to noncontrolling interest	— %	— %
Net income attributable to Cal-Maine Foods, Inc.	24.0 %	7.5 %

**Fiscal Year Ended June 3, 2023 Compared to Fiscal Year Ended May 28, 2022**

**NET SALES**

Total net sales for fiscal 2023 were \$3.1 billion compared to \$1.8 billion for fiscal 2022.

Net shell egg sales represented 96.1% and 96.6% of total net sales for the fiscal year 2023 and 2022, respectively. Shell egg sales classified as “Other” represent sales of miscellaneous byproducts and resale products included with our shell egg operations. The table below presents an analysis of our conventional and specialty shell egg sales (in thousands, except percentage data):

	June 03, 2023		May 28, 2022	
Total net sales	\$ 3,146,217		\$ 1,777,159	
Conventional	\$ 2,051,961	67.9 %	\$ 1,061,995	61.8 %
Specialty	956,993	31.6 %	648,838	37.8 %
Egg sales, net	3,008,954	99.5 %	1,710,833	99.6 %
Other	14,993	0.5 %	6,322	0.4 %
Net shell egg sales	\$ 3,023,947	100.0 %	\$ 1,717,155	100.0 %
Dozens sold:				
Conventional	749,076	65.3 %	747,914	69.0 %
Specialty	398,297	34.7 %	335,875	31.0 %
Total dozens sold	1,147,373	100.0 %	1,083,789	100.0 %
Net average selling price per dozen:				
Conventional	\$ 2.739		\$ 1.420	
Specialty	\$ 2.403		\$ 1.932	
All shell eggs	\$ 2.622		\$ 1.579	
Egg products sales:				
Egg products net sales	\$ 122,270		\$ 60,004	
Pounds sold	70,035		63,968	
Net average selling price per pound	\$ 1.746		\$ 0.938	

**Shell egg net sales**

- For fiscal 2023, shell egg net sales increased \$1.3 billion, primarily due to higher net average selling prices for conventional eggs, and to a lesser extent specialty eggs.
- For fiscal 2023, conventional egg sales increased \$990.0 million, or 93.2%, compared to fiscal 2022, primarily due to the increase in conventional egg prices. Changes in price resulted in a \$988.0 million increase and changes in volume resulted in a \$1.7 million increase in net sales.
- Conventional egg prices increased in the first three quarters of fiscal 2023 primarily due to decreased supply caused by the HPAI outbreak, discussed above. Conventional egg prices decreased substantially in the fourth quarter of fiscal 2023 compared to average fiscal 2023 levels, due to an increased supply of conventional eggs caused by the repopulating of layer flocks in response to the impact of HPAI and typical seasonal decreases in demand. Conventional egg prices exceeded specialty egg prices during fiscal 2022 and for the first three quarters of fiscal 2023, which is atypical historically. Conventional egg prices generally respond more quickly to market conditions because we sell the majority of our conventional shell eggs based on formulas that adjust periodically and take into account, in varying ways, independently quoted regional wholesale market prices for shell eggs or formulas related to our costs of production. The majority of our specialty eggs are typically sold at prices and terms negotiated directly with customers and therefore do not fluctuate as much as conventional pricing.
- Specialty egg sales increased \$308.2 million, or 47.5%, for fiscal 2023 compared to fiscal 2022, primarily due to a 24.4% increase in specialty egg prices and a 18.6% increase in the volume of specialty dozens sold. Changes in price resulted in a \$187.6 million increase and change in volume resulted in a \$120.6 million increase in net sales, respectively. Our

specialty egg sales also benefitted from our additional cage-free production capacity. Cage-free revenue for fiscal 2023 was 20.2% of total revenue, compared to 22.3% for fiscal 2022.

- Net average selling prices of specialty eggs increased by agreements with our customers in response to rising feed and other input costs as well as lower supply availability due to HPAI.
- Demand for specialty eggs increased during the first three quarters of fiscal 2023 as conventional egg prices rose. Our sales volume benefitted versus the prior-year period, through use of our higher cage-free production capacity.

#### Egg products net sales

- Egg products net sales increased \$62.3 million or 103.8%, primarily due to an 86.1% selling price increase compared to fiscal 2022, which had a \$56.6 million positive impact on net sales.
- Our egg products net average selling price increased in fiscal 2023, compared to fiscal 2022 as the supply of shell eggs used to produce egg products decreased due to the HPAI outbreak that started in February 2022.

#### **COST OF SALES**

Cost of sales for fiscal 2023 were \$1.9 billion compared to \$1.4 billion for fiscal 2022.

Cost of sales consists of costs directly related to producing, processing and packing shell eggs, purchases of shell eggs from outside sources, processing and packing of liquid and frozen egg products and other non-egg costs. Farm production costs are those costs incurred at the egg production facility, including feed, facility, hen amortization and other related farm production costs.

The following table presents the key variables affecting our cost of sales (in thousands, except cost per dozen data):

	Fiscal Year Ended		
	June 03, 2023	May 28, 2022	% Change
<b>Cost of Sales:</b>			
Farm production	\$ 1,118,741	\$ 927,806	20.6 %
Processing, packaging, and warehouse	342,836	289,056	18.6
Egg purchases and other (including change in inventory)	379,777	172,034	120.8
<b>Total shell eggs</b>	<b>1,841,354</b>	<b>1,388,896</b>	<b>32.6</b>
Egg products	108,406	51,204	111.7
<b>Total</b>	<b>\$ 1,949,760</b>	<b>\$ 1,440,100</b>	<b>35.4 %</b>
<b>Farm production costs (per dozen produced)</b>			
Feed	\$ 0.676	\$ 0.571	18.4 %
Other	\$ 0.396	\$ 0.352	12.5 %
<b>Total</b>	<b>\$ 1.072</b>	<b>\$ 0.923</b>	<b>16.1 %</b>
Outside egg purchases (average cost per dozen)	\$ 3.02	\$ 1.72	75.6 %
Dozens produced	1,058,540	1,022,327	3.5 %
Percent produced to sold	92.3%	94.3%	(2.1) %

#### Farm Production

- Feed costs per dozen produced increased 18.4% in fiscal 2023 compared to fiscal 2022, primarily due to higher feed ingredient prices. Basis levels for corn and soybean meal ran significantly higher in our areas of operation compared to our prior fiscal year due to higher transportation and storage costs, adding to our expense.
- For fiscal 2023, the average daily CBOT market price was \$6.57 per bushel for corn and \$450 per ton of soybean meal, representing increases of 4.1% and 14.7%, respectively, as compared to the average daily CBOT prices for fiscal 2022.

- Other farm production costs increased due to higher facility and flock amortization. Facility costs increased due primarily to increased labor costs. Labor costs increased 29.6% due to increased use of contract labor and increased wages raised in response to labor shortages.
- Flock amortization increased primarily from higher capitalized feed costs as well as higher amortization costs from an increase in our cage-free production.

Supplies of corn and soybean remained tight relative to demand throughout fiscal 2023, as evidenced by a low stock-to-use ratio for corn, as a result of weather-related shortfalls in production and yields, ongoing supply chain disruptions and the Russia-Ukraine War and its impact on the export markets. For fiscal 2024, we expect continued corn and soybean upward pricing pressures and further market volatility to affect feed costs.

#### Processing, packaging, and warehouse

- Cost of packaging materials increased 18.6% compared to fiscal 2022 as costs increased due to rising inflation and labor costs.
- Labor costs increased 13.6% due to wage increases instituted in response to labor shortages and rising inflation.
- Dozens processed increased 3.6% compared to fiscal 2022, which resulted in an \$11.2 million increase in costs.

#### Egg purchases and other (including change in inventory)

- Costs in this category increased 120.8% compared to fiscal 2022 primarily due to the increase in egg prices. The average price of outside egg purchases increased 75.6% per dozen compared to fiscal 2022. Additionally, our percentage of produced to sold decreased to 92.3% in fiscal 2023 from 94.3% in fiscal 2022 as we increased our volume of outside egg purchases in order to meet customer demand.

#### GROSS PROFIT

Gross profit, as a percentage of net sales, was 38.0% for fiscal 2023, compared to 19.0% for fiscal 2022. The increase resulted primarily from higher selling prices for conventional eggs as well as the increased volume of specialty eggs sold, partially offset by the increased cost of feed ingredients and processing, packaging and warehouse costs.

#### SELLING, GENERAL, AND ADMINISTRATIVE EXPENSES

Selling, general, and administrative ("SGA") expenses include costs of marketing, distribution, accounting, and corporate overhead. SG&A expenses increased \$33.6 million to \$232.2 million in fiscal 2023. The following table presents an analysis of our SGA expenses (in thousands):

	Fiscal Year Ended			
	June 03, 2023	May 28, 2022	\$ Change	% Change
Specialty egg expense	\$ 57,758	\$ 59,830	\$ (2,072)	(3.5) %
Delivery expense	77,548	62,677	14,871	23.7 %
Payroll, taxes and benefits	57,830	43,954	13,876	31.6 %
Stock compensation expense	4,205	4,063	142	3.5 %
Other expenses	34,866	28,107	6,759	24.0 %
Total	\$ 232,207	\$ 198,631	\$ 33,576	16.9 %

#### Specialty egg expense

- Specialty egg expense, which includes franchise fees, advertising and promotion costs generally tracks with specialty egg volumes, which were up 18.6% for fiscal 2023 compared to fiscal 2022. However, our specialty egg expense decreased 3.5%, primarily due to a significant reduction in advertising costs. The higher prices for conventional eggs and the comparatively lower prices for specialty eggs diminished the need to promote specialty eggs in fiscal 2023. However, we anticipate that the need to promote specialty eggs will increase in fiscal 2024 as the market recovers from the effects of HPAI.

#### Delivery expense

- The increased delivery expense is primarily due to the increase in fuel and labor costs for both our fleet and contract trucking. Compared to fiscal 2022, contract trucking and labor expenses increased approximately \$10.2 million for fiscal 2023.

#### Payroll, taxes and benefits expense

- The increase in payroll, taxes and benefits expense is primarily due to an increase in the accrual for anticipated performance-based bonuses.

#### Other expenses

- The increase in other expenses is due to increased legal expenses of approximately \$3.6 million as well as inflationary pressure increasing costs.

#### OPERATING INCOME (LOSS)

As a result of the above, our operating income was \$967.7 million for fiscal 2023, compared to \$143.5 million for fiscal 2022.

#### OTHER INCOME (EXPENSE)

Total other income (expense) consists of items not directly charged to, or related to, operations such as interest income and expense, equity in income or loss of unconsolidated entities, and patronage dividends, among other items.

The Company recorded interest income of \$18.6 million in fiscal 2023, compared to \$988 thousand in fiscal 2022, primarily due to significantly higher cash and cash equivalents and investment securities available-for-sale balances and yields. We recorded interest expense of \$583 thousand and \$403 thousand in fiscal 2023 and 2022, respectively, primarily related to commitment fees on our Credit Facility described below.

Equity in income from unconsolidated entities for fiscal 2023 was \$746 thousand compared to \$1.9 million for fiscal 2022.

Other, net for fiscal 2023 was income of \$1.9 million compared to \$9.8 million for fiscal 2022. The majority of the decrease is due to our acquisition in fiscal 2022 of the remaining 50% membership interest in Red River Valley Egg Farm, LLC ("Red River") as we recognized a \$4.5 million gain in fiscal 2022 due to the remeasurement of our equity investment. We also received \$1.4 million in fiscal 2022 related to our review and adjustment of our various marketing agreements. Additionally, the Company recorded a \$2 million impairment of an investment in an unconsolidated entity in fiscal 2023.

#### INCOME TAXES

For the fiscal year ended June 3, 2023, our pre-tax income was \$998.6 million, compared to \$166.0 million for fiscal 2022. Income tax expense of \$241.8 million was recorded for fiscal 2023 with an effective tax rate of 24.2%. For fiscal 2022, income tax expense was \$33.6 million with an effective tax rate of 20.2%. Included in fiscal 2022 income tax expense is the discrete tax benefit of \$8.3 million discussed in [Note 2 – Acquisition](#) of Part II. Item 8. Notes to Consolidated Financial Statements in this Annual Report. Excluding the discrete tax benefit, income tax expense was \$41.9 million with an adjusted effective tax rate of 25.2%.

At June 3, 2023, the Company had an income tax receivable of \$67.0 million compared to \$42.1 million at May 28, 2022. During fiscal 2022, the Company filed federal carryback tax returns for fiscal 2020 and 2021 taxable net operating losses to recover a portion of taxes paid in fiscal 2015 and fiscal 2016. Subsequent to fiscal 2023, we received \$31.8 million of the \$34.9 million fiscal 2021 refund and believe we will receive the remaining amount of the fiscal 2020 and 2021 refunds, totaling \$11.7 million, during our second fiscal quarter of 2024. An additional \$23.5 million income tax receivable was recorded as of June 3, 2023 for fiscal 2023 federal overpayments in excess of federal tax liability.

Items causing our effective tax rate to differ from the federal statutory income tax rate of 21% are state income taxes, certain federal tax credits and certain items included in income or loss for financial reporting purposes that are not included in taxable income or loss for income tax purposes, including tax exempt interest income, certain nondeductible expenses, and net income or loss attributable to noncontrolling interest.

## NET LOSS ATTRIBUTABLE TO NONCONTROLLING INTEREST

Net loss attributable to noncontrolling interest was \$1.3 million for fiscal 2023 compared to a \$209 thousand net loss for fiscal 2022.

## NET INCOME ATTRIBUTABLE TO CAL-MAINE FOODS, INC.

As a result of the above, net income attributable to Cal-Maine Foods, Inc. for fiscal 2023 was \$758.0 million, or \$15.58 per basic and \$15.52 per diluted share, compared to \$132.7 million, or \$2.73 per basic and \$2.72 per diluted share for fiscal 2022.

### ***Fiscal Year Ended May 28, 2022 Compared to Fiscal Year Ended May 29, 2021***

The discussion of our results of operations for the fiscal year ended May 28, 2022 compared to the fiscal year ended May 29, 2021 can be found in Part II, Item 7, Management's Discussion and Analysis of Financial Condition and Results of Operations in the Company's fiscal 2022 Annual Report on Form 10-K.

## LIQUIDITY AND CAPITAL RESOURCES

### Working Capital and Current Ratio

Our working capital at June 3, 2023 was \$942.2 million, compared to \$476.8 million at May 28, 2022. The calculation of working capital is defined as current assets less current liabilities. Our current ratio was 6.16 at June 3, 2023 compared to 3.58 at May 28, 2022. The current ratio is calculated by dividing current assets by current liabilities. The increase in our working capital and current ratio is primarily due to the increase in total current assets, which increased by \$463.4 million to \$1.1 billion at June 3, 2023, due to significant increases in cash and cash equivalents and investment securities available-for-sale. Due to seasonal factors described in [Part I, Item 1, Business – Seasonality](#), we generally expect our need for working capital to be highest in the fourth and first fiscal quarters ending in May/June and August/September, respectively.

### Cash Flows from Operating Activities

Net cash provided by operating activities was \$863.0 million for fiscal year 2023 compared with \$126.2 million for fiscal year 2022. The increase in cash flow from operations resulted primarily from higher selling prices for conventional eggs as well as the increased volume of specialty eggs sold, partially offset by the increased cost of feed ingredients and processing, packaging and warehouse costs.

### Cash Flows from Investing Activities

We continue to invest in our facilities, with \$136.6 million used to purchase property, plant and equipment for fiscal 2023, compared to \$72.4 million in fiscal 2022. These investments were primarily made to expand our cage-free production capacity. We have for many years invested substantial amounts to expand our cage-free production capacity and expect to continue to do so. Purchases of investments were \$530.8 million in fiscal 2023, compared to \$98.2 million in fiscal 2022. The increase in purchases of investment securities is primarily due to the utilization of increased liquidity resulting from increased cash flows provided by operating activities noted above. Sales and maturities of investment securities were \$291.8 million for fiscal 2023, compared to \$92.7 million for fiscal 2022. During fiscal 2022, we also acquired the remaining 50% membership interest in Red River for \$44.8 million, net of cash acquired.

### Cash Flows from Financing Activities

We paid dividends totaling \$252.3 million and \$6.1 million in fiscal 2023 and 2022, respectively.

As of June 3, 2023, cash increased \$233.7 million since May 28, 2022, compared to an increase of \$1.7 million during fiscal 2022.

### Credit Facility

We had no long-term debt outstanding at the end of fiscal 2023 and 2022. On November 15, 2021, we entered into an Amended and Restated Credit Agreement (as amended the "Credit Agreement") with a five-year term. The Credit Agreement provides for a senior secured revolving credit facility (the "Credit Facility"), in an initial aggregate principal amount of up to \$250 million. As of June 3, 2023, no amounts were borrowed under the Credit Facility. We have \$4.3 million in outstanding standby letters of credit, which were issued under our Credit Facility for the benefit of certain insurance companies. In May 2023, we entered into

an amendment to the Credit Agreement to replace the London Interbank Offered Rate interest rate benchmark. Refer to Part II. Item 8. Notes to the Financial Statements, [Note 10 – Credit Facility](#) for further information regarding our long-term debt.

#### Material Cash Requirements

Material cash requirements for operating activities primarily consist of feed ingredients, processing, packaging and warehouse costs, employee related costs, and other general operating expenses, which we expect to be paid from our cash from operations and cash and investment securities on hand for at least the next 12 months. While volatile egg prices and feed ingredient costs, among other things, make long-term predictions difficult, we have substantial liquid assets and availability under our Credit Facility to fund future operating requirements.

Our material cash requirements for capital expenditures consist primarily of our projects to increase our cage-free production capacity. We continue to monitor the increasing demand for cage-free eggs and to engage with our customers in efforts to help them achieve their announced timelines for cage-free egg sales. The following table presents material construction projects approved as of June 3, 2023 (in thousands):

Project(s) Type	Projected Completion	Projected Cost	Spent as of June 3, 2023	Remaining Projected Cost
Cage-Free Layer & Pullet Houses	Fiscal 2024	\$ 54,702	\$ 18,900	\$ 35,802
Cage-Free Layer & Pullet Houses	Fiscal 2025	40,099	27,152	12,947
Cage-Free Layer & Pullet Houses	Fiscal 2026	38,883	19,218	19,665
Cage-Free Layer & Pullet Houses	Fiscal 2027	56,923	20,472	36,451
		<u>\$ 190,607</u>	<u>\$ 85,742</u>	<u>\$ 104,865</u>

The following table summarizes by fiscal year the future estimated cash payments, in thousands, to be made under existing contractual obligations as of June 3, 2023. Further information on debt obligations is contained in [Note 10 – Credit Facility](#) in Part II. Item 8. Notes to the Consolidated Financial Statements. As of June 3, 2023, we had no outstanding long-term debt.

	Payments due by period				
	Total	Less than 1 year	1-3 years	3-5 years	More than 5 years
Lease obligations	\$ 1,714	\$ 796	\$ 914	\$ 4	\$ —
Purchase obligations:					
Feed ingredients and fuel <sup>(a)</sup>	123,321	123,321	—	—	—
Construction contracts and other equipment	105,414	61,108	44,306	—	—
<b>Total</b>	<u>\$ 230,449</u>	<u>\$ 185,225</u>	<u>\$ 45,220</u>	<u>\$ 4</u>	<u>\$ —</u>

(a) Actual purchase obligations may change based on the contractual terms and agreements

We believe our current cash balances, investments, cash flows from operations, and Credit Facility will be sufficient to fund our capital needs for at least the next 12 months and to fund our capital commitments currently in place thereafter.

#### IMPACT OF RECENTLY ISSUED ACCOUNTING STANDARDS

For information on changes in accounting principles and new accounting principles, see “*New Accounting Pronouncements and Policies*” in Part II. Item 8. Notes to Consolidated Financial Statements, [Note 1 - Summary of Significant Accounting Policies](#).

#### CRITICAL ACCOUNTING ESTIMATES

The preparation of financial statements in accordance with U.S. GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from these estimates. Critical accounting estimates are those estimates made in accordance with GAAP that involve a significant level of estimation uncertainty and have had or are reasonably likely to have a material impact on the financial condition or results of operations. Our critical accounting estimates are described below.

## BUSINESS COMBINATIONS

The Company applies the acquisition method of accounting, which requires that once control is obtained, all the assets acquired and liabilities assumed, including amounts attributable to noncontrolling interests, are recorded at their respective fair values at the date of acquisition. The excess of the purchase price over fair values of identifiable assets and liabilities is recorded as goodwill.

We typically use the income method approach for intangible assets acquired in a business combination. Significant judgment exists in valuing certain intangible assets, and the most significant assumptions requiring judgment involve estimating the amount and timing of future cash flows, growth rates, discount rates selected to measure the risks inherent in the future cash flows and the asset's expected useful lives.

The fair values of identifiable assets and liabilities are determined internally and requires estimates and the use of various valuation techniques. When a market value is not readily available, our internal valuation methodology considers the remaining estimated life of the assets acquired and significant judgment is required as management determines the fair market value for those assets.

Due to inherent industry uncertainties including volatile egg prices and feed costs, unanticipated market changes, events, or circumstances may occur that could affect the estimates and assumptions used, which could result in subsequent impairments.

## INVENTORIES

Inventories of eggs, feed, supplies and flocks are valued principally at the lower of cost (first-in, first-out method) or net realizable value. If market prices for eggs and feed grains move substantially lower, we record adjustments to write down the carrying values of eggs and feed inventories to fair market value. The cost associated with flock inventories, consisting principally of chick purchases, feed, labor, contractor payments and overhead costs, are accumulated during the growing period of approximately 22 weeks. Capitalized flock costs are then amortized over the flock's productive life, generally one to two years. Judgment exists in determining the flock's productive life including factors such as laying rate and egg size, molt cycles, and customer demand. Furthermore, other factors such as hen type or weather conditions could affect the productive life. These factors could make our estimates of productive life differ from actual results. Flock mortality is charged to cost of sales as incurred. High mortality from disease or extreme temperatures will result in abnormal write-downs to flock inventories. Management continually monitors each flock and attempts to take appropriate actions to minimize the risk of mortality loss.

## GOODWILL

As a result of acquiring businesses, the Company has \$44.0 million of goodwill on June 3, 2023. Goodwill is evaluated for impairment annually by first performing a qualitative assessment to determine whether a quantitative goodwill test is necessary. After assessing the totality of events or circumstances, if we determine it is more likely than not that the fair value of a reporting unit is less than its carrying amount, then we perform additional quantitative tests to determine the magnitude of any impairment.

The Company has determined that all of our locations share similar economic characteristics and support each other in the production of eggs and customer support. Therefore, we aggregate all our locations as a single reporting unit for testing goodwill for impairment. When the Company acquires a new location, we determine whether it should be integrated into our single reporting unit or treated as a separate reporting unit. Historically, we have concluded that acquired operations should be integrated into our single reporting unit due to the operational changes, redistribution of customers, and significant changes in management that occur when we acquire businesses, which result in the acquired operations sharing similar economic characteristics with the rest of our locations. Once goodwill associated with acquired operations becomes part of goodwill of our single reporting unit, it no longer represents the particular acquired operations that gave rise to the goodwill. We may conclude that a business acquired in the future should be treated as a separate reporting unit, in which case it would be tested separately for goodwill impairment.

At June 3, 2023, goodwill represented 2.3% of total assets and 2.7% of stockholders' equity.

Judgment exists in management's evaluation of the qualitative factors which include macroeconomic conditions, the current egg industry environment, cost inputs such as feed ingredients and overall financial performance. Furthermore, judgment exists in the evaluation of the threshold of whether it is more likely than not that the fair value of a reporting unit is less than its carrying amount. Uncertainty exists due to uncontrollable events that could occur that could negatively affect our operating conditions.

During the fourth quarter of 2023, we elected to change the date of our annual impairment assessment from year-end to the first day of the fourth quarter. The change was made to more closely align the impairment assessment date with our annual planning

and forecasting process. The change in impairment assessment date did not have any impact on goodwill or the impairment of goodwill. The change has been applied prospectively and will not have an impact on a retrospective basis. During our annual impairment test in fiscal 2023, we determined that goodwill passed the qualitative assessment and therefore no quantitative analysis of goodwill impairment was necessary.

#### REVENUE RECOGNITION

Revenue recognition is completed upon satisfaction of the performance obligation to the customer, which typically occurs within days of the Company and customer agreeing upon the order. See [Note 13 – Revenue Recognition](#) in Part II, Item 8, Notes to the Consolidated Financial Statements for further discussion of the policy.

The Company believes the performance obligation is met upon delivery and acceptance of the product by our customers. Costs to deliver product to customers are included in selling, general and administrative expenses in the accompanying Consolidated Statements of Income. Sales revenue reported in the accompanying Consolidated Statements of Income is reduced to reflect estimated returns and allowances. The Company records an estimated sales allowance for returns and discounts at the time of sale using historical trends based on actual sales returns and sales.

The Company periodically provides incentive offers to its customers to encourage purchases. Such offers include current discount offers (e.g., percentage discounts off current purchases), inducement offers (e.g., offers for future discounts subject to a minimum current purchase), and other similar offers. Current discount offers, when accepted by customers, are treated as a reduction to the sales price of the related transaction, while inducement offers, when accepted by customers, are treated as a reduction to sales price based on estimated future redemption rates. Redemption rates are estimated using the Company's historical experience for similar inducement offers. Current discount and inducement offers are presented as a net amount in "Net sales."

As the estimates noted above are based on historical information, we do not believe that there will be a material change in the estimates and assumptions used to recognize revenue. However, if actual results varied significantly from our estimates it could expose us to material gains or losses.

#### LOSS CONTINGENCIES

The Company evaluates whether a loss contingency exists, and if the assessment of a contingency indicates it is probable that a material loss has been incurred and the amount of the loss can be reasonably estimated, the estimated loss would be accrued in the Company's financial statements. The Company expenses the costs of litigation as they are incurred.

There were no loss contingency reserves for the past three fiscal years. Our evaluation of whether loss contingencies exist primarily relates to litigation matters. The outcome of litigation is uncertain due to, among other things, uncertainties regarding the facts will be established during the proceedings, uncertainties regarding how the law will be applied to the facts established, and uncertainties regarding the calculation of any potential damages or the costs of any potential injunctive relief. If the facts discovered or the Company's assumptions change, future reserves for loss contingencies may be required. Results of operations may be materially affected by losses or a loss contingency reserve resulting from adverse legal proceedings.

#### INCOME TAXES

We determine our effective tax rate by estimating our permanent differences resulting from differing treatment of items for tax and accounting purposes. Judgment and uncertainty exist with management's application of tax regulations and evaluation of the more-likely-than-not recognition and measurement thresholds. We are periodically audited by taxing authorities. An adverse tax settlement could have a negative impact on our effective tax rate and our results of operations.

## ITEM 7A. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISKS

### COMMODITY PRICE RISK

Our primary exposure to market risk arises from changes in the prices of conventional eggs, which are subject to significant price fluctuations that are largely beyond our control. We are focused on growing our specialty shell egg business because the selling prices of specialty shell eggs are generally not as volatile as conventional shell egg prices. Our exposure to market risk also includes changes in the prices of corn and soybean meal, which are commodities subject to significant price fluctuations due to market conditions that are largely beyond our control. To ensure continued availability of feed ingredients, we may enter into contracts for future purchases of corn and soybean meal, and as part of these contracts, we may lock-in the basis portion of our grain purchases several months in advance and commit to purchase organic ingredients to help assure supply. Ordinarily, we do not enter long-term contracts beyond a year to purchase corn and soybean meal or hedge against increases in the price of corn and soybean meal. The following table outlines the impact of price changes for corn and soybean meal on feed costs per dozen as feed ingredient pricing varies:

		Change in price per bushel of corn						
		\$ (0.84)	\$ (0.56)	\$ (0.28)	\$ 0.00	\$ 0.28	\$ 0.56	\$ 0.84
Change in price	\$ (76.50)	0.616	0.626	0.636	0.646	0.656	0.666	0.676
	\$ (51.00)	0.626	0.636	0.646	0.656	0.666	0.676	0.686
	\$ (25.50)	0.636	0.646	0.656	0.666	0.676	0.686	0.696
per ton soybean meal	\$ 0.00	0.646	0.656	0.666	0.676 <sup>(a)</sup>	0.686	0.696	0.706
	\$ 25.50	0.656	0.666	0.676	0.686	0.696	0.706	0.716
	\$ 51.00	0.666	0.676	0.686	0.696	0.706	0.716	0.726
	\$ 76.50	0.676	0.686	0.696	0.706	0.716	0.726	0.736

(a) Based on 2023 actual costs, table flexes feed cost inputs to show \$0.01 impacts to per dozen egg feed production costs.

### INTEREST RATE RISK

We have a \$250 million Credit Facility, borrowings under which would bear interest at variable rates. No amounts were outstanding under that facility during fiscal 2023 or fiscal 2022. Under our current policies, we do not use interest rate derivative instruments to manage our exposure to interest rate changes.

### FIXED INCOME SECURITIES RISK

At June 3, 2023, the effective maturity of our cash equivalents and investment securities available for sale was 4.8 months, and the composite credit rating of the holdings are AA- / Aa3 / AA- (S&P / Moody's / Fitch). Generally speaking, rising interest rates, as have been experienced in recent periods, decrease the value of fixed income securities portfolios. As of June 3, 2023, the estimated fair value of our fixed income securities portfolio was approximately \$355 million and reflected unrealized losses of approximately \$2.4 million. For additional information see [Note 1 – Summary of Significant Accounting Policies](#) under the heading “Investment Securities” and [Note 3 – Investment Securities](#) in Part II, Item 8, Notes to the Consolidated Financial Statements.

### CONCENTRATION OF CREDIT RISK

Our financial instruments exposed to concentrations of credit risk consist primarily of trade receivables. Concentrations of credit risk with respect to receivables are limited due to our large number of customers and their dispersion across geographic areas, except that at June 3, 2023 and May 28, 2022, 30.1% and 27.9%, respectively, of our net accounts receivable balance was due from Walmart Inc. (including Sam's Club). No other single customer or customer group represented 10% or greater of net accounts receivable at June 3, 2023 and May 28, 2022.

## ITEM 8. FINANCIAL STATEMENTS AND SUPPLEMENTARY DATA

### Report of Independent Registered Public Accounting Firm

Board of Directors and Stockholders  
Cal-Maine Foods, Inc. and Subsidiaries  
Ridgeland, Mississippi

#### Opinion on the Consolidated Financial Statements

We have audited the accompanying consolidated balance sheets of Cal-Maine Foods, Inc. and Subsidiaries as of June 3, 2023 and May 28, 2022, the related consolidated statements of income, comprehensive income, stockholders' equity, and cash flows for each of the three years in the period ended June 3, 2023, and the related consolidated notes and schedule listed in the Index at Items 15(a)(1) and 15(a)(2) (collectively referred to as the "consolidated financial statements"). In our opinion, the consolidated financial statements present fairly, in all material respects, the financial position of Cal-Maine Foods, Inc. and Subsidiaries as of June 3, 2023 and May 28, 2022, and the results of their operations and their cash flows for each of the three years in the period ended June 3, 2023, in conformity with accounting principles generally accepted in the United States of America.

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States) ("PCAOB"), the Cal-Maine Foods, Inc. and Subsidiaries' internal control over financial reporting as of June 3, 2023, based on the criteria established in 2013 Internal Control – Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission and our report dated July 25, 2023 expressed an unqualified opinion.

#### Basis for Opinion

These consolidated financial statements are the responsibility of the entities' management. Our responsibility is to express an opinion on these consolidated financial statements based on our audits. We are a public accounting firm registered with the PCAOB and are required to be independent with respect to Cal-Maine Foods, Inc. and Subsidiaries in accordance with the U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

We conducted our audits in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the consolidated financial statements are free of material misstatement, whether due to error or fraud. Our audits included performing procedures to assess the risks of material misstatement of the consolidated financial statements, whether due to error or fraud, and performing procedures that respond to those risks. Such procedures included examining, on a test basis, evidence regarding the amounts and disclosures in the consolidated financial statements. Our audits also included evaluating the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of the consolidated financial statements. We believe our audits provide a reasonable basis for our opinion.

#### Critical Audit Matter

The critical audit matter communicated below is a matter arising from the current period audit of the consolidated financial statements that were communicated or required to be communicated to the Audit Committee and that: (1) relate to accounts or disclosures that are material to the consolidated financial statements and (2) involved our especially challenging, subjective, or complex judgments. The communication of the critical audit matter does not alter in any way our opinion on the consolidated financial statements, taken as a whole, and we are not, by communicating the critical audit matter below, providing a separate opinion on the critical audit matter or on the accounts or disclosures to which it relates.

#### ***Contingent Liabilities – Litigation and Claims – Refer to Note 16 in the Consolidated Financial Statements***

##### *Critical Audit Matter Description*

Cal-Maine Foods, Inc. and Subsidiaries record liabilities for legal proceedings and claims in those instances where they can reasonably estimate the amount of the loss and when the liability is probable. Where the reasonable estimate of the probable loss is a range, Cal-Maine Foods, Inc. and Subsidiaries record the most likely estimate of the loss, or the low end of the range if there is no one best estimate. Cal-Maine Foods, Inc. and Subsidiaries either disclose the amount of a possible loss or range of loss

in excess of established accruals if estimable, or states that such an estimate cannot be made. Cal-Maine Foods, Inc. and Subsidiaries disclose significant legal proceedings and claims even where liability is not probable or the amount of the liability is not estimable, or both, if Cal-Maine Foods, Inc. and Subsidiaries believe there is at least a reasonable possibility that a loss may be incurred.

We identified litigation and claims as a critical audit matter because of the challenges auditing management's judgments applied in determining the likelihood of loss related to the resolution of such claims. Specifically, auditing management's determination of whether any contingent loss arising from the related litigation and claims is probable, reasonably possible, or remote, and the related disclosures, is subjective and requires significant judgment due to the sensitivity of the issue.

*How the Critical Audit Matter was addressed during the Audit*

Addressing the matter involved performing procedures and evaluating audit evidence in connection with forming our overall opinion on the consolidated financial statements. These procedures included testing the effectiveness of the controls relating to the Cal-Maine Foods, Inc. and Subsidiaries' evaluation of the liability related to legal proceedings and claims, including controls over determining the likelihood of a loss and whether the amount of loss can be reasonably estimated, as well as financial statement disclosures over the legal proceedings and claims. These procedures also included obtaining and evaluating the letters of audit inquiry with external legal counsel, evaluating the reasonableness of Cal-Maine Foods, Inc. and Subsidiaries' assessment regarding whether an unfavorable outcome is reasonably possible or probable, and reasonably estimable, evaluating the sufficiency of Cal-Maine Foods, Inc. and Subsidiaries' disclosures related to legal proceedings and claims and evaluating the completeness and accuracy of Cal-Maine Foods, Inc. and Subsidiaries' legal contingencies.

/s/ Frost, PLLC

We have served as the Company's auditor since 2007.

Little Rock, Arkansas  
July 25, 2023

**Cal-Maine Foods, Inc. and Subsidiaries**  
**Consolidated Balance Sheets**  
*(in thousands, except for par value amounts)*

	June 3, 2023	May 28, 2022
<b>Assets</b>		
<b>Current assets:</b>		
Cash and cash equivalents	\$ 292,824	\$ 59,084
Investment securities available-for-sale	355,090	115,429
<b>Receivables:</b>		
Trade receivables, net	110,980	169,109
Income tax receivable	66,966	42,147
Other	9,267	8,148
Total receivables, net	187,213	219,404
Inventories, net	284,418	263,316
Prepaid expenses and other current assets	5,380	4,286
Total current assets	1,124,925	661,519
Property, plant & equipment, net	744,540	677,796
Investments in unconsolidated entities	14,449	15,530
Goodwill	44,006	44,006
Intangible assets, net	15,897	18,131
Other long-term assets	10,708	10,507
Total assets	<u>\$ 1,954,525</u>	<u>\$ 1,427,489</u>
<b>Liabilities and stockholders' equity</b>		
<b>Current liabilities:</b>		
Trade accounts payable	\$ 82,590	\$ 82,049
Dividends payable	37,130	36,656
Accrued wages and benefits	38,733	26,059
Income tax payable	8,288	25,687
Accrued expenses and other liabilities	15,990	14,223
Total current liabilities	182,731	184,674
Other noncurrent liabilities	9,999	10,274
Deferred income taxes	152,212	128,196
Total liabilities	344,942	323,144
<b>Commitments and contingencies - see Note 16</b>		
<b>Stockholders' equity:</b>		
<b>Common stock (\$0.01 par value):</b>		
Common stock – authorized 120,000 shares, issued 70,261 shares	703	703
Class A convertible common stock – authorized and issued 4,800 shares	48	48
Paid-in capital	72,112	67,989
Retained earnings	1,571,112	1,065,854
Accumulated other comprehensive loss, net of tax	(2,886)	(1,596)
Common stock in treasury, at cost – 26,077 and 26,121 shares in 2023 and 2022, respectively	(30,008)	(28,447)
Total Cal-Maine Foods, Inc. stockholders' equity	1,611,081	1,104,551
Noncontrolling interest in consolidated equity	(1,498)	(206)
Total stockholders' equity	1,609,583	1,104,345
Total liabilities and stockholders' equity	<u>\$ 1,954,525</u>	<u>\$ 1,427,489</u>

See Notes to Consolidated Financial Statements.

**Cal-Maine Foods, Inc. and Subsidiaries**  
**Consolidated Statements of Income**  
*(in thousands, except per share amounts)*

	Fiscal years ended		
	June 3, 2023	May 28, 2022	May 29, 2021
	53 weeks	52 weeks	52 weeks
Net sales	\$ 3,146,217	\$ 1,777,159	\$ 1,348,987
Cost of sales	1,949,760	1,440,100	1,188,326
Gross profit	1,196,457	337,059	160,661
Selling, general and administrative	232,207	198,631	183,943
Gain on insurance recoveries	(3,345)	(5,492)	—
(Gain) loss on disposal of fixed assets	(131)	383	2,982
Operating income (loss)	967,726	143,537	(26,264)
Other income (expense):			
Interest expense	(583)	(403)	(213)
Interest income	18,553	988	2,828
Patronage dividends	10,239	10,130	9,004
Equity in income of unconsolidated entities	746	1,943	622
Other, net	1,869	9,820	4,074
Total other income	30,824	22,478	16,315
Income (loss) before income taxes	998,550	166,015	(9,949)
Income tax expense (benefit)	241,818	33,574	(12,009)
Net income	756,732	132,441	2,060
Less: Net loss attributable to noncontrolling interest	(1,292)	(209)	—
Net income attributable to Cal-Maine Foods, Inc.	<u>\$ 758,024</u>	<u>\$ 132,650</u>	<u>\$ 2,060</u>
Net income per share attributable to Cal-Maine Foods, Inc.:			
Basic	<u>\$ 15.58</u>	<u>\$ 2.73</u>	<u>\$ 0.04</u>
Diluted	<u>\$ 15.52</u>	<u>\$ 2.72</u>	<u>\$ 0.04</u>
Weighted average shares outstanding:			
Basic	<u>48,648</u>	<u>48,581</u>	<u>48,522</u>
Diluted	<u>48,834</u>	<u>48,734</u>	<u>48,656</u>

See Notes to Consolidated Financial Statements.

**Cal-Maine Foods, Inc. and Subsidiaries**  
**Consolidated Statements of Comprehensive Income**  
*(in thousands)*

	Fiscal years ended		
	June 3, 2023	May 28, 2022	May 29, 2021
Net income	\$ 756,732	\$ 132,441	\$ 2,060
Other comprehensive loss, before tax:			
Unrealized holding loss available-for-sale securities, net of reclassification adjustments	(1,714)	(1,398)	(736)
Increase in accumulated post-retirement benefits obligation, net of reclassification adjustments	(27)	(9)	(137)
Other comprehensive loss, before tax	(1,741)	(1,407)	(873)
Income tax benefit related to items of other comprehensive loss	(451)	(369)	(236)
Other comprehensive loss, net of tax	(1,290)	(1,038)	(637)
Comprehensive income	755,442	131,403	1,423
Less: comprehensive loss attributable to the noncontrolling interest	(1,292)	(209)	—
Comprehensive income attributable to Cal-Maine Foods, Inc.	<u>\$ 756,734</u>	<u>\$ 131,612</u>	<u>\$ 1,423</u>

See Notes to Consolidated Financial Statements.

**Cal-Maine Foods, Inc. and Subsidiaries**  
**Consolidated Statements of Stockholders' Equity**  
*(in thousands)*

	Common Stock				Treasury Shares	Treasury Amount	Paid In Capital	Retained Earnings	Accum. Other Comp. Income (loss)	Noncontrolling Interest	Total
	Shares	Amount	Class A Shares	Class A Amount							
Balance at May 31, 2020	70,261	\$ 703	4,800	\$ 48	26,287	\$ (26,674)	\$ 60,372	\$ 975,569	\$ 79	\$ —	1,010,097
Stock compensation plan transactions	—	—	—	—	(85)	(759)	3,667	—	—	—	2,908
Dividends (\$0.034 per share)											
Common	—	—	—	—	—	—	—	(1,489)	—	—	(1,489)
Class A common	—	—	—	—	—	—	—	(163)	—	—	(163)
Contributions	—	—	—	—	—	—	5	—	—	—	5
Net income	—	—	—	—	—	—	—	2,060	—	—	2,060
Other comprehensive loss, net of tax	—	—	—	—	—	—	—	—	(637)	—	(637)
Balance at May 29, 2021	70,261	703	4,800	48	26,202	(27,433)	64,044	975,977	(558)	—	1,012,781
Stock compensation plan transactions	—	—	—	—	(81)	(1,014)	3,945	—	—	—	2,931
Dividends (\$0.874 per share)											
Common	—	—	—	—	—	—	—	(38,578)	—	—	(38,578)
Class A common	—	—	—	—	—	—	—	(4,195)	—	—	(4,195)
Contributions	—	—	—	—	—	—	—	—	—	3	3
Net income (loss)	—	—	—	—	—	—	—	132,650	—	(209)	132,441
Other comprehensive loss, net of tax	—	—	—	—	—	—	—	—	(1,038)	—	(1,038)
Balance at May 28, 2022	70,261	703	4,800	48	26,121	(28,447)	67,989	1,065,854	(1,596)	(206)	1,104,345
Stock compensation plan transactions	—	—	—	—	(44)	(1,561)	4,123	—	—	—	2,562
Dividends (\$5.161 per share)											
Common	—	—	—	—	—	—	—	(227,993)	—	—	(227,993)
Class A common	—	—	—	—	—	—	—	(24,773)	—	—	(24,773)
Net income (loss)	—	—	—	—	—	—	—	758,024	—	(1,292)	756,732
Other comprehensive loss, net of tax	—	—	—	—	—	—	—	—	(1,290)	—	(1,290)
Balance at June 3, 2023	70,261	\$ 703	4,800	\$ 48	26,077	\$ (30,008)	\$ 72,112	\$ 1,571,112	\$ (2,886)	\$ (1,498)	\$ 1,609,583

See Notes to Consolidated Financial Statements.

**Cal-Maine Foods, Inc. and Subsidiaries**  
**Consolidated Statements of Cash Flows**  
*(in thousands)*

	Fiscal year ended		
	June 3, 2023	May 28, 2022	May 29, 2021
<b>Cash flows from operating activities:</b>			
Net income	\$ 756,732	\$ 132,441	\$ 2,060
Adjustments to reconcile net income to net cash provided by operating activities:			
Depreciation and amortization	72,234	68,395	59,477
Deferred income taxes	24,467	5,676	22,351
Equity in income of affiliates	(746)	(1,943)	(622)
Gain on insurance recoveries	(3,345)	(5,492)	—
Net proceeds from insurance settlement - business interruption	3,345	—	—
(Gain) loss on disposal of property, plant and equipment	(131)	383	2,982
Stock compensation expense, net of amounts paid	4,205	4,063	3,778
Unrealized (gain) loss on investments	17	(745)	1,810
(Gain) loss on sales of investments	60	(2,208)	(22)
Purchases of equity securities	(85)	(356)	(334)
Sales of equity securities	1,739	4,939	55
Amortization (accretion) of investments	(4,380)	977	890
Impairment of investment in affiliate	2,000	—	—
Gain on change in fair value of investment in affiliates	—	(4,545)	—
Other	35	(109)	(231)
Change in operating assets and liabilities, net of effects from acquisitions:			
Increase (decrease) in receivables and other assets	30,816	(93,897)	(33,487)
Increase in inventories	(21,102)	(36,152)	(31,159)
Increase (decrease) in accounts payable, accrued expenses and other liabilities	(2,851)	54,782	(1,412)
Net cash provided by operating activities	863,010	126,209	26,136
<b>Cash flows from investing activities:</b>			
Purchases of investments	(530,781)	(98,243)	(88,283)
Sales of investments	291,832	92,703	129,108
Acquisition of business, net of cash acquired	—	(44,823)	—
Investment in unconsolidated entities	(1,673)	(3,000)	—
Distributions from unconsolidated entities	1,500	400	6,663
Purchases of property, plant and equipment	(136,569)	(72,399)	(95,069)
Net proceeds from insurance settlement - property, plant and equipment	—	7,655	—
Net proceeds from disposal of property, plant and equipment	580	686	3,390
Net cash used in investing activities	(375,111)	(117,021)	(44,191)
<b>Cash flows from financing activities:</b>			
Principal payments on finance lease	(224)	(215)	(205)
Purchase of common stock by treasury	(1,643)	(1,127)	(871)
Payments of dividends	(252,292)	(6,117)	(1,652)
Contributions	—	3	5
Net cash used in financing activities	(254,159)	(7,456)	(2,723)
Increase (decrease) in cash and cash equivalents	233,740	1,732	(20,778)
Cash and cash equivalents at beginning of year	59,084	57,352	78,130
Cash and cash equivalents at end of year	<u>\$ 292,824</u>	<u>\$ 59,084</u>	<u>\$ 57,352</u>
<b>Supplemental information:</b>			
Cash paid for operating leases	\$ 648	\$ 805	\$ 929
Income taxes paid	\$ 258,247	\$ 1,747	\$ 995
Interest paid	\$ 561	\$ 379	\$ 508

See Notes to Consolidated Financial Statements.

**Cal-Maine Foods, Inc. and Subsidiaries**  
**Notes to Consolidated Financial Statements**

**Note 1 - Summary of Significant Accounting Policies**

*Nature of Operations*

Cal-Maine Foods, Inc. (“we,” “us,” “our,” or the “Company”) is primarily engaged in the production, grading, packaging, marketing and distribution of fresh shell eggs, including conventional, cage-free, organic, brown, free-range, pasture-raised and nutritionally-enhanced eggs. The Company, which is headquartered in Ridgeland, Mississippi, is the largest producer and distributor of fresh shell eggs in the United States and sells the majority of its shell eggs in states across the southwestern, southeastern, mid-western and mid-Atlantic regions of the United States.

*Principles of Consolidation*

The consolidated financial statements include the accounts of all wholly-owned subsidiaries and of majority-owned subsidiaries over which we exercise control. All significant intercompany transactions and accounts have been eliminated in consolidation.

*Fiscal Year*

The Company’s fiscal year-end is on the Saturday closest to May 31. The fiscal year ended June 3, 2023, included 53 weeks and the fiscal years ended May 28, 2022 and May 29, 2021 included 52 weeks.

*Use of Estimates*

The preparation of the consolidated financial statements in conformity with generally accepted accounting principles (“GAAP”) in the United States of America requires management to make estimates and assumptions that affect the amounts reported in the consolidated financial statements and accompanying notes. Actual results could differ from those estimates.

*Cash Equivalents*

The Company considers all highly liquid investments with a maturity of three months or less when purchased to be cash equivalents. We maintain bank accounts that are insured by the Federal Deposit Insurance Corporation up to \$250,000. The Company routinely maintains cash balances with certain financial institutions in excess of federally insured amounts. The Company has not experienced any loss in such accounts. The Company manages this risk through maintaining cash deposits and other highly liquid investments in high quality financial institutions.

We primarily utilize a cash management system with a series of separate accounts consisting of lockbox accounts for receiving cash, concentration accounts to which funds are moved, and zero-balance disbursement accounts for funding accounts payable. Checks issued, but not presented to the banks for payment, may result in negative book cash balances, which are included in accounts payable.

*Investment Securities*

The Company has determined that its debt securities are available-for-sale investments. We classify these securities as current because the amounts invested are available for current operations. Available -for-sale securities are carried at fair value, based on quoted market prices as of the balance sheet date, with unrealized gains and losses recorded in other comprehensive income. The amortized cost of debt securities is adjusted for amortization of premiums and accretion of discounts to maturity and is recorded in interest income. The Company regularly evaluates changes to the rating of its debt securities by credit agencies and economic conditions to assess and record any expected credit losses through allowance for credit losses, limited to the amount that fair value was less than the amortized cost basis.

Investments in mutual funds are recorded at fair value and are classified as “Other long-term assets” in the Company’s Consolidated Balance Sheets. Unrealized gains and losses for equity securities are recorded in other income (expenses) as Other, net in the Company’s Consolidated Statements of Income.

The cost basis for realized gains and losses on available-for-sale securities is determined by the specific identification method. Gains and losses are recognized in other income (expenses) as Other, net in the Company’s Consolidated Statements of Income. Interest and dividends on securities classified as available-for-sale are recorded in interest income.

#### *Trade Receivables*

Trade receivables are stated at their carrying values, which include a reserve for credit losses. At June 3, 2023 and May 28, 2022, reserves for credit losses were \$ 579 thousand and \$775 thousand, respectively. The Company extends credit to customers based on an evaluation of each customer's financial condition and credit history. Collateral is generally not required. The Company minimizes exposure to counter party credit risk through credit analysis and approvals, credit limits, and monitoring procedures. In determining our reserve for credit losses, receivables are assigned an expected loss based on historical loss information adjusted as needed for economic and other forward-looking factors. At June 3, 2023 and May 28, 2022, one customer accounted for approximately 30.1% and 27.9% of the Company's trade accounts receivable, respectively.

#### *Inventories*

Inventories of eggs, feed, supplies and flocks are valued principally at the lower of cost (first-in, first-out method) or net realizable value.

The cost associated with flocks, consisting principally of chicks, feed, labor, contractor payments and overhead costs, are accumulated during a growing period of approximately 22 weeks. Flock costs are amortized to cost of sales over the productive lives of the flocks, generally one to two years. Flock mortality is charged to cost of sales as incurred.

The Company does not disclose the gross cost and accumulated amortization with respect to its flock inventories since this information is not utilized by management in the operation of the Company.

#### *Property, Plant and Equipment*

Property, plant and equipment are stated at cost. Depreciation is provided by the straight-line method over the estimated useful lives, which are 15 to 25 years for buildings and improvements and 3 to 12 years for machinery and equipment. Repairs and maintenance are expensed as incurred. Expenditures that increase the value or productive capacity of assets are capitalized. When property, plant, and equipment are retired, sold, or otherwise disposed of, the asset's carrying amount and related accumulated depreciation are removed from the accounts and any gain or loss is included in operations. The Company capitalizes interest cost incurred on funds used to construct property, plant, and equipment as part of the asset to which it relates and amortizes such cost over the asset's estimated useful life. When certain events or changes in operating conditions occur, asset lives may be adjusted and an impairment assessment may be performed on the recoverability of the carrying amounts.

#### *Investments in Unconsolidated Entities*

The equity method of accounting is used when the Company can exert significant influence over an entity, but does not control its financial and operating decisions. Under the equity method, original investments are recorded at cost and adjusted by the Company's share of undistributed earnings or losses of these entities. Equity investments without readily determinable fair values, when the Company does not have the ability to exercise significant influence over the investee, are recorded at cost, less impairment, plus or minus observable price changes.

The Company is a member of Egglan's Best, Inc. and ProEgg, Inc., which are cooperatives. These investments are recorded at cost, plus or minus any allocated equities and retains.

#### *Goodwill*

Goodwill represents the excess of the purchase price over the fair value of the identifiable net assets acquired. Goodwill is evaluated for impairment annually by first performing a qualitative assessment to determine whether a quantitative goodwill test is necessary. After assessing the totality of events or circumstances, if we determine it is more likely than not that the fair value of a reporting unit is less than its carrying amount, then we perform additional quantitative tests to determine the magnitude of any impairment. During the fourth quarter of 2023, we elected to change the date of our annual impairment assessment from year-end to the first day of the fourth quarter. The change was made to more closely align the impairment assessment date with our annual planning and forecasting process. The change in impairment assessment date did not have any impact on goodwill or the impairment of goodwill. The change has been applied prospectively and would not have an impact on a retrospective basis.

#### *Intangible Assets*

Included in other intangible assets are separable intangible assets acquired in business acquisitions, which include franchise fees, non-compete agreements and customer relationship intangibles. They are amortized over their estimated useful lives of 5 to 15 years. The gross cost and accumulated amortization of intangible assets are removed when the recorded amounts are fully amortized and the asset is no longer in use or the contract has expired. When certain events or changes in operating conditions occur, asset lives may be adjusted and an impairment assessment may be performed on the recoverability of the carrying amounts.

#### *Accrued Self Insurance*

We use a combination of insurance and self-insurance mechanisms to provide coverage for the potential liabilities for health and welfare, workers' compensation, auto liability and general liability risks. Liabilities associated with our risks retained are estimated, in part, by considering claims experience, demographic factors, severity factors and other actuarial assumptions.

#### *Dividend Payable*

We accrue dividends at the end of each quarter according to the Company's dividend policy adopted by its Board of Directors. The Company pays a dividend to shareholders of its Common Stock and Class A Common Stock on a quarterly basis for each quarter for which the Company reports net income attributable to Cal-Maine Foods, Inc. computed in accordance with GAAP in an amount equal to one-third (1/3) of such quarterly income. Dividends are paid to shareholders of record as of the 60th day following the last day of such quarter, except for the fourth fiscal quarter. For the fourth quarter, the Company pays dividends to shareholders of record on the 65th day after the quarter end. Dividends are payable on the 15th day following the record date. Following a quarter for which the Company does not report net income attributable to Cal-Maine Foods, Inc., the Company will not pay a dividend for a subsequent profitable quarter until the Company is profitable on a cumulative basis computed from the date of the most recent quarter for which a dividend was paid.

#### *Treasury Stock*

Treasury stock purchases are accounted for under the cost method whereby the entire cost of the acquired stock is recorded as treasury stock. The grant of restricted stock through the Company's share-based compensation plans is funded through the issuance of treasury stock. Gains and losses on the subsequent reissuance of shares in accordance with the Company's share-based compensation plans are credited or charged to paid-in capital in excess of par value using the average-cost method.

#### *Revenue Recognition and Delivery Costs*

Revenue recognition is completed upon satisfaction of the performance obligation to the customer, which typically occurs within days of the Company and customer agreeing upon the order. See [Note 13 – Revenue Recognition](#) for further discussion of the policy.

The Company believes the performance obligation is met upon delivery and acceptance of the product by our customers. Costs to deliver product to customers are included in selling, general and administrative expenses in the accompanying Consolidated Statements of Income. Sales revenue reported in the accompanying Consolidated Statements of Income is reduced to reflect estimated returns and allowances. The Company records an estimated sales allowance for returns and discounts at the time of sale using historical trends based on actual sales returns and sales.

#### *Advertising Costs*

The Company expensed advertising costs as incurred of \$3.4 million, \$12.6 million, and \$11.7 million in fiscal 2023, 2022, and 2021, respectively.

#### *Income Taxes*

Income taxes are accounted for using the liability method. Deferred income taxes reflect the net tax effects of temporary differences between the carrying amounts of assets and liabilities for financial reporting purposes and the amounts used for income tax purposes. The Company's policy with respect to evaluating uncertain tax positions is based upon whether management believes it is more likely than not the uncertain tax positions will be sustained upon review by the taxing authorities. The tax positions must meet the more-likely-than-not recognition threshold with consideration given to the amounts and probabilities of the outcomes that could be realized upon settlement using the facts, circumstances and information at the reporting date. The Company will reflect only the portion of the tax benefit that will be sustained upon resolution of the position and applicable

interest on the portion of the tax benefit not recognized. The Company initially and subsequently measures the largest amount of tax benefit that is greater than 50% likely to be realized upon settlement with a taxing authority that has full knowledge of all relevant information. The Company records interest and penalties on uncertain tax positions as a component of income tax expense. Based upon management's assessment, there are no uncertain tax positions expected to have a material impact on the Company's consolidated financial statements.

#### *Stock Based Compensation*

The Company recognizes all share-based payments to employees and directors, including grants of employee stock options, restricted stock and performance-based shares, in the Consolidated Statements of Income based on their fair values. The benefits of tax deductions in excess of recognized compensation cost are reported as a financing cash flow. See [Note 14 – Stock Compensation Plans](#) for more information.

#### *Business Combinations*

The Company applies the acquisition method of accounting, which requires that once control is obtained, all the assets acquired and liabilities assumed, including amounts attributable to noncontrolling interests, are recorded at their respective fair values at the date of acquisition. We determine the fair values of identifiable assets and liabilities internally, which requires estimates and the use of various valuation techniques. When a market value is not readily available, our internal valuation methodology considers the remaining estimated life of the assets acquired and what management believes is the market value for those assets.

We typically use the income method approach for intangible assets acquired in a business combination. Significant estimates in valuing certain intangible assets include, but are not limited to, the amount and timing of future cash flows, growth rates, discount rates and useful lives. The excess of the purchase price over fair values of identifiable assets and liabilities is recorded as goodwill.

#### *Loss Contingencies*

Certain conditions may exist as of the date the financial statements are issued that may result in a loss to the Company but which will only be resolved when one or more future events occur or fail to occur. The Company's management and its legal counsel assess such contingent liabilities, and such assessment inherently involves an exercise of judgment. In assessing loss contingencies related to legal proceedings that are pending against the Company or unasserted claims that may result in such proceedings, the Company's legal counsel evaluates the perceived merits of any legal proceedings or unasserted claims as well as the perceived merits of the amount of relief sought or expected to be sought therein.

If the assessment of a contingency indicates it is probable that a material loss has been incurred and the amount of the liability can be estimated, the estimated liability would be accrued in the Company's financial statements. If the assessment indicates a potentially material loss contingency is not probable, but is reasonably possible, or is probable but cannot be estimated, then the nature of the contingent liability, together with an estimate of the range of possible loss if determinable and material, would be disclosed. Loss contingencies considered remote are generally not disclosed unless they involve guarantees, in which case the nature of the guarantee would be disclosed.

The Company expenses the costs of litigation as they are incurred.

#### *New Accounting Pronouncements and Policies*

No new accounting pronouncement issued or effective during the fiscal year had or is expected to have a material impact on our Consolidated Financial Statements.

## Note 2 – Acquisition

Effective on May 30, 2021, the Company acquired the remaining 50% membership interest in Red River Valley Egg Farm, LLC (“Red River”), including certain liabilities. As a result of the acquisition, Red River became a wholly owned subsidiary of the Company. Red River owns and operates a specialty shell egg production complex with approximately 1.7 million cage-free laying hens, cage-free pullet capacity, feed mill, processing plant, related offices and outbuildings and related equipment located on approximately 400 acres near Bogata, Texas.

The following table summarizes the consideration paid for Red River and the amounts of the assets acquired and liabilities assumed recognized at the acquisition date:

Cash consideration paid	\$	48,500
Fair value of the Company's equity interest in Red River held before the business combination		<u>48,500</u>
	\$	<u>97,000</u>
Recognized amounts of identifiable assets acquired and liabilities assumed		
Cash	\$	3,677
Accounts receivable, net		1,980
Inventory		8,789
Property, plant and equipment		85,002
Liabilities assumed		(2,448)
Deferred income taxes		<u>(8,481)</u>
Total identifiable net assets		88,519
Goodwill		8,481
	\$	<u>97,000</u>

Cash and accounts receivable acquired along with liabilities assumed were valued at their carrying value which approximates fair value due to the short maturity of these instruments.

Inventory consisted primarily of flock, feed ingredients, packaging, and egg inventory. Flock inventory was valued at carrying value as management believes that their carrying value best approximates their fair value. Feed ingredients, packaging and egg inventory were all valued based on market prices as of May 30, 2021.

Property, plant and equipment were valued utilizing the cost approach which is based on replacement or reproduction costs of the assets and subtracting any depreciation resulting from physical deterioration and/or functional or economic obsolescence.

The Company recognized a gain of \$4.5 million as a result of remeasuring to fair value its 50% equity interest in Red River held before the business combination. The gain was recorded in other income and expense under the heading “Other, net” in the Company’s Condensed Consolidated Statements of Income. The acquisition of Red River resulted in a discrete tax benefit of \$8.3 million, which includes a \$7.3 million decrease in deferred income tax expense related to the outside-basis of our equity investment in Red River, with a corresponding non-recurring, non-cash \$955,000 reduction to income taxes expense on the non-taxable remeasurement gain associated with the acquisition. As part of the acquisition accounting, the Company also recorded an \$8.5 million deferred tax liability for the difference in the inside-basis of the acquired assets and liabilities assumed. The recognition of deferred tax liabilities resulted in the recognition of goodwill. None of the goodwill recognized is expected to be deductible for income tax purposes.

### Note 3 - Investment Securities

The following presents the Company's investment securities as of June 3, 2023 and May 28, 2022 (in thousands):

June 3, 2023	Amortized Cost	Unrealized Gains	Unrealized Losses	Estimated Fair Value
Municipal bonds	\$ 16,571	\$ —	\$ 275	\$ 16,296
Commercial paper	56,486	—	77	56,409
Corporate bonds	139,979	—	1,402	138,577
Certificates of deposits	675	—	—	675
US government and agency obligations	101,240	—	471	100,769
Asset backed securities	13,459	—	151	13,308
Treasury bills	29,069	—	13	29,056
Total current investment securities	\$ 357,479	\$ —	\$ 2,389	\$ 355,090
Mutual funds	\$ 2,172	\$ —	\$ 91	\$ 2,081
Total noncurrent investment securities	\$ 2,172	\$ —	\$ 91	\$ 2,081

May 28, 2022	Amortized Cost	Unrealized Gains	Unrealized Losses	Estimated Fair Value
Municipal bonds	\$ 10,136	\$ —	\$ 32	\$ 10,104
Commercial paper	14,940	—	72	14,868
Corporate bonds	74,167	—	483	73,684
Certificates of deposits	1,263	—	18	1,245
US government and agency obligations	2,205	4	—	2,209
Asset backed securities	13,456	—	137	13,319
Total current investment securities	\$ 116,167	\$ 4	\$ 742	\$ 115,429
Mutual funds	\$ 3,826	\$ —	\$ 74	\$ 3,752
Total noncurrent investment securities	\$ 3,826	\$ —	\$ 74	\$ 3,752

#### Available-for-sale

Proceeds from the sales and maturities of available-for-sale securities were \$291.8 million, \$92.7 million, and \$129.1 million during fiscal 2023, 2022, and 2021, respectively. Gross realized gains for fiscal 2023, 2022, and 2021 were \$51 thousand, \$181 thousand, and \$456 thousand, respectively. Gross realized losses for fiscal 2023, 2022, and 2021 were \$87 thousand, \$76 thousand, and \$19 thousand, respectively. There was no allowance for credit losses at June 3, 2023 and May 28, 2022.

Actual maturities may differ from contractual maturities because some borrowers have the right to call or prepay obligations with or without call or prepayment penalties. Contractual maturities of investment securities at June 3, 2023 are as follows (in thousands):

	Estimated Fair Value
Within one year	\$ 269,830
1-5 years	85,260
Total	\$ 355,090

#### Noncurrent

Proceeds from sales and maturities of noncurrent investment securities were \$1.7 million, \$4.9 million, and \$54 thousand, during fiscal 2023, 2022 and 2021, respectively. Gross realized gains on those sales and maturities during fiscal 2023, 2022 and 2021 were \$6 thousand, \$2.2 million and \$611 thousand, respectively. Gross realized losses during fiscal 2023 were \$66 thousand. There were no realized losses for fiscal 2022 and 2021.

#### Note 4 - Fair Value Measures

The Company is required to categorize both financial and nonfinancial assets and liabilities based on the following fair value hierarchy. The fair value of an asset is the price at which the asset could be sold in an orderly transaction between unrelated, knowledgeable, and willing parties able to engage in the transaction. A liability's fair value is defined as the amount that would be paid to transfer the liability to a new obligor in a transaction between such parties, not the amount that would be paid to settle the liability with the creditor.

- *Level 1* - Quoted prices in active markets for identical assets or liabilities
- *Level 2* - Inputs other than quoted prices included in Level 1 that are observable for the asset or liability, either directly or indirectly, including:
  - o Quoted prices for similar assets or liabilities in active markets
  - o Quoted prices for identical or similar assets in non-active markets
  - o Inputs other than quoted prices that are observable for the asset or liability
  - o Inputs derived principally from or corroborated by other observable market data
- *Level 3* - Unobservable inputs for the asset or liability supported by little or no market activity and are significant to the fair value of the assets or liabilities

The disclosure of fair value of certain financial assets and liabilities recorded at cost are as follows:

*Cash and cash equivalents, accounts receivable, and accounts payable:* The carrying amount approximates fair value due to the short maturity of these instruments.

#### Assets and Liabilities Measured at Fair Value on a Recurring Basis

In accordance with the fair value hierarchy described above, the following table shows the fair value of our financial assets and liabilities that are required to be measured at fair value on a recurring basis as of June 3, 2023 and May 28, 2022 (in thousands):

June 3, 2023	Level 1	Level 2	Level 3	Balance
<b>Assets</b>				
Municipal bonds	\$ —	\$ 16,296	\$ —	\$ 16,296
Commercial paper	—	56,409	—	56,409
Corporate bonds	—	138,577	—	138,577
Certificates of deposits	—	675	—	675
US government and agency obligations	—	100,769	—	100,769
Asset backed securities	—	13,308	—	13,308
Treasury bills	—	29,056	—	29,056
Mutual funds	2,081	—	—	2,081
<b>Total assets measured at fair value</b>	<b>\$ 2,081</b>	<b>\$ 355,090</b>	<b>\$ —</b>	<b>\$ 357,171</b>

May 28, 2022	Level 1	Level 2	Level 3	Balance
<b>Assets</b>				
Municipal bonds	\$ —	\$ 10,104	\$ —	\$ 10,104
Commercial paper	—	14,868	—	14,868
Corporate bonds	—	73,684	—	73,684
Certificates of deposits	—	1,245	—	1,245
US government and agency obligations	—	2,209	—	2,209
Asset backed securities	—	13,319	—	13,319
Mutual funds	3,752	—	—	3,752
<b>Total assets measured at fair value</b>	<b>\$ 3,752</b>	<b>\$ 115,429</b>	<b>\$ —</b>	<b>\$ 119,181</b>

Investment securities – available-for-sale classified as Level 2 consist of securities with maturities of three months or longer when purchased. We classified these securities as current, because amounts invested are available for current operations. Observable inputs for these securities are yields, credit risks, default rates, and volatility.

**Note 5 - Inventories**

Inventories consisted of the following (in thousands):

	June 3, 2023	May 28, 2022
Flocks, net of amortization	\$ 164,540	\$ 144,051
Eggs and egg products	28,318	26,936
Feed and supplies	91,560	92,329
	<u>\$ 284,418</u>	<u>\$ 263,316</u>

We grow and maintain flocks of layers (mature female chickens), pullets (female chickens under 18 weeks of age), and breeders (male and female chickens used to produce fertile eggs to hatch for egg production flocks). Our total flock at June 3, 2023 and May 28, 2022, consisted of approximately 10.8 million and 11.5 million pullets and breeders and 41.2 million and 42.2 million layers, respectively.

The Company expensed amortization and mortality associated with the flocks to cost of sales as follows (in thousands):

	June 3, 2023	May 28, 2022	May 29, 2021
Amortization	\$ 186,973	\$ 160,107	\$ 133,448
Mortality	10,455	8,011	6,769
Total flock costs charged to cost of sales	<u>\$ 197,428</u>	<u>\$ 168,118</u>	<u>\$ 140,217</u>

**Note 6 - Property, Plant and Equipment**

Property, plant and equipment consisted of the following (in thousands):

	June 3, 2023	May 28, 2022
Land and improvements	\$ 117,279	\$ 109,833
Buildings and improvements	552,669	517,859
Machinery and equipment	715,205	655,925
Construction-in-progress	98,605	71,967
	<u>1,483,758</u>	<u>1,355,584</u>
Less: accumulated depreciation	<u>739,218</u>	<u>677,788</u>
	<u>\$ 744,540</u>	<u>\$ 677,796</u>

Depreciation expense was \$69.4 million, \$65.8 million and \$56.5 million in the fiscal years ended June 3, 2023, May 28, 2022, and May 29, 2021, respectively.

The Company maintains insurance for both property damage and business interruption relating to catastrophic events, such as fires. Insurance recoveries received for property damage and business interruption in excess of the net book value of damaged assets, clean-up and demolition costs, and post-event costs are recorded within "Gain on insurance recoveries" in the period received or committed when all contingencies associated with the recoveries are resolved. Losses related to property damage are recorded within "(Gains) loss on disposal of fixed assets". Insurance recoveries relating to direct, recoverable costs for business interruption are recorded as a reduction in cost of sales on the Consolidated Statements of Income. Insurance claims incurred or finalized during the fiscal years ended June 3, 2023, May 28, 2022, and May 29, 2021 did not have a material effect on the Company's consolidated financial statements.

**Note 7 - Investment in Unconsolidated Entities**

As of June 3, 2023 and May 28, 2022, the Company owned 50% in Specialty Eggs, LLC ("Specialty Eggs") and Southwest Specialty Eggs, LLC ("Southwest Specialty Eggs"), which are accounted for using the equity method of accounting. Specialty Eggs owns the Egg-Land's Best franchise for most of Georgia and South Carolina, as well as a portion of western North Carolina and eastern Alabama. Southwest Specialty Eggs owns the Egg-Land's Best franchise for Arizona, southern California and Clark County, Nevada (including Las Vegas).

As of May 29, 2021, the Company owned 50% in Red River which was acquired at the beginning of fiscal 2022 (see [Note 2 – Acquisition](#)). The Company accounted for Red River using the equity method of accounting in fiscal 2021.

Equity method investments are included in “Investments in unconsolidated entities” in the accompanying Consolidated Balance Sheets and totaled \$9.7 million and \$10.5 million at June 3, 2023 and May 28, 2022, respectively.

Equity in income of unconsolidated entities of \$746 thousand, \$1.9 million, and \$622 thousand from these entities has been included in the Consolidated Statements of Income for fiscal 2023, 2022, and 2021, respectively.

The condensed consolidated financial information for the Company’s unconsolidated joint ventures was as follows (in thousands):

	For the fiscal year ended		
	June 3, 2023	May 28, 2022	May 29, 2021
Net sales	\$ 222,602	\$ 145,281	\$ 119,853
Net income	1,492	3,942	1,596
Total assets	27,784	42,971	106,592
Total liabilities	9,854	21,892	5,850
Total equity	17,930	21,079	100,742

The following relates to the Company’s transactions with these unconsolidated affiliates (in thousands):

	For the fiscal year ended		
	June 3, 2023	May 28, 2022	May 29, 2021
Sales to unconsolidated entities	\$ 136,351	\$ 94,311	\$ 56,765
Purchases from unconsolidated entities	75,024	60,016	76,059
Distributions from unconsolidated entities	1,500	400	6,663

	June 3, 2023	May 28, 2022
Accounts receivable from unconsolidated entities	\$ 4,719	\$ 10,815
Accounts payable to unconsolidated entities	3,187	4,678

#### Note 8 - Goodwill and Other Intangible Assets

Goodwill and other intangibles consisted of the following (in thousands):

	Goodwill	Other Intangibles					Total intangibles	
		Franchise rights	Customer relationships	Non-compete agreements	Right of Use	Water rights		
Balance May 29, 2021	\$ 35,525	\$ 16,699	\$ 1,688	\$ 1,019	\$ 29	\$ 720	\$ 186	\$ 55,866
Additions	8,481	—	—	—	10	—	—	8,491
Amortization	—	(1,628)	(362)	(159)	(21)	—	(50)	(2,220)
Balance May 28, 2022	44,006	15,071	1,326	860	18	720	136	62,137
Amortization	—	(1,657)	(356)	(152)	(18)	—	(51)	(2,234)
Balance June 3, 2023	\$ 44,006	\$ 13,414	\$ 970	\$ 708	\$ —	\$ 720	\$ 85	\$ 59,903

For the Other Intangibles listed above, the gross carrying amounts and accumulated amortization are as follows (in thousands):

	June 3, 2023		May 28, 2022	
	Gross carrying amount	Accumulated amortization	Gross carrying amount	Accumulated amortization
<b>Other intangible assets:</b>				
Franchise rights	\$ 29,284	\$ (15,870)	\$ 29,284	\$ (14,213)
Customer relationships	9,644	(8,674)	9,644	(8,318)
Non-compete agreements	1,450	(742)	1,450	(590)
Right of use intangible	239	(239)	239	(221)
Water rights *	720	—	720	—
Trademark	400	(315)	400	(264)
<b>Total</b>	<b>\$ 41,737</b>	<b>\$ (25,840)</b>	<b>\$ 41,737</b>	<b>\$ (23,606)</b>

\* Water rights are an indefinite life intangible asset.

No significant residual value is estimated for these intangible assets. Aggregate amortization expense for fiscal years 2023, 2022, and 2021 totaled \$2.2 million, \$2.2 million, and \$2.5 million, respectively.

The following table presents the total estimated amortization of intangible assets for the five succeeding years (in thousands):

For fiscal year	Estimated amortization expense
2024	\$ 2,170
2025	2,035
2026	1,831
2027	1,828
2028	1,758
Thereafter	5,555
<b>Total</b>	<b>\$ 15,177</b>

#### **Note 9 - Employee Benefit Plans**

The Company maintains a medical plan that is qualified under Section 401(a) of the Internal Revenue Code and is not subject to tax under present income tax laws. The plan is funded by contributions from the Company and its employees. Under its plan, the Company self-insures its portion of medical claims for substantially all full-time employees. The Company uses stop-loss insurance to limit its portion of medical claims to \$275,000 per occurrence. The Company's expenses including accruals for incurred but not reported claims were approximately \$21.9 million, \$24.6 million, and \$21.7 million in fiscal years 2023, 2022, and 2021, respectively. The liability recorded for incurred but not reported claims was \$2.9 million and \$2.8 million as of June 3, 2023 and May 28, 2022, respectively and are classified within "Accrued expenses and other liabilities" in the Company's Consolidated Balance Sheets.

The Company has a KSOP plan that covers substantially all employees (the "Plan"). The Company makes contributions to the Plan at a rate of 3% of participants eligible compensation, plus an additional amount determined at the discretion of the Board of Directors. Contributions can be made in cash or the Company's Common Stock, and vest immediately. The Company's cash contributions to the Plan were \$4.3 million, \$3.9 million, and \$3.8 million in fiscal years 2023, 2022 and 2021, respectively. The Company did not make direct contributions of the Company's Common Stock in fiscal years 2023, 2022, or 2021. Dividends on the Company's Common Stock are paid to the Plan in cash. The Plan acquires the Company's Common Stock, which is listed on the NASDAQ, by using the dividends and the Company's cash contribution to purchase shares in the public markets. The Plan sells Common Stock on the NASDAQ to pay benefits to Plan participants. Participants may make contributions to the Plan up to the maximum allowed by the Internal Revenue Service regulations. The Company does not match participant contributions.

#### **Deferred Compensation Plans**

The Company has deferred compensation agreements with certain officers for payments to be made over specified periods beginning when the officers reach age 65 or over as specified in the agreements. Amounts accrued for the agreements are based upon deferred compensation earned over the estimated remaining service period of each officer. Payments made under these agreements were \$170 thousand in fiscal years 2023, 2022 and 2021. The liability recorded related to these agreements was

\$1.0 million and \$1.1 million at June 3, 2023 and May 28, 2022, respectively and are classified within “Other noncurrent liabilities” in the Company’s Consolidated Balance Sheets.

The Company sponsors an unfunded, non-qualified deferred compensation plan, which was amended and restated effective December 1, 2021 (the “Amended DC Plan”) to expand eligibility for participation from named officers only to a select group of management or highly compensated employees of the Company, expand the investment options available and add the ability of participants to make elective deferrals. Participants may be awarded long-term incentive contributions (“Awards”) under the Amended DC Plan. Awards vest on December 31<sup>st</sup> of the fifth year after such contribution is credited to the Amended DC Plan or, if earlier, the participant’s attainment of age 60 with 5 years of service. Awards issued under the Amended DC Plan were \$388 thousand, \$340 thousand, and \$279 thousand in fiscal 2023, 2022, and 2021, respectively. Payments made under the Amended DC Plan were \$410 thousand, \$480 thousand and \$55 thousand in fiscal 2023, 2022 and 2021, respectively. The liability recorded for the Amended DC Plan was \$4.6 million, \$4.5 million and \$4.1 million at June 3, 2023, May 28, 2022 and 2021, respectively and is classified within “Other noncurrent liabilities” in the Company’s Consolidated Balance Sheets.

Deferred compensation expense for both plans totaled \$346 thousand, \$258 thousand and \$1.6 million in fiscal 2023, 2022, and 2021, respectively.

#### **Other Postretirement Employee Benefits**

The Company maintains an unfunded postretirement medical plan to provide limited health benefits to certain qualified retired employees and officers. Retired non-officers and spouses are eligible for coverage until attainment of Medicare eligibility, at which time coverage ceases. Retired officers and spouses are eligible for lifetime benefits under the plan. Officers, who retired prior to May 1, 2012 and their spouses must participate in Medicare Plans A and B. Officers, who retire on or after May 1, 2012 and their spouses must participate in Medicare Plans A, B, and D.

The plan is accounted for in accordance with ASC 715, Compensation – Retirement Benefits (“ASC 715”), whereby an employer recognizes the funded status of a defined benefit postretirement plan as an asset or liability, and recognizes changes in the funded status in the year the change occurs through comprehensive income. Additionally, this expense is recognized on an accrual basis over the employees’ approximate period of employment. The liability associated with the plan was \$2.7 million and \$3.4 million at June 3, 2023 and May 28, 2022, respectively. The remaining disclosures associated with ASC 715 are immaterial to the Company’s financial statements.

Effective March 1, 2023, the Company adopted a non-qualified supplemental executive retirement plan (“SERP”) and a split dollar life insurance plan (“Split Dollar Plan”) designed to provide deferred compensation and a pre-retirement death benefit for a select group of management or highly compensated employees of the Company. Provided the vesting conditions are met, participants in the SERP are eligible to receive an aggregate retirement benefit of \$500,000, which is paid in annual installments of \$50,000 for 10 years. A participant becomes vested in the retirement benefit over five years of plan participation at 20% per year. If a participant becomes disabled, attains the retirement age of 65, or the Company experiences a change in control, vesting will be accelerated to 100%. If a participant dies while employed, he or she will not receive any benefits under the SERP, but their beneficiaries will instead be entitled to the life insurance benefit provided under the Split Dollar Plan, which is \$500,000. The liability recorded for these plans was \$63 thousand at June 3, 2023 and is classified within “Other noncurrent liabilities” in the Company’s Consolidated Balance Sheets.

#### **Note 10 - Credit Facility**

For fiscal years 2023, 2022 and 2021, interest expense was \$583 thousand, \$403 thousand, and \$213 thousand, respectively, primarily related to commitment fees on the Credit Facility described below.

On May 26, 2023, we entered into the First Amendment (the “Amendment”) to the Amended and Restated Credit Agreement, dated November 15, 2021 (as amended, the “Credit Agreement”). The Amendment replaced the London Interbank Offered Rate interest rate benchmark with the secured overnight financing rate as administered by the Federal Reserve Bank of New York or a successor administrator of the secured overnight financing rate (“SOFR”). The Credit Agreement has a five-year term. The Credit Agreement provides for a senior secured revolving credit facility (the “Credit Facility” or “Revolver”) in an initial aggregate principal amount of up to \$250 million, which includes a \$15 million sublimit for the issuance of standby letters of credit and a \$15 million sublimit for swingline loans. The Credit Facility also includes an accordion feature permitting, with the consent of BMO Harris Bank N.A. (the “Administrative Agent”), an increase in the Credit Facility in the aggregate up to \$200 million by adding one or more incremental senior secured term loans or increasing one or more times the revolving commitments under the Revolver. No amounts were borrowed under the facility as of June 3, 2023 or May 28, 2022 or during fiscal 2023 or

fiscal 2022. The Company had \$4.3 million of outstanding standby letters of credit issued under the Credit Facility at June 3, 2023.

The interest rate in connection with loans made under the Credit Facility is based on, at the Company's election, either the Adjusted Term SOFR Rate plus the Applicable Margin or the Base Rate plus the Applicable Margin. The "Adjusted Term SOFR" means with respect to any tenor, the per annum rate equal to the sum of (i) Term SOFR as defined in the Credit Agreement plus (ii) 0.10% (10 basis points); provided, if Adjusted Term SOFR determined as provided above shall ever be less than the Floor, then Adjusted Term SOFR shall be deemed to be the Floor. The "Floor" means the rate per annum of interest equal to 0.00%. The "Base Rate" means a fluctuating rate per annum equal to the highest of (a) the federal funds rate plus 0.50% per annum, (b) the prime rate of interest established by the Administrative Agent, and (c) the Adjusted Term SOFR for a one-month tenor plus 1.00%. The "Applicable Margin" means 0.00% to 0.75% per annum for Base Rate Loans and 1.00% to 1.75% per annum for SOFR Loans, in each case depending upon the Total Funded Debt to Capitalization Ratio for the Company at the quarterly pricing date. The Company will pay a commitment fee on the unused portion of the Credit Facility payable quarterly from 0.15% to 0.25% in each case depending upon the Total Funded Debt to Capitalization Ratio for the Company at the quarterly pricing date.

The Credit Facility is guaranteed by all the current and future wholly-owned direct and indirect domestic subsidiaries of the Company (the "Guarantors"), and is secured by a first-priority perfected security interest in substantially all of the Company's and the Guarantors' accounts, payment intangibles, instruments (including promissory notes), chattel paper, inventory (including farm products) and deposit accounts maintained with the Administrative Agent.

The Credit Agreement for the Credit Facility contains customary covenants, including restrictions on the incurrence of liens, incurrence of additional debt, sales of assets and other fundamental corporate changes and investments. The Credit Agreement requires maintenance of two financial covenants: (i) a maximum Total Funded Debt to Capitalization Ratio tested quarterly of no greater than 50%; and (ii) a requirement to maintain Minimum Tangible Net Worth at all times of \$700 Million plus 50% of net income (if net income is positive) less permitted restricted payments for each fiscal quarter after November 27, 2021. Additionally, the Credit Agreement requires that Fred R. Adams Jr.'s spouse, natural children, sons-in-law or grandchildren, or any trust, guardianship, conservatorship or custodianship for the primary benefit of any of the foregoing, or any family limited partnership, similar limited liability company or other entity that 100% of the voting control of such entity is held by any of the foregoing, shall maintain at least 50% of the Company's voting stock. Failure to satisfy any of these covenants will constitute a default under the terms of the Credit Agreement. Further, under the terms of the Credit Agreement, payment of dividends under the Company's current dividend policy of one-third of the Company's net income computed in accordance with GAAP and payment of other dividends or repurchases by the Company of its capital stock is allowed, as long as after giving effect to such dividend payments or repurchases no default has occurred and is continuing and the sum of cash and cash equivalents of the Company and its subsidiaries plus availability under the Credit Facility equals at least \$ 50 million.

The Credit Agreement also includes customary events of default and customary remedies upon the occurrence of an event of default, including acceleration of the amounts due under the Credit Facility and foreclosure of the collateral securing the Credit Facility.

At June 3, 2023, we were in compliance with the covenant requirements of the Credit Facility.

#### **Note 11 - Equity**

The Company has two classes of capital stock: Common Stock and Class A Common Stock. Except as otherwise required by law or the Company's Second Restated Certificate of Incorporation ("Restated Charter"), holders of shares of the Company's capital stock vote as a single class on all matters submitted to a vote of the stockholders, with each share of Common Stock entitled to one vote and each share of Class A Common Stock entitled to ten votes. Holders of capital stock have the right of cumulative voting in the election of directors. The Common Stock and Class A Common Stock have equal liquidation rights and the same dividend rights. In the case of any dividend payable in stock, holders of Common Stock are entitled to receive the same percentage dividend (payable only in shares of Common Stock) as the holders of Class A Common Stock receive (payable only in shares of Class A Common Stock). Upon liquidation, dissolution, or winding-up of the Company, the holders of Common Stock are entitled to share ratably with the holders of Class A Common Stock in all assets available for distribution after payment in full of creditors. The holders of Common Stock and Class A Common Stock are not entitled to preemptive or subscription rights. No class of capital stock may be combined or subdivided unless the other classes of capital stock are combined or subdivided in the same proportion. No dividend may be declared and paid on Class A Common Stock unless the dividend is payable only to the holders of Class A Common Stock and a dividend is declared and paid to Common Stock concurrently.

Each share of Class A Common Stock is convertible, at the option of its holder, into one share of Common Stock at any time. The Company's Restated Charter identifies family members of Mr. Adams ("Immediate Family Members") and arrangements

and entities that are permitted to receive and hold shares of Class A Common Stock, with ten votes per share, without such shares converting into shares of Common Stock, with one vote per share (“Permitted Transferees”). The Permitted Transferees include arrangements and entities such as revocable trusts and limited liability companies that could hold Class A Common Stock for the benefit of Immediate Family Members. Each Permitted Transferee must have a relationship, specifically defined in the Restated Charter, with another Permitted Transferee or an Immediate Family Member. A share of Class A Common Stock transferred to a person other than a Permitted Transferee would automatically convert into Common Stock with one vote per share. Additionally, the Restated Charter includes a sunset provision pursuant to which all of the outstanding Class A Common Stock will automatically convert to Common Stock if: (a) less than 4,300,000 shares of Class A Common Stock, in the aggregate, are beneficially owned by Immediate Family Members and/or Permitted Transferees, or (b) if less than 4,600,000 shares of Class A Common Stock and Common Stock, in the aggregate, are beneficially owned by Immediate Family Members and/or Permitted Transferees.

#### Note 12 - Net Income per Common Share

Basic net income per share attributable to Cal-Maine Foods, Inc. is based on the weighted average Common Stock and Class A Common Stock outstanding. Diluted net income per share attributable to Cal-Maine Foods, Inc. is based on weighted-average common shares outstanding during the relevant period adjusted for the dilutive effect of share-based awards.

The following table provides a reconciliation of the numerators and denominators used to determine basic and diluted net income per common share attributable to Cal-Maine Foods, Inc. (amounts in thousands, except per share data):

	June 3, 2023	May 28, 2022	May 29, 2021
<b>Numerator</b>			
Net income	\$ 756,732	\$ 132,441	\$ 2,060
Less: Net loss attributable to noncontrolling interest	(1,292)	(209)	—
Net income attributable to Cal-Maine Foods, Inc.	<u>\$ 758,024</u>	<u>\$ 132,650</u>	<u>\$ 2,060</u>
<b>Denominator</b>			
Weighted-average common shares outstanding, basic	48,648	48,581	48,522
Effect of dilutive securities of restricted shares	186	153	134
Weighted-average common shares outstanding, diluted	<u>48,834</u>	<u>48,734</u>	<u>48,656</u>
<b>Net income per common share attributable to Cal-Maine Foods, Inc.</b>			
Basic	<u>\$ 15.58</u>	<u>\$ 2.73</u>	<u>\$ 0.04</u>
Diluted	<u>\$ 15.52</u>	<u>\$ 2.72</u>	<u>\$ 0.04</u>

#### Note 13 - Revenue Recognition

##### *Satisfaction of Performance Obligation*

The vast majority of the Company’s revenue is derived from agreements with customers based on the customer placing an order for products. Pricing for the most part is determined when the Company and the customer agree upon the specific order, which establishes the contract for that order.

Revenues are recognized in an amount that reflects the net consideration we expect to receive in exchange for the goods. Our shell eggs are sold at prices related to independently quoted wholesale market prices or formulas related to our costs of production. The Company’s sales predominantly contain a single performance obligation. We recognize revenue upon satisfaction of the performance obligation with the customer which typically occurs within days of the Company and the customer agreeing upon the order.

Costs to deliver product to customers are included in selling, general and administrative expenses in the accompanying Consolidated Statements of Income and totaled \$77.5 million, \$62.7 million, and \$52.7 million in fiscal years 2023, 2022, and 2021, respectively.

### Returns and Refunds

Some of our contracts include a guaranteed sale clause, pursuant to which we credit the customer's account for product that the customer is unable to sell before expiration. The Company records an allowance for expected customer returns using historical return data and comparing to current period sales and accounts receivable. The allowance is recorded as a reduction of sales in the same period the revenue is recognized.

### Sales Incentives Provided to Customers

The Company periodically provides incentive offers to its customers to encourage purchases. Such offers include current discount offers (e.g., percentage discounts off current purchases), inducement offers (e.g., offers for future discounts subject to a minimum current purchase), and other similar offers. Current discount offers, when accepted by customers, are treated as a reduction to the sales price of the related transaction, while inducement offers, when accepted by customers, are treated as a reduction to sales price based on estimated future redemption rates. Redemption rates are estimated using the Company's historical experience for similar inducement offers. Current discount and inducement offers are presented as a net amount in "Net sales."

### Disaggregation of Revenue

The following table provides revenue disaggregated by product category (in thousands):

	14 Weeks Ended	13 Weeks Ended	53 Weeks Ended	52 Weeks Ended
	June 3, 2023	May 28, 2022	June 3, 2023	May 28, 2022
Conventional shell egg sales	\$ 395,433	\$ 378,190	\$ 2,051,961	\$ 1,061,995
Specialty shell egg sales	256,190	186,518	956,993	648,838
Egg products	33,996	26,488	122,270	60,004
Other	3,061	1,768	14,993	6,322
	<u>\$ 688,680</u>	<u>\$ 592,964</u>	<u>\$ 3,146,217</u>	<u>\$ 1,777,159</u>

### Contract Costs

The Company can incur costs to obtain or fulfill a contract with a customer. If the amortization period of these costs is less than one year, they are expensed as incurred. When the amortization period is greater than one year, a contract asset is recognized and is amortized over the contract life as a reduction in net sales. As of June 3, 2023 and May 28, 2022, the balance for contract assets is immaterial.

### Contract Balances

The Company receives payment from customers based on specified terms that are generally less than 30 days from delivery. There are rarely contract assets or liabilities related to performance under the contract.

### Concentration of Credit Risks

Our largest customer, Walmart Inc. (including Sam's Club) accounted for 34.2%, 29.5% and 29.8% of net sales dollars for fiscal 2023, 2022, and 2021, respectively. H-E-B, LP accounted for 10.1% of net sales dollars for fiscal 2021.

### Note 14 - Stock Compensation Plans

On October 2, 2020, shareholders approved the Amended and Restated Cal-Maine Foods, Inc. 2012 Omnibus Long-Term Incentive Plan (the "LTIP Plan"). The purpose of the LTIP Plan is to assist us and our subsidiaries in attracting and retaining selected individuals who are expected to contribute to our long-term success. The maximum number of shares of Common Stock available for awards under the LTIP Plan is 2,000,000 of which 941,593 shares remain available for issuance, and may be authorized but unissued shares or treasury shares. Awards may be granted under the LTIP Plan to any employee, any non-employee member of the Company's Board of Directors, and any consultant who is a natural person and provides services to us or one of our subsidiaries (except for incentive stock options, which may be granted only to our employees).

The only outstanding awards under the LTIP Plan are restricted stock awards. The restricted stock vests three years from the grant date, or upon death or disability, change in control, or retirement (subject to certain requirements). The restricted stock contains no other service or performance conditions. Restricted stock is awarded in the name of the recipient and, except for the right of

disposal, constitutes issued and outstanding shares of the Company's Common Stock for all corporate purposes during the period of restriction including the right to receive dividends. Compensation expense is a fixed amount based on the grant date closing price and is amortized on a straight-line basis over the vesting period. Forfeitures are recognized as they occur.

Total stock-based compensation expense was \$ 4.2 million, \$4.1 million, and \$3.8 million in fiscal 2023, 2022, and 2021, respectively.

Our unrecognized compensation expense as a result of non-vested shares was \$ 7.2 million at June 3, 2023 and \$7.0 million at May 28, 2022. The unrecognized compensation expense will be amortized to stock compensation expense over a period of 2.1 years.

A summary of our equity award activity and related information for our restricted stock is as follows:

	Number of Shares	Weighted Average Grant Date Fair Value
Outstanding, May 29, 2021	302,147	\$ 39.37
Granted	113,142	41.13
Vested	(92,918)	42.45
Forfeited	(4,527)	38.01
Outstanding, May 28, 2022	317,844	\$ 39.12
Granted	84,969	54.10
Vested	(98,684)	38.25
Forfeited	(9,989)	39.69
Outstanding, June 3, 2023	294,140	\$ 43.72

#### Note 15 - Income Taxes

Income tax expense (benefit) consisted of the following:

	Fiscal year ended		
	June 3, 2023	May 28, 2022	May 29, 2021
Current:			
Federal	\$ 180,521	\$ 24,228	\$ (35,090)
State	36,830	3,670	730
	217,351	27,898	(34,360)
Deferred:			
Federal	19,952	2,716	21,658
State	4,515	2,960	693
	24,467	5,676	22,351
	<u>\$ 241,818</u>	<u>\$ 33,574</u>	<u>\$ (12,009)</u>

Significant components of the Company's deferred tax liabilities and assets were as follows:

	June 3, 2023	May 28, 2022
<b>Deferred tax liabilities:</b>		
Property, plant and equipment	\$ 109,590	\$ 100,250
Inventories	44,986	31,987
Investment in affiliates	1,133	65
Other	5,702	5,713
<b>Total deferred tax liabilities</b>	<b>161,411</b>	<b>138,015</b>
<b>Deferred tax assets:</b>		
Accrued expenses	3,838	4,041
State operating loss carryforwards	78	470
Other comprehensive income	1,317	866
Other	3,966	4,442
<b>Total deferred tax assets</b>	<b>9,199</b>	<b>9,819</b>
<b>Net deferred tax liabilities</b>	<b>\$ 152,212</b>	<b>\$ 128,196</b>

The differences between income tax expense (benefit) at the Company's effective income tax rate and income tax expense at the statutory federal income tax rate were as follows:

	Fiscal year end		
	June 3, 2023	May 28, 2022	May 29, 2021
Statutory federal income tax	\$ 209,418	\$ 34,907	\$ (2,087)
State income taxes, net	32,662	5,237	1,124
Domestic manufacturers deduction	—	—	3,566
Enacted net operating loss carryback provision	—	—	(16,014)
Tax exempt interest income	—	(9)	(50)
Reversal of outside basis in equity investment Red River	—	(7,310)	—
Non-taxable remeasurement gain Red River	—	(955)	—
Other, net	(262)	1,704	1,452
	<b>\$ 241,818</b>	<b>\$ 33,574</b>	<b>\$ (12,009)</b>

As of June 3, 2023, we had no significant unrecognized tax benefits. Accordingly, the Company had no accrued interest and penalties related to uncertain tax positions.

We are subject to income tax in many jurisdictions within the U.S. We are currently not under audit by the Internal Revenue Service or by any state and local tax authorities. Tax periods for all years beginning with fiscal year 2020 remain open to examination by federal and state taxing jurisdictions to which we are subject.

## **Note 16 - Commitments and Contingencies**

### **State of Texas v. Cal-Maine Foods, Inc. d/b/a Wharton; and Wharton County Foods, LLC**

On April 23, 2020, the Company and its subsidiary Wharton County Foods, LLC (“WCF”) were named as defendants in State of Texas v. Cal-Maine Foods, Inc. d/b/a Wharton; and Wharton County Foods, LLC, Cause No. 2020-25427, in the District Court of Harris County, Texas. The State of Texas (the “State”) asserted claims based on the Company’s and WCF’s alleged violation of the Texas Deceptive Trade Practices—Consumer Protection Act, Tex. Bus. & Com. Code §§ 17.41-17.63 (“DTPA”). The State claimed that the Company and WCF offered shell eggs at excessive or exorbitant prices during the COVID-19 state of emergency and made misleading statements about shell egg prices. The State sought temporary and permanent injunctions against the Company and WCF to prevent further alleged violations of the DTPA, along with over \$ 100,000 in damages. On August 13, 2020, the court granted the defendants’ motion to dismiss the State’s original petition with prejudice. On September 11, 2020, the State filed a notice of appeal, which was assigned to the Texas Court of Appeals for the First District. On August 16, 2022, the appeals court reversed and remanded the case back to the trial court for further proceedings. On October 31, 2022, the Company and WCF appealed the First District Court’s decision to the Supreme Court of Texas. On May 10, 2023, the Company filed its brief on the merits, and the State of Texas filed its brief on June 29, 2023. The Company filed its reply brief on July 14, 2023. Management believes the risk of material loss related to this matter to be remote.

### **Bell et al. v. Cal-Maine Foods et al.**

On April 30, 2020, the Company was named as one of several defendants in Bell et al. v. Cal-Maine Foods et al., Case No. 1:20-cv-461, in the Western District of Texas, Austin Division. The defendants include numerous grocery stores, retailers, producers, and farms. Plaintiffs assert that defendants violated the DTPA by allegedly demanding exorbitant or excessive prices for eggs during the COVID-19 state of emergency. Plaintiffs request certification of a class of all consumers who purchased eggs in Texas sold, distributed, produced, or handled by any of the defendants during the COVID-19 state of emergency. Plaintiffs seek to enjoin the Company and other defendants from selling eggs at a price more than 10% greater than the price of eggs prior to the declaration of the state of emergency and damages in the amount of \$ 10,000 per violation, or \$250,000 for each violation impacting anyone over 65 years old. On December 1, 2020, the Company and certain other defendants filed a motion to dismiss the plaintiffs’ amended class action complaint. The plaintiffs subsequently filed a motion to strike, and the motion to dismiss and related proceedings were referred to a United States magistrate judge. On July 14, 2021, the magistrate judge issued a report and recommendation to the court that the defendants’ motion to dismiss be granted and the case be dismissed without prejudice for lack of subject matter jurisdiction. On September 20, 2021, the court dismissed the case without prejudice. On July 13, 2022, the court denied the plaintiffs’ motion to set aside or amend the judgment to amend their complaint.

On March 15, 2022, plaintiffs filed a second suit against the Company and several defendants in Bell et al. v. Cal-Maine Foods et al., Case No. 1:22-cv-246, in the Western District of Texas, Austin Division alleging the same assertions as laid out in the first complaint. On August 12, 2022, the Company and other defendants in the case filed a motion to dismiss the plaintiffs’ class action complaint. On January 9, 2023, the court entered an order and final judgement granting the Company’s motion to dismiss.

On February 8, 2023, the plaintiffs appealed the lower court’s judgement to the United States Court of Appeals for the Fifth Circuit, Case No. 23-50112. The parties filed their respective appellate briefs, but the court has not ruled on these submissions. Management believes the risk of material loss related to both matters to be remote.

### **Kraft Foods Global, Inc. et al. v. United Egg Producers, Inc. et al.**

As previously reported, on September 25, 2008, the Company was named as one of several defendants in numerous antitrust cases involving the United States shell egg industry. The Company settled all of these cases, except for the claims of certain plaintiffs who sought substantial damages allegedly arising from the purchase of egg products (as opposed to shell eggs). These remaining plaintiffs are Kraft Food Global, Inc., General Mills, Inc., and Nestle USA, Inc. (the “Egg Products Plaintiffs”) and, until a subsequent settlement was reached as described below, The Kellogg Company.

On September 13, 2019, the case with the Egg Products Plaintiffs was remanded from a multi-district litigation proceeding in the United States District Court for the Eastern District of Pennsylvania, In re Processed Egg Products Antitrust Litigation, MDL No. 2002, to the United States District Court for the Northern District of Illinois, Kraft Foods Global, Inc. et al. v. United Egg Producers, Inc. et al., Case No. 1:11-cv-8808, for trial. The Egg Products Plaintiffs allege that the Company and other defendants violated Section 1 of the Sherman Act, 15 U.S.C. § 1, by agreeing to limit the production of eggs and thereby illegally to raise the prices that plaintiffs paid for processed egg products. In particular, the Egg Products Plaintiffs are attacking certain features of the United Egg Producers animal-welfare guidelines and program used by the Company and many other egg producers. The Egg Products Plaintiffs seek to enjoin the Company and other defendants from engaging in antitrust violations and seek treble money damages. On May 2, 2022, the court set trial for October 24, 2022, but on September 20, 2022, the court cancelled the trial date due to COVID-19 protocols and converted the trial date to a status hearing to reschedule the jury trial. Trial is now set for October 16, 2023.

In addition, on October 24, 2019, the Company entered into a confidential settlement agreement with The Kellogg Company dismissing all claims against the Company for an amount that did not have a material impact on the Company's financial condition or results of operations. On November 11, 2019, a stipulation for dismissal was filed with the court, and on March 28, 2022, the court dismissed the Company with prejudice.

The Company intends to continue to defend the remaining case with the Egg Products Plaintiffs as vigorously as possible based on defenses which the Company believes are meritorious and provable. Adjustments, if any, which might result from the resolution of this remaining matter with the Egg Products Plaintiffs have not been reflected in the financial statements. While management believes that there is still a reasonable possibility of a material adverse outcome from the case with the Egg Products Plaintiffs, at the present time, it is not possible to estimate the amount of monetary exposure, if any, to the Company due to a range of factors, including the following, among others: two earlier trials based on substantially the same facts and legal arguments resulted in findings of no conspiracy and/or damages; this trial will be before a different judge and jury in a different court than prior related cases; there are significant factual issues to be resolved; and there are requests for damages other than compensatory damages (i.e., injunction and treble money damages).

#### **State of Oklahoma Watershed Pollution Litigation**

On June 18, 2005, the State of Oklahoma filed suit, in the United States District Court for the Northern District of Oklahoma, against Cal-Maine Foods, Inc. and Tyson Foods, Inc., Cobb-Vantress, Inc., Cargill, Inc., George's, Inc., Peterson Farms, Inc. and Simmons Foods, Inc., and certain of their affiliates. The State of Oklahoma claims that through the disposal of chicken litter the defendants polluted the Illinois River Watershed. This watershed provides water to eastern Oklahoma. The complaint sought injunctive relief and monetary damages, but the claim for monetary damages was dismissed by the court. Cal-Maine Foods, Inc. discontinued operations in the watershed in or around 2005. Since the litigation began, Cal-Maine Foods, Inc. purchased 100% of the membership interests of Benton County Foods, LLC, which is an ongoing commercial shell egg operation within the Illinois River Watershed. Benton County Foods, LLC is not a defendant in the litigation. We also have a number of small contract producers that operate in the area.

The non-jury trial in the case began in September 2009 and concluded in February 2010. On January 18, 2023, the court entered findings of fact and conclusions of law in favor of the State of Oklahoma, but no penalties were assessed. The court found the defendants liable for state law nuisance, federal common law nuisance, and state law trespass. The court also found the producers vicariously liable for the actions of their contract producers. The court directed the parties to confer in attempt to reach agreement on appropriate remedies. On June 12, 2023, the court ordered the parties to mediate before the Tenth Circuit Chief Judge Deanell Reece Tacha and instructed the parties to file a joint status report fourteen days following mediation. The mediation has not yet been set but is expected to be in the September to October time frame this fall. While management believes there is a reasonable possibility of a material loss from the case, at the present time, it is not possible to estimate the amount of monetary exposure, if any, to the Company due to a range of factors, including the following, among others: uncertainties inherent in any assessment of potential costs associated with injunctive relief or other penalties based on a decision in a case tried over 13 years ago based on environmental conditions that existed at the time, the lack of guidance from the court as to what might be considered appropriate remedies, the ongoing negotiations with the State on appropriate remedies and upcoming mediation, and uncertainty regarding what our proportionate share of any remedy would be, although we believe that our share compared to the other defendants is small.

#### **Other Matters**

In addition to the above, the Company is involved in various other claims and litigation incidental to its business. Although the outcome of these matters cannot be determined with certainty, management, upon the advice of counsel, is of the opinion that the final outcome should not have a material effect on the Company's consolidated results of operations or financial position.

**SCHEDULE II - VALUATION AND QUALIFYING ACCOUNTS**  
**Fiscal Years ended June 3, 2023, May 28, 2022, and May 29, 2021**  
(in thousands)

Description	Balance at Beginning of Period	Charged to Cost and Expense	Write-off of Accounts	Balance at End of Period
Year ended June 3, 2023				
Allowance for doubtful accounts	\$ 775	\$ (148)	\$ 48	\$ 579
Year ended May 28, 2022				
Allowance for doubtful accounts	\$ 795	\$ 30	\$ 50	\$ 775
Year ended May 29, 2021				
Allowance for doubtful accounts	\$ 743	\$ 135	\$ 83	\$ 795

**ITEM 9. CHANGES IN AND DISAGREEMENTS WITH ACCOUNTANTS ON ACCOUNTING AND FINANCIAL DISCLOSURE**

None.

**ITEM 9A. CONTROLS AND PROCEDURES**

***Disclosure Controls and Procedures***

Our disclosure controls and procedures are designed to provide reasonable assurance that information required to be disclosed by us in the reports we file or submit under the Securities Exchange Act of 1934, as amended (the "Exchange Act") is recorded, processed, summarized and reported, within the time periods specified in the Securities and Exchange Commission's rules and forms. Disclosure controls and procedures include, without limitation, controls and procedures designed to ensure that information required to be disclosed by us in the reports that we file or submit under the Exchange Act is accumulated and communicated to management, including our principal executive and principal financial officers, or persons performing similar functions, as appropriate to allow timely decisions regarding required disclosure. Based on an evaluation of our disclosure controls and procedures conducted by our Chief Executive Officer and Chief Financial Officer, together with other financial officers, such officers concluded that our disclosure controls and procedures were effective as of June 3, 2023 at the reasonable assurance level.

***Internal Control Over Financial Reporting***

***(a) Management's Report on Internal Control Over Financial Reporting***

The following sets forth, in accordance with Section 404(a) of the Sarbanes-Oxley Act of 2002 and Item 308 of the Securities and Exchange Commission's Regulation S-K, the report of management on our internal control over financial reporting.

1. Our management is responsible for establishing and maintaining adequate internal control over financial reporting. "Internal control over financial reporting" is a process designed by, or under the supervision of, our Chief Executive Officer and Chief Financial Officer, together with other financial officers, and effected by our Board of Directors, management and other personnel, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles and includes those policies and procedures that:
  - Pertain to the maintenance of records that in reasonable detail accurately and fairly reflect the transactions and dispositions of our assets;
  - Provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that our receipts and expenditures are being made only in accordance with authorizations of our management and directors; and
  - Provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use or disposition of our assets that could have a material effect on the financial statements.
2. Our management, in accordance with Rule 13a-15(c) under the Exchange Act and with the participation of our Chief Executive Officer and Chief Financial Officer, together with other financial officers, evaluated the effectiveness of our internal control over financial reporting as of June 3, 2023. The framework on which management's evaluation of our internal control over financial reporting is based is the "Internal Control – Integrated Framework" published in 2013 by the Committee of Sponsoring Organizations ("COSO") of the Treadway Commission.
3. Management has determined that our internal control over financial reporting as of June 3, 2023 is effective. It is noted that internal control over financial reporting cannot provide absolute assurance of achieving financial reporting objectives, but rather reasonable assurance of achieving such objectives.
4. The attestation report of FROST, PLLC on our internal control over financial reporting, which includes that firm's opinion on the effectiveness of our internal control over financial reporting, is set forth below.

***(b) Attestation Report of the Registrant's Public Accounting Firm***

**Report of Independent Registered Public Accounting Firm  
on Internal Control Over Financial Reporting**

Board of Directors and Stockholders  
Cal-Maine Foods, Inc. and Subsidiaries  
Ridgeland, Mississippi

**Opinion on Internal Control Over Financial Reporting**

We have audited Cal-Maine Foods, Inc. and Subsidiaries' internal control over financial reporting as of June 3, 2023, based on criteria established in 2013 Internal Control – Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission ("COSO"). In our opinion, Cal-Maine Foods, Inc. and Subsidiaries maintained, in all material respects, effective internal control over financial reporting as of June 3, 2023, based on criteria established in 2013 Internal Control – Integrated Framework issued by the COSO.

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States) ("PCAOB"), the consolidated balance sheets and the related consolidated statements of income, comprehensive income, stockholders' equity, and cash flows of Cal-Maine Foods, Inc. and Subsidiaries and our report dated July 25, 2023 expressed an unqualified opinion.

**Basis for Opinion**

Cal-Maine Foods, Inc. and Subsidiaries' management is responsible for maintaining effective internal control over financial reporting, and for their assessment of the effectiveness of internal control over financial reporting, included in the accompanying Management's Report on Internal Control Over Financial Reporting in Item 9A. Our responsibility is to express an opinion on the entities' internal control over financial reporting based on our audit. We are a public accounting firm registered with the PCAOB and are required to be independent with respect to Cal-Maine Foods, Inc. and Subsidiaries in accordance with the U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

We conducted our audit in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether effective internal control over financial reporting was maintained in all material respects. Our audit of internal control over financial reporting included obtaining an understanding of internal control over financial reporting, assessing the risk that a material weakness exists, and testing and evaluating the design and operating effectiveness of internal control based on the assessed risk. Our audit also included performing such other procedures as we considered necessary in the circumstances. We believe our audit provides a reasonable basis for our opinion.

**Definition and Limitations of Internal Control Over Financial Reporting**

An entities' internal control over financial reporting is a process designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of consolidated financial statements for external purposes in accordance with accounting principles generally accepted in the United States of America. An entities' internal control over financial reporting includes those policies and procedures that (1) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the entities; (2) provide reasonable assurance that transactions are recorded as necessary to permit preparation of consolidated financial statements in accordance with accounting principles generally accepted in the United States of America, and that receipts and expenditures of the entities are being made only in accordance with authorizations of management and directors of the entities; and (3) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use, or disposition of the entities' assets that could have a material effect on the consolidated financial statements.

Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

/s/ Frost, PLLC

Little Rock, Arkansas  
July 25, 2023

**(c) Changes in Internal Control Over Financial Reporting**

In connection with its evaluation of the effectiveness, as of June 3, 2023, of our internal control over financial reporting, management determined that there was no change in our internal control over financial reporting that occurred during the fourth quarter ended June 3, 2023, that has materially affected, or is reasonably likely to materially affect, our internal control over financial reporting.

**ITEM 9B. OTHER INFORMATION**

Not applicable.

**ITEM 9C. DISCLOSURE REGARDING FOREIGN JURISDICTIONS THAT PREVENT INSPECTIONS**

Not applicable.

**PART III.**

**ITEM 10. DIRECTORS, EXECUTIVE OFFICERS AND CORPORATE GOVERNANCE**

Except as set forth below, the information concerning directors, executive officers and corporate governance required by Item 10 is incorporated by reference from our definitive proxy statement which is to be filed pursuant to Regulation 14A under the Securities Exchange Act of 1934 in connection with our 2023 Annual Meeting of Shareholders.

We have adopted a Code of Ethics and Business Conduct that applies to our directors, officers and employees, including the chief executive officer and principal financial and accounting officers of the Company. We will provide a copy of the code free of charge to any person that requests a copy by writing to:

Cal-Maine Foods, Inc.  
P.O. Box 2960  
Jackson, Mississippi 39207  
Attn.: Investor Relations

Requests can be made by phone at (601) 948-6813.

A copy is also available at our website [www.calmainefoods.com](http://www.calmainefoods.com) under the heading "Investors – Corporate Governance – Code of Ethics." We intend to disclose any amendments to, or waivers from, the Code of Conduct and Ethics for Directors, Officers and Employees on our website promptly following the date of any such amendment or waiver. Information contained on our website is not a part of this report.

**ITEM 11. EXECUTIVE COMPENSATION**

The information concerning executive compensation required by Item 11 is incorporated by reference from our definitive proxy statement which is to be filed pursuant to Regulation 14A under the Securities Exchange Act of 1934 in connection with our 2023 Annual Meeting of Shareholders.

**ITEM 12. SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT AND RELATED STOCKHOLDER MATTERS**

The information concerning security ownership of certain beneficial owners and management and related stockholder matters required by Item 12 is incorporated by reference from our definitive proxy statement which is to be filed pursuant to Regulation 14A under the Securities Exchange Act of 1934 in connection with our 2023 Annual Meeting of Shareholders.

**ITEM 13. CERTAIN RELATIONSHIPS AND RELATED TRANSACTIONS, AND DIRECTOR INDEPENDENCE**

The information concerning certain relationships and related transactions, and director independence required by Item 13 is incorporated by reference from our definitive proxy statement which is to be filed pursuant to Regulation 14A under the Securities Exchange Act of 1934 in connection with our 2023 Annual Meeting of Shareholders.

#### **ITEM 14. PRINCIPAL ACCOUNTING FEES AND SERVICES**

The information concerning principal accounting fees and services required by Item 14 is incorporated by reference from our definitive proxy statement which is to be filed pursuant to Regulation 14A under the Securities Exchange Act of 1934 in connection with our 2023 Annual Meeting of Shareholders.

#### **PART IV.**

#### **ITEM 15. EXHIBIT AND FINANCIAL STATEMENT SCHEDULES**

(a)(1) Financial Statements

The following consolidated financial statements and notes thereto of Cal-Maine Foods, Inc. and subsidiaries are included in Item 8 and are filed herewith:

<a href="#">Report of Independent Registered Public Accounting Firm (PCAOB 5348)</a>	<a href="#">35</a>
<a href="#">Consolidated Balance Sheets – June 3, 2023 and May 28, 2022</a>	<a href="#">37</a>
<a href="#">Consolidated Statements of Income – Fiscal Years Ended June 3, 2023, May 28, 2022, and May 29, 2021</a>	<a href="#">38</a>
<a href="#">Consolidated Statements of Comprehensive Income – Fiscal Years Ended June 3, 2023, May 28, 2022, and May 29, 2021</a>	<a href="#">39</a>
<a href="#">Consolidated Statements of Changes in Stockholders' Equity for the Fiscal Years Ended June 3, 2023, May 28, 2022, and May 29, 2021</a>	<a href="#">40</a>
<a href="#">Consolidated Statements of Cash Flows for the Fiscal Years Ended June 3, 2023, May 28, 2022, and May 29, 2021</a>	<a href="#">41</a>
<a href="#">Notes to Consolidated Financial Statements</a>	<a href="#">42</a>
(a)(2) <u>Financial Statement Schedule</u>	
<a href="#">Schedule II – Valuation and Qualifying Accounts</a>	<a href="#">60</a>

All other schedules are omitted either because they are not applicable or required, or because the required information is included in the financial statements or notes thereto.

(a)(3) Exhibits Required by Item 601 of Regulation S-K

See Part (b) of this Item 15.

## (b) Exhibits Required by Item 601 of Regulation S-K

The following exhibits are filed herewith or incorporated by reference:

Exhibit Number	Exhibit
3.1	<a href="#">Second Amended and Restated Certificate of Incorporation of the Registrant (incorporated by reference to Exhibit 3.1 in the Registrant's Form 8-K, filed July 20, 2018)</a>
3.2	<a href="#">Composite Bylaws of the Registrant (incorporated by reference to Exhibit 3.2 in the Registrant's Form 10-Q for the quarter ended March 2, 2013, filed April 5, 2013)</a>
4.1**	<a href="#">Description of Registrant's Securities Registered Under Section 12 of the Exchange Act</a>
10.1	<a href="#">Underwriting Agreement, dated August 19, 2020, among the Company, the Selling Stockholders and BofA Securities Inc., as representative of the several underwriters named therein (incorporated by reference to Exhibit 1.1 in the Registrant's Form 8-K, filed August 24, 2020)</a>
10.2	<a href="#">Agreement Regarding Common Stock, including Registration Rights Exhibit (attached) (incorporated by reference to Exhibit 10.1 to the Registrant's Form 8-K, filed June 5, 2018)</a>
10.3*	<a href="#">Deferred Compensation Plan, dated November 15, 2021 (incorporated by reference to Exhibit 10.2 in the Registrant's Form 8-K, filed November 19, 2021)</a>
10.4	<a href="#">Credit Agreement, dated November 15, 2021, among Cal-Maine Foods, Inc., the Guarantors, BMO Harris Bank N.A., as Administrative Agent, and the Lenders (incorporated by reference to Exhibit 10.1 in the Registrant's Form 8-K, filed November 19, 2021)</a>
10.5**	<a href="#">First Amendment to Credit Agreement, dated May 26, 2023, among Cal-Maine Foods, Inc., the Guarantors, BMO Harris Bank N.A., as Administrative Agent, and the Lenders</a>
10.6*	<a href="#">Cal-Maine Foods, Inc. KSOP, as amended and restated, effective April 1, 2012 (incorporated by reference to Exhibit 4.4 in the Registrant's Form S-8, filed March 30, 2012)</a>
10.7*	<a href="#">Cal-Maine Foods, Inc. KSOP Trust, as amended and restated, effective April 1, 2012 (incorporated by reference to Exhibit 4.5 in the Registrant's Form S-8, filed March 30, 2012)</a>
10.8*	<a href="#">Amended and Restated Cal-Maine Foods, Inc. 2012 Omnibus Long-Term Incentive Plan (incorporated by reference to Exhibit 10.1 to the Company's Form 8-K filed October 2, 2020)</a>
10.9*	<a href="#">Form of Restricted Stock Agreement for Amended and Restated Cal-Maine Foods, Inc. 2012 Omnibus Long-Term Incentive Plan (incorporated by reference to Exhibit 10.8 to the Company's Form 10K filed July 19, 2022)</a>
10.10*	<a href="#">Supplemental Executive Retirement Plan, adopted March 24, 2023 (incorporated by reference to Exhibit 10.1 to the Company's Form 8-K filed March 27, 2023)</a>
10.11*	<a href="#">Split Dollar Life Insurance Plan, adopted March 24, 2023 (incorporated by reference to Exhibit 10.2 to the Company's Form 8-K filed March 27, 2023)</a>
21**	<a href="#">Subsidiaries of the Registrant</a>
23.1**	<a href="#">Consent of FROST, PLLC</a>
31.1**	<a href="#">Rule 13a-14(a) Certification of Chief Executive Officer</a>
31.2**	<a href="#">Rule 13a-14(a) Certification of Chief Financial Officer</a>
32***	<a href="#">Section 1350 Certifications of the Chief Executive Officer and the Chief Financial Officer</a>
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101.CAL***+	Inline XBRL Taxonomy Extension Calculation Linkbase Document
101.DEF***+	Inline XBRL Taxonomy Extension Definition Linkbase Document
101.LAB***+	Inline XBRL Taxonomy Extension Label Linkbase Document
101.PRE***+	Inline XBRL Taxonomy Extension Presentation Linkbase Document
104	Cover Page Interactive Data File (formatted as Inline XBRL and contained in Exhibit 101)

\* Management contract or compensatory plan or arrangement

\*\* Filed herewith as an Exhibit

\*\*\* Furnished herewith as an Exhibit

† Submitted electronically with this Annual Report on Form 10-K

## (c) Financial Statement Schedules Required by Regulation S-X

The financial statement schedule required by Regulation S-X is filed at page 60. All other schedules for which provision is made in the applicable accounting regulations of the Securities and Exchange Commission are not required under the related instructions or are inapplicable and therefore have been omitted.

**ITEM 16. FORM 10-K SUMMARY**

Not applicable

SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized, in Ridgeland, Mississippi.

CAL-MAINE FOODS, INC.

/s/ Sherman L. Miller

Sherman L. Miller

President and Chief Executive Officer

Date: July 25, 2023

Pursuant to the requirements of the Securities Exchange Act of 1934, this report has been signed below by the following persons on behalf of the registrant and in the capacities and on the dates indicated:

<u>Signature</u>	<u>Title</u>	<u>Date</u>
<u>/s/ Sherman L. Miller</u> Sherman L. Miller	President, Chief Executive Officer and Director (Principal Executive Officer)	July 25, 2023
<u>/s/ Max P. Bowman</u> Max P. Bowman	Vice President, Treasurer, Secretary, Chief Financial Officer and Director (Principal Financial Officer)	July 25, 2023
<u>/s/ Matthew S. Glover</u> Matthew S. Glover	Vice President, Accounting (Principal Accounting Officer)	July 25, 2023
<u>/s/ Adolphus B. Baker</u> Adolphus B. Baker	Chairman of the Board and Director	July 25, 2023
<u>/s/ Letitia C. Hughes</u> Letitia C. Hughes	Director	July 25, 2023
<u>/s/ James E. Poole</u> James E. Poole	Director	July 25, 2023
<u>/s/ Steve W. Sanders</u> Steve W. Sanders	Director	July 25, 2023
<u>/s/ Camille S. Young</u> Camille S. Young	Director	July 25, 2023



## Subsidiaries of Cal-Maine Foods, Inc.

<b>Name of Subsidiary</b>	<b>Place of Incorporation or Organization</b>	<b>Percentage of Outstanding Stock or Ownership Interest Held by Registrant</b>
Southern Equipment Distributors, Inc.	Mississippi	100%
South Texas Applicators, Inc.	Delaware	100%
American Egg Products, LLC	Georgia	100%
Texas Egg Products, LLC	Texas	100%
Benton County Foods, LLC	Arkansas	100%
Wharton County Foods, LLC	Texas	100%
MeadowCreek Foods, LLC	Mississippi	70%
Cal-Maine Real Estate LLC	Mississippi	100%
Eggcellent Insurance Company, LLC	Vermont	100%



**Certifications Pursuant to 18 U.S.C. §1350,  
As Adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002**

Solely for the purposes of complying with 18 U.S.C. §1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, we, the undersigned Chief Executive Officer and Chief Financial Officer of Cal-Maine Foods, Inc. (the "Company"), hereby certify, based on our knowledge, that the Annual Report on Form 10-K of the Company for the fiscal year ended June 3, 2023 (the "Report") fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934 and that the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

/s/ Sherman L. Miller

Sherman L. Miller

President and Chief Executive Officer

/s/ Max P. Bowman

Max P. Bowman

Vice President and Chief Financial Officer

Date: July 25, 2023



## DESCRIPTION OF CAPITAL STOCK

The amount of capital stock which Cal-Maine Foods, Inc. (the “Company” or “Corporation”) is authorized to issue (the “Capital Stock”) is 124,800,000 shares, consisting of (a) 120,000,000 shares of Common Stock with a par value of One Cent (\$.01) per share and (b) 4,800,000 shares of Class A Common Stock with a par value of One Cent (\$.01) per share.

The following summary describes the Capital Stock under the Company’s Second Amended and Restated Certificate of Incorporation (the “Restated Charter”). The summary may not be complete and is subject to, and qualified in its entirety by, the applicable provisions of Delaware law and the terms and provisions of our Restated Charter. You should refer to, and read this summary together with, our Restated Charter to review all provisions applicable to our Capital Stock that may be important to you.

### Equal Treatment

Except as otherwise provided in the Restated Charter as described below, or required by applicable law, shares of Common Stock and Class A Common Stock shall have the same rights and powers, rank equally (including as to dividends and distributions, and upon any liquidation, dissolution or winding up of the Corporation), share ratably and be identical in all respects and as to all matters.

### Voting Rights

Holders of shares of Capital Stock vote as a single class on all matters submitted to a vote of the stockholders, with each share of Common Stock entitled to one vote and each share of Class A Common Stock entitled to ten votes. Holders of Capital Stock have the right of cumulative voting in the election of directors. Cumulative voting means that each stockholder is entitled to cast as many votes as he or she has the right to cast (before cumulating votes), multiplied by the number of directors to be elected, and such stockholder may cast all of such votes for a single director or may distribute them among the number to be voted for, or for any two or more of them as such stockholder may see fit.

Under Delaware law, the affirmative vote of the holders of a majority of the outstanding shares of any class of Capital Stock is required to approve, among other things, any amendment to the certificate of incorporation that would alter or change the powers, preferences or special rights of such class so as to affect such class adversely. In addition, as long as any of the shares of the Class A Common Stock are outstanding, the consent of not less than 66 2/3 % of the total shares of Class A Common Stock outstanding is required to (1) alter or change the rights and privileges of Class A Common Stock; (2) to amend any provision of Paragraph 4 of the Restated Charter affecting the Class A Common Stock or (3) effect any re-classification or re-capitalization of the Company’s Capital Stock.

### Dividends

Holders of shares of Capital Stock are entitled to receive such dividends as may be declared by our Board of Directors out of funds legally available for such purpose.

Shares of Common Stock and Class A Common Stock are required to be treated equally, identically and ratably, on a per share basis, with respect to any dividends or distributions as may be declared and paid from time to time by the Board of Directors out of any assets of the Company legally available therefor.

However, in the event a dividend is paid in the form of shares of Capital Stock (or rights to acquire such shares), then holders of Common Stock shall receive shares of Common Stock (or rights) and holders of Class A Common Stock shall receive shares of Class A Common Stock (or rights), with holders of shares of Common Stock and Class A Common Stock receiving, on a per share basis, an identical number of shares of Common Stock or Class A Common Stock, as applicable.

Notwithstanding the foregoing, the Board of Directors may pay or make a disparate dividend or distribution per share of Common Stock or Class A Common Stock (whether in the amount of such dividend or distribution payable per share, the form in which such dividend or distribution is payable, the timing of the payment, or otherwise) if such disparate dividend or distribution is approved in advance by the affirmative vote of the holders of a majority of the outstanding shares of Common Stock and Class A Common Stock, each voting separately as a class.

#### **Ownership of Class A Common Stock**

The Class A Common Stock may only be issued to Immediate Family Members and Permitted Transferees (each as defined in the Restated Charter, and as summarized below). In the event any share of Class A Common Stock, by operation of law or otherwise is, or shall be deemed to be owned by any person other than an Immediate Family Member or Permitted Transferee, such share of Class A Common Stock shall automatically convert into Common Stock, whereby the voting power of such stock would be reduced from ten votes per share to one vote per share.

The term "Immediate Family Member" includes: the natural children (the "Daughters") of our late founder and Chairman Emeritus Fred R. Adams, Jr., his sons-in-law (including our Chairman Adolphus B. Baker), and his grandchildren, including the estates of all of such persons.

The term "Permitted Transferee" includes:

- (i) an Immediate Family Member;
- (ii) a trust held for the sole or primary benefit of one or more Immediate Family Members or Permitted Transferees, including any trustee in such trustee's capacity as such, provided that if a trust is not for the sole benefit of one or more Immediate Family Members or Permitted Transferees, an Immediate Family Member or Permitted Transferee must retain sole dispositive and exclusive power to direct the voting of the shares of Class A Common Stock held by such trust;
- (iii) a corporation, limited liability company or partnership, including but not limited to, a family limited partnership or similar limited liability company or corporation, or a single member limited liability company, provided that all of the equity interest in such entity is owned, directly or indirectly, by one or more Immediate Family Members or Permitted Transferees and an Immediate Family Member or Permitted Transferee retains sole dispositive and exclusive power to direct the voting of the shares of Class A Common Stock held by such entity;
- (iv) a qualified Individual Retirement Account, pension, profit sharing, stock bonus or other type of plan or trust of which an Immediate Family Member or Permitted Transferee is a participant or beneficiary, provided that in each case an Immediate Family Member or Permitted Transferee retains sole dispositive and exclusive power to direct the voting of the shares of Class A Common Stock held by such account, plan or trust; or
- (v) any guardianship, conservatorship or custodianship for the benefit of an Immediate Family Member who has been adjudged disabled, incapacitated, incompetent or otherwise unable to manage his or her own affairs by a court of competent jurisdiction, including any guardian, conservator or custodian in such guardian's, conservator's or custodian's capacity as such.

#### **Other Provisions**

The holders of Common Stock and Class A Common Stock are not entitled to preemptive or subscription rights.

Unless approved in advance by the affirmative vote of the holders of a majority of the outstanding shares of Common Stock and Class A Common Stock, each voting separately as a class, shares of Common Stock or Class A Common Stock may not be subdivided, combined or reclassified unless the shares of the other class are concurrently therewith proportionately subdivided, combined or reclassified in a manner that maintains the same proportionate equity ownership between the holders of the outstanding Common Stock and Class A Common Stock on the record date for such subdivision, combination or reclassification.

Unless approved in advance by the affirmative vote of the holders of a majority of the outstanding shares of Common Stock and Class A Common Stock, each voting separately as a class, upon the dissolution, liquidation or winding up of the corporation, whether voluntary or involuntary, holders of Common Stock and Class A Common Stock will be entitled to receive ratably all assets of the Corporation available for distribution to its stockholders.

In the event of (i) a merger, consolidation or other business combination requiring the approval of the holders of the Corporation's capital stock entitled to vote thereon, (ii) a tender or exchange offer to acquire any shares of Common Stock or Class A Common Stock by a third party pursuant to an agreement to which the Corporation is a party, or (iii) a tender or exchange offer to acquire any shares of Common Stock or Class A Common Stock by the Corporation, holders of the Common Stock and the Class A Common Stock shall have the right to receive, or the right to elect to receive, the same form and amount of consideration on a per share basis.

Each share of Class A Common Stock is convertible, at the option of its holder, into one share of Common Stock at any time. Once shares of Class A Common Stock are converted into Common Stock, the shares of Class A Common Stock will be retired and may not be reissued. The number of shares of Common Stock into which the shares of Class A Common Stock may be converted is subject to adjustment from time to time in the event of any capital reorganization, reclassification of stock of the Company or consolidation or merger of the Company with or into another corporation.

The Restated Charter includes a sunset provision pursuant to which all of the outstanding Class A Common Stock will automatically convert to Common Stock if: (a) less than 4,300,000 shares of Class A Common Stock, in the aggregate, are beneficially owned by Immediate Family Members and/or Permitted Transferees, or (b) if less than 4,600,000 shares of Class A Common Stock and Common Stock, in the aggregate, are beneficially owned by Immediate Family Members and/or Permitted Transferees.

#### **Control by Immediate Family Members, Anti-Takeover Considerations and Conflicts of Interest**

##### *General*

Mr. Adams founded the Company and served as its CEO from the formation of the Company in 1969 until 2010, when his son-in-law, Mr. Baker, became CEO. Mr. Adams died on March 29, 2020. Mr. Baker stepped down from CEO in September 2022, and remains Chairman of the Board and as an executive officer of the Company.

As of July 25, 2023, Immediate Family Members beneficially own all of the 4.8 million outstanding shares of Class A Common Stock, representing 52.1% of the total voting power, and approximately 1.6 million shares of Common Stock, representing 1.8% of the total voting power. Such persons possess in the aggregate 53.8% of the total voting power of the outstanding shares of our Common Stock and Class A Common Stock, based on shares held directly or through related entities.

The Common Stock is listed on The Nasdaq Stock Market ("NASDAQ"). Because Mr. Baker and Mr. Baker's spouse beneficially own in the aggregate capital stock of the Company entitling them to 53.8% of the total voting power, the Company is a "controlled company" under NASDAQ rules. As a controlled company, the Company is not subject to certain NASDAQ listing standards, such as those that would otherwise require that a majority of a listed company's directors be independent and that a compensation committee and nominating committee of the board of directors composed solely of independent directors be established. Although not required, the Company's board does comprise of a majority of independent directors and Compensation committee is

comprised of all solely independent directors. The Company is, however, subject to NASDAQ listing standards requiring that the Audit Committee be composed solely of independent directors. Delaware law provides that the holders of a majority of the voting power of shares entitled to vote must approve certain fundamental corporate transactions such as a merger, consolidation and sale of all or substantially all of a corporation's assets. Immediate Family Members currently hold a majority of the voting power of all shares of capital stock of the Company and have indicated that they intend to retain ownership of a sufficient amount of Common Stock and Class A Common Stock to assure continued ownership of more than 50% of the voting power of our outstanding shares of capital stock. Accordingly, a merger, consolidation, sale of all or substantially all of the assets or other business combination or transaction involving the Company, which requires a stockholder vote, cannot be effected without the approval of the Immediate Family Members.

As a result, majority control may make an unsolicited acquisition of the Company more difficult and discourage certain types of transactions involving a change of control of our Company, including transactions in which the holders of Common Stock might otherwise receive a premium for their shares over then current market prices. Also, the controlling ownership of our Capital Stock by Immediate Family Members may adversely affect the market price of our Common Stock, due in part to lack of speculation that there may be a change in control.

*Delaware Anti-Takeover Law*

We are subject to Section 203 ("Section 203") of the Delaware General Corporation Law. Under this provision, we may not engage in any "business combination" with any interested stockholder for a period of three years following the date the stockholder became an interested stockholder, unless:

- i. prior to that date our Board of Directors approved either the business combination or the transaction that resulted in the stockholder becoming an interested stockholder;
- ii. upon completion of the transaction that resulted in the stockholder becoming an interested stockholder, the interested stockholder owned at least 85% of the voting stock outstanding at the time the transaction began; or
- iii. on or following that date, the business combination is approved by our Board of Directors and authorized at an annual or special meeting of stockholders by the affirmative vote of at least two-thirds of the outstanding voting stock that is not owned by the interested stockholder.

Section 203 defines "business combination" to include, subject to limited exceptions:

- i. any merger or consolidation involving the corporation and the interested stockholder;
- ii. any sale, transfer, pledge or other disposition of 10% or more of the assets of the corporation involving the interested stockholder;
- iii. any transaction that results in the issuance or transfer by the corporation of any stock of the corporation to the interested stockholder;
- iv. any transaction involving the corporation that has the effect of increasing the proportionate share of the stock of any class or series of the corporation beneficially owned by the interested stockholder; or
- v. the receipt by the interested stockholder of the benefit of any loans, advances, guarantees, pledges or other financial benefits provided by or through the corporation.

In general, Section 203 defines an “interested stockholder” as any entity or person beneficially owning 15% or more of the outstanding voting stock of the corporation and any entity or person affiliated with or controlling or controlled by the entity or person.

The restrictions of Section 203 of the Delaware General Corporation Law do not apply to corporations that have elected, in the manner provided therein, not to be subject to Section 203 of the Delaware General Corporation Law. The Company has not made such an election. Accordingly, the Company would be subject to Section 203 in the event of a business combination.

**Transfer Agent**

Computershare Trust Company of Louisville, Kentucky, is the Transfer Agent and Registrar for our Common Stock.



## FIRST AMENDMENT TO AMENDED AND RESTATED CREDIT AGREEMENT

This First Amendment to Amended and Restated Credit Agreement (herein, this “*Amendment*”) is entered into as of May 26, 2023 (the “*Effective Date*”), between CAL-MAINE FOODS, INC., a Delaware corporation (the “*Borrower*”), the direct and indirect Wholly-owned Domestic Subsidiaries of the Borrower from time to time party to the Credit Agreement (as hereinafter defined), as Guarantors, the several financial institutions from time to time party to the Credit Agreement, as Lenders, and BMO HARRIS BANK N.A., as administrative agent (the “*Administrative Agent*”).

### PRELIMINARY STATEMENTS

A. The Borrower, Lenders and the Administrative Agent previously entered into a certain Amended and Restated Credit Agreement, dated as of November 15, 2021 (the “*Existing Credit Agreement*”, and as amended by this Amendment, the “*Credit Agreement*”). All capitalized terms used herein without definition shall have the same meanings herein as such terms have in the Credit Agreement.

B. The Borrower and the Lenders have agreed to amend the Credit Agreement on the terms and conditions set forth in this Amendment.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

### SECTION 1. AMENDMENTS.

1.1. Subject to the satisfaction of the conditions precedent set forth in Section 2 below, the parties hereto agree that the Existing Credit Agreement and the Exhibits and Schedules to the Existing Credit Agreement shall be amended with text marked in underline (e.g., addition or addition) indicating additions to the Credit Agreement and with text marked in strikethrough (e.g., ~~deletion~~ or ~~deletion~~) indicating deletions to the Credit Agreement, as set forth in Annex I attached hereto.

1.2. Notwithstanding the foregoing, (i) all outstanding Loans that are Eurodollar Loans immediately prior to the effectiveness of this Amendment (the “*Existing Eurodollar Loans*”) shall continue as Eurodollar Loans (as such term is defined in the Existing Credit Agreement immediately prior to the effectiveness of this Amendment) until the last day of each such Interest Period (as such term is defined in the Existing Credit Agreement immediately prior to the effectiveness of this Amendment) applicable to the outstanding Existing Eurodollar Loans and thereafter, all Interest Periods for the outstanding Existing Eurodollar Loans shall be selected in accordance with the Credit Agreement after giving effect to this Amendment and (ii) notwithstanding clause (i) above, the terms of the Existing Credit Agreement, as in effect immediately prior to the effectiveness of this Amendment, in respect of the calculation, payment and administration of the Existing Eurodollar Loans shall remain in effect from and after the Effective Date, in each case, solely for purposes of making, and the administration of, interest payments on the Existing Eurodollar Loans.

### SECTION 2. CONDITIONS PRECEDENT.

The effectiveness of this Amendment is subject to the satisfaction of all of the following conditions precedent:

2.1. The Borrower, Administrative Agent and Lenders shall have executed and delivered this Amendment.

### SECTION 3. REPRESENTATIONS.

In order to induce the Administrative Agent and the Lenders to execute and deliver this Amendment, the Borrower hereby represents to the Administrative Agent and the Lenders that as of the date hereof (a) the representations and warranties set forth in Section 6 of the Credit Agreement and in the other Loan Documents are and shall be and remain true and correct and (b) the Borrower is in compliance with the terms and conditions of the Credit Agreement and in the other Loan Documents and no Default or Event of Default has occurred and is continuing under the Credit Agreement or shall result after giving effect to this Amendment.

SECTION 4. MISCELLANEOUS.

4.1. The Borrower heretofore executed and delivered to the Administrative Agent the Collateral Documents. The Borrower hereby acknowledges and agrees that the Liens created and provided for by the Collateral Documents continue to secure, among other things, the Obligations arising under the Credit Agreement as amended hereby. The Collateral Documents and the rights and remedies of the Administrative Agent thereunder, the Obligations of the Borrower thereunder, and the Liens created and provided for thereunder remain in full force and effect and shall not be affected, impaired or discharged hereby. Nothing herein contained shall in any manner affect or impair the priority of the liens and security interests created and provided for by the Collateral Documents as to the indebtedness which would be secured thereby prior to giving effect to this Amendment.

4.2. Except as specifically amended herein, the Credit Agreement and the other Loan Documents shall continue in full force and effect in accordance with its original terms. Reference to this Amendment need not be made in the Credit Agreement, the Note, or any other instrument or document executed in connection therewith, or in any certificate, letter or communication issued or made pursuant to or with respect to the Credit Agreement, any reference in any of such items to the Credit Agreement being sufficient to refer to the Credit Agreement as amended hereby.

4.3. The Borrower agrees to pay on demand all costs and expenses of or incurred by the Administrative Agent in connection with the negotiation, preparation, execution and delivery of this Amendment, including the fees and expenses of counsel for the Administrative Agent.

4.4. This Amendment may be executed in any number of counterparts, and by the different parties on different counterpart signature pages, all of which taken together shall constitute one and the same agreement. Any of the parties hereto may execute this Amendment by signing any such counterpart and each of such counterparts shall for all purposes be deemed to be an original. Delivery of a counterpart hereof by facsimile transmission or by e-mail transmission of an Adobe portable document format file (also known as a "PDF" file) shall be effective as delivery of a manually executed counterpart hereof. THIS AMENDMENT AND THE RIGHTS AND DUTIES OF THE PARTIES HERETO, SHALL BE CONSTRUED AND DETERMINED IN ACCORDANCE WITH THE LAWS OF THE STATE OF ILLINOIS WITHOUT REGARD TO CONFLICTS OF LAW PRINCIPLES THAT WOULD REQUIRE APPLICATION OF THE LAWS OF ANOTHER JURISDICTION.

[SIGNATURE PAGE TO FOLLOW]

This First Amendment to Amended and Restated Credit Agreement is entered into as of the date and year first above written.

*“BORROWER”*

CAL-MAINE FOODS, INC.

By \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

*“GUARANTORS”*

AMERICAN EGG PRODUCTS, LLC

By \_\_\_\_\_  
Max Bowman  
Vice President – Chief Financial Officer of  
Cal-Maine Foods, Inc.

BENTON COUNTY FOODS, LLC

By \_\_\_\_\_  
Max Bowman  
Vice President – Chief Financial Officer of  
Cal-Maine Foods, Inc.

WHARTON COUNTY FOODS, LLC

By \_\_\_\_\_  
Max Bowman  
Vice President – Chief Financial Officer of  
Cal-Maine Foods, Inc.

SOUTHERN EQUIPMENT DISTRIBUTORS, INC.

By \_\_\_\_\_  
Max Bowman  
Vice President – Chief Financial Officer of  
Cal-Maine Foods, Inc.

SOUTH TEXAS APPLICATORS, INC.

By \_\_\_\_\_  
Max Bowman  
Vice President – Chief Financial Officer of  
Cal-Maine Foods, Inc.

RED RIVER VALLEY EGG FARM, LLC

By \_\_\_\_\_  
Max Bowman  
Vice President – Chief Financial Officer of  
Cal-Maine Foods, Inc.

CAL-MAINE REAL ESTATE LLC

By \_\_\_\_\_  
Max Bowman  
Vice President – Chief Financial Officer of  
Cal-Maine Foods, Inc.

TEXAS EGG PRODUCTS, LLC

By \_\_\_\_\_  
Max Bowman  
Vice President – Chief Financial Officer of  
Cal-Maine Foods, Inc.

*“ADMINISTRATIVE AGENT AND L/C ISSUER”*

BMO HARRIS BANK N.A., as Administrative Agent and L/C Issuer

By \_\_\_\_\_

Name: David J. Bechstein

Title: Director

*“LENDERS”*

BMO HARRIS BANK N.A.

By: \_\_\_\_\_

David J. Bechstein

Director

GREENSTONE FARM CREDIT SERVICES, ACA

By \_\_\_\_\_  
Name \_\_\_\_\_  
Title \_\_\_\_\_

AGFIRST FARM CREDIT BANK

By \_\_\_\_\_

Name \_\_\_\_\_

Title \_\_\_\_\_

COMPEER FINANCIAL, ACA

By \_\_\_\_\_

Name \_\_\_\_\_

Title \_\_\_\_\_

FARM CREDIT BANK OF TEXAS

By \_\_\_\_\_  
Name \_\_\_\_\_  
Title \_\_\_\_\_

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AMENDED AND RESTATED CREDIT AGREEMENT

DATED AS OF NOVEMBER 15, 2021

AMONG

CAL-MAINE FOODS, INC.,

THE GUARANTORS FROM TIME TO TIME PARTY HERETO,

THE LENDERS FROM TIME TO TIME PARTY HERETO,

AND

BMO HARRIS BANK N.A.,  
AS ADMINISTRATIVE AGENT

---

BMO CAPITAL MARKETS, AS SOLE LEAD ARRANGER AND SOLE BOOK RUNNER

AND

GREENSTONE FARM CREDIT SERVICES, ACA, AS SYNDICATION AGENT

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## AMENDED AND RESTATED CREDIT AGREEMENT

This Amended and Restated Credit Agreement is entered into as of November 15, 2021 by and among Cal-Maine Foods, Inc., a Delaware corporation (the "*Borrower*"), the direct and indirect Wholly-owned Subsidiaries that are Domestic Subsidiaries of the Borrower from time to time party to this Agreement, as Guarantors, the several financial institutions from time to time party to this Agreement, as Lenders, and BMO HARRIS BANK N.A., as Administrative Agent as provided herein.

### PRELIMINARY STATEMENT

WHEREAS, pursuant to that certain Credit Agreement dated as of July 10, 2018 (as amended prior to the date hereof, without giving effect to the amendments and restatements set forth herein, the "*Existing Credit Agreement*"), by and among the Borrowers, the Guarantors party thereto, the lenders party thereto and the Administrative Agent, the lenders thereunder have made available to the Borrowers a revolving loan facility upon and subject to the terms and conditions set forth therein;

WHEREAS, the Loan Parties, the Administrative Agent and the Lenders desire to amend and restate the Existing Credit Agreement in its entirety in order to provide an increase to the revolving credit facility and make certain other amendments as more fully set forth herein, which amendment and restatement shall become effective upon satisfaction of the conditions precedent set forth herein;

WHEREAS, in connection with the foregoing and as an inducement for the Lenders to extend and/or continue to extend the credit contemplated hereunder, the Loan Parties have agreed to continue to secure all of their joint and several Obligations by granting to the Administrative Agent, for the benefit of the Lenders, a first priority lien on the Collateral (as hereinafter defined); and

WHEREAS, it is the intent of the parties hereto that this Agreement not constitute a novation of the obligations and liabilities of the parties under the Existing Credit Agreement, and the parties hereto hereby agree that all obligations under the Loan Documents (as amended prior to the Closing Date) shall continue in full force and effect from and after the Closing Date.

NOW, THEREFORE, in consideration of the mutual agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

### SECTION 1. DEFINITIONS; INTERPRETATION.

*Section 1.1. Definitions.* The following terms when used herein shall have the following meanings:

"*Acquired Business*" means the entity or assets acquired by the Borrower or another Loan Party in an Acquisition, whether before or after the date hereof.

"*Acquisition*" means any transaction or series of related transactions for the purpose of or resulting, directly or indirectly, in (a) the acquisition of all or substantially all of the assets of a Person, or of any business or division of a Person, (b) the acquisition of no less than 51% of the capital stock, partnership interests, membership interests or equity of any Person (other than a Person that is a Subsidiary), or otherwise causing any Person to become a Subsidiary, or (c) a merger or consolidation or any other combination with another Person (other than a Person that is a Subsidiary) provided that the Borrower or a Guarantor is the surviving entity.

“Additional Credit Extension Amendment” means an amendment to this Agreement (which may, at the option of the Administrative Agent, be in the form of an amendment and restatement of this Agreement) providing for any Extended Revolving Credit Commitments and/or Extended Incremental Term Loans pursuant to Section 2.16, which shall be consistent with the applicable provisions of this Agreement and otherwise satisfactory to the parties thereto. Each Additional Credit Extension Amendment shall be executed by the Administrative Agent, the L/C Issuer and/or the Swingline Lender (to the extent Section 2.16 would require the consent of the L/C Issuer and/or the Swingline Lender, respectively for the amendments effected in such Additional Credit Extension Amendment), the Loan Parties and each applicable extending Lender. Any Additional Credit Extension Amendment may include conditions for delivery of opinions of counsel and other documentation consistent with the conditions in Section 7.2 all to the extent reasonably requested by the Administrative Agent or the Lenders party to such Additional Credit Extension Amendment.

“Adjusted ~~LIBOR~~ Term SOFR” means, ~~for with respect to~~ any ~~Borrowing of Eurodollar Loans~~ ~~tenor~~, ~~a rate~~ ~~the~~ per annum ~~determined in accordance with the following formula:~~ ~~rate equal to the sum of (i) Term SOFR plus (ii) 0.10% (10 basis points); provided, if Adjusted Term SOFR determined as provided above shall ever be less than the Floor, then Adjusted Term SOFR shall be deemed to be the Floor.~~

$$\text{Adjusted LIBOR} = \frac{\text{LIBOR}}{1 - \text{Eurodollar Reserve Percentage}}$$

“Administrative Agent” means BMO Harris Bank N.A., in its capacity as Administrative Agent hereunder, and any successor in such capacity pursuant to Section 10.6.

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

“Affiliate” means, with respect to a specified Person, another Person that directly, or indirectly through one or more intermediaries, Controls or is Controlled by or is under common Control with the Person specified; *provided that*, in any event for purposes of this definition, any Person that owns, directly or indirectly, 5% or more of the securities having the ordinary voting power for the election of directors or governing body of a corporation or 5% or more of the partnership or other ownership interest of any other Person (other than as a limited partner of such other Person) will be deemed to control such corporation or other Person.

“Agreement” means this Amended and Restated Credit Agreement, as the same may be amended, modified, restated or supplemented from time to time pursuant to the terms hereof.

“Anti-Corruption Law” means the FCPA and any law, rule or regulation of any jurisdiction concerning or relating to bribery or corruption that are applicable to any Loan Party or any Subsidiary or Affiliate.

“Applicable Margin” means, with respect to Loans, Reimbursement Obligations, L/C Participation Fees, and the commitment fees payable under Section 3.1(a), until the first Pricing Date, the rates per annum shown opposite Level I below, and thereafter from one Pricing Date to the next the Applicable Margin means the rates per annum determined in accordance with the following schedule:

LEVEL	TOTAL FUNDED DEBT TO CAPITALIZATION RATIO FOR SUCH PRICING DATE	APPLICABLE MARGIN FOR BASE RATE LOANS UNDER REVOLVING FACILITY AND REIMBURSEMENT OBLIGATIONS SHALL BE:	APPLICABLE MARGIN FOR <del>EURODOLLAR</del> SOFR LOANS UNDER REVOLVING FACILITY AND L/C PARTICIPATION FEES SHALL BE:	APPLICABLE MARGIN FOR COMMITMENT FEE SHALL BE:
I	Less than 20.0%	0.00%	1.00%	0.15%
II	Greater than or equal 20.0% and less than 30.0%	0.25%	1.25%	0.20%
III	Greater than or equal 30.0% and less than 40.0%	0.50%	1.50%	0.20%
IV	Greater than or equal to 40.0%	0.75%	1.75%	0.25%

For purposes hereof, the term “Pricing Date” means, for any fiscal quarter of the Borrower ending on or after November 27, 2021, the date on which the Administrative Agent is in receipt of the Borrower’s most recent financial statements (and, in the case of the year-end financial statements, audit report) for the fiscal quarter then ended, pursuant to Section 8.5. The Applicable Margin shall be established based on the Total Funded Debt to Capitalization Ratio for the most recently completed fiscal quarter and the Applicable Margin established on a Pricing Date shall remain in effect until the next Pricing Date. If the Borrower has not delivered its financial statements by the date such financial statements (and, in the case of the year-end financial statements, audit report) are required to be delivered under Section 8.5, until such financial statements and audit report are delivered, the Applicable Margin shall be the highest Applicable Margin ( i.e., Level IV shall apply). If the Borrower subsequently delivers such financial statements before the next Pricing Date, the Applicable Margin shall be determined on the date of delivery of such financial statements and remain in effect until the next Pricing Date. In all other circumstances, the Applicable Margin shall be in effect from the Pricing Date that occurs immediately after the end of the fiscal quarter covered by such financial statements until the next Pricing Date. Each determination of the Applicable Margin made by the Administrative Agent in accordance with the foregoing shall be conclusive and binding on the Borrower and the Lenders if reasonably determined.

“Application” is defined in Section 2.3(b).

“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 13.2(b)), and accepted by the Administrative Agent, in substantially the form of Exhibit G or any other form approved by the Administrative Agent.

“Authorized Representative” means those persons shown on the list of officers provided by the Borrower pursuant to Section 7.2 or on any update of any such list provided by the Borrower to the Administrative Agent, or any further or different officers of the Borrower so named by any Authorized Representative of the Borrower in a written notice to the Administrative Agent.

“Available Tenor” means, as of any date of determination and with respect to the then-current Benchmark, as applicable, (x) if such Benchmark is a term rate, any tenor for such Benchmark (or component thereof) that is or may be used for determining the length of an interest period pursuant to this Agreement or (y) otherwise, any payment period for interest calculated with reference to such Benchmark (or component thereof) that is or may be used for determining any frequency of making payments of interest calculated with reference to such Benchmark, in each case, as of such date and not including, for the avoidance of doubt, any tenor for such Benchmark that is then-removed from the definition of “Interest Period” pursuant to Section 4.8(d).

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

“Bail-In Legislation” means, 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 for such EEA Member Country from time to time which is described in the EU Bail-In Legislation Schedule.

“Bank Products” means each and any of the following bank products and services provided to any Loan Party by any Lender or any of its Affiliates: (a) credit or charge cards for commercial customers (including, without limitation, “commercial credit cards” and purchasing cards), (b) stored value cards, and (c) depository, cash management, and treasury management services (including, without limitation, controlled disbursement, automated clearinghouse transactions, return items, overdrafts and interstate depository network services).

“Bank Product Obligations” of the Loan Parties means any and all of their obligations, whether absolute or contingent and howsoever and whensoever created, arising, evidenced or acquired (including all renewals, extensions and modifications thereof and substitutions therefor) in connection with Bank Products.

“Base Rate” means, for any day, the rate per annum equal to the greatest of: (a) the rate of interest announced or otherwise established by the Administrative Agent from time to time as its prime commercial rate or its equivalent, for U.S. Dollar loans for U.S. Dollar loans to borrowers located in the United States, as in effect on such day, with any change in the Base Rate resulting from a change in said prime commercial rate to be effective as of the date of the relevant change in said prime commercial rate (it being acknowledged and agreed that such rate may not be the Administrative Agent’s best or lowest rate), (b) the sum of (i) the Federal Funds Rate for such day, plus (ii) 1/2 of 1%, ~~and (c) the LIBOR Quoted Rate for sum of (i) Adjusted Term SOFR for a one-month tenor in effect on~~ such day plus (ii) 1.00%. ~~As used herein, Any change in the term “LIBOR Quoted Base Rate” means, for any day, the rate per annum equal to the quotient of (i) due to a change in the prime rate per annum (rounded upwards, if necessary, to the next higher one hundred thousandth of a percentage point) for deposits in U.S. Dollars for a one month interest period as reported on the applicable Bloomberg screen page (or such other commercially available source providing such quotations as may be designated by the Administrative Agent from time to time) as of 11:00 a.m. (London, England time) on such day (or, if such day is not a Business Day, the quoted federal funds rates or Term SOFR, as applicable, shall be effective from and including the effective date of the change in such rate. If the Base Rate is being used as an alternative rate of interest pursuant to Sections 4.3 or 4.8, on then the immediately preceding Business Day) divided by Base Rate shall be the greater of clauses (a) and (ii) one above and shall be determined without reference to clause (c) minus the Eurodollar Reserve Percentage above, provided that in no event if Base Rate as determined above shall the “LIBOR Quoted Rate” ever be less than 0.00 the Floor plus 1.00%, then Base Rate shall be deemed to be the Floor plus 1.00%.~~

“Base Rate Loan” means a Loan bearing interest at a rate specified in Section 2.4(a).

“Benchmark” means, initially, the Term SOFR Reference Rate; provided that if a Benchmark Transition Event has occurred with respect to the Term SOFR Reference Rate or the then-current Benchmark, then “Benchmark” means the applicable Benchmark Replacement to the extent that such Benchmark Replacement has replaced such prior benchmark rate pursuant to Section 4.8.

“Benchmark Replacement” means the first alternative set forth in the order below that can be determined by the Administrative Agent for the applicable Benchmark Replacement Date.

(a) the sum of Daily Simple SOFR plus 0.10% (10 basis points); or

(b) the sum of: (i) the alternate benchmark rate that has been selected by the Administrative Agent and the Borrower 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 or (B) any evolving or then-prevailing market convention for determining a benchmark rate as a replacement to the then-current Benchmark for U.S. Dollar-denominated syndicated credit facilities 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, the spread adjustment, or method for calculating or determining such spread adjustment, (which may be a positive or negative value or zero) that has been selected by the Administrative Agent and the Borrower giving due consideration to (a) any selection or recommendation of a spread adjustment, or method for calculating or determining such spread adjustment, for the replacement of such Benchmark with the applicable Unadjusted Benchmark Replacement by the Relevant Governmental Body or (b) any evolving or then-prevailing market convention for determining a spread adjustment, or method for calculating or determining such spread adjustment, for the replacement of such Benchmark with the applicable Unadjusted Benchmark Replacement for U.S. Dollar-denominated syndicated credit facilities.

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

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

(b) in the case of clause (c) of the definition of “Benchmark Transition Event”, the first date on which such Benchmark (or the published component used in the calculation thereof) has been determined and announced by or on behalf of the administrator of such Benchmark (or such component thereof) or the regulatory supervisor for the administrator of such Benchmark (or such component thereof) to be no longer representative; provided, that such non-representativeness or non-compliance will be determined by reference to the most recent statement or publication referenced in such clause (c) and even if any Available Tenor of such Benchmark (or such component thereof) continues to be provided on such date.

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

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

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

(b) a public statement or publication of information by the regulatory supervisor for the administrator of such Benchmark (or the published component used in the calculation thereof), the Federal Reserve Board, the Federal Reserve Bank of New York, an insolvency official with jurisdiction over the administrator for such Benchmark (or such component), a resolution authority with jurisdiction over the administrator for such Benchmark (or such component) or a court or an entity with similar insolvency or resolution authority over the administrator for such Benchmark (or such component), which states that the administrator of such Benchmark (or such component) has ceased or will cease to provide all Available Tenors of such Benchmark (or such component thereof) permanently or indefinitely, provided that, at the time of such statement or publication, there is no successor administrator that will continue to provide any Available Tenor of such Benchmark (or such component thereof); or

(c) a public statement or publication of information by or on behalf of the administrator of such Benchmark (or the published component used in the calculation thereof) or the regulatory supervisor for the administrator of such Benchmark (or such component thereof) announcing that all Available Tenors of such Benchmark (or such component thereof) are no longer, or as of a specified future date will no longer be, representative.

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

"Benchmark Unavailability Period" means the period (if any) (a) beginning at the time that a Benchmark Replacement Date has occurred if, at such time, no Benchmark Replacement has replaced the then-current Benchmark for all purposes hereunder and under any Loan Document in accordance with Section 4.8 and (b) ending at the time that a Benchmark Replacement has replaced the then-current Benchmark for all purposes hereunder and under any Loan Document in accordance with Section 4.8.

"Beneficial Ownership Certification" means a certification regarding beneficial ownership a required by the Beneficial Ownership Regulation.

"Beneficial Ownership Regulation" means 31 CFR § 1010.230.

"Borrower" is defined in the introductory paragraph of this Agreement.

"Borrowing" means the total of Loans of a single type advanced, continued for an additional Interest Period, or converted from a different type into such type by the Lenders under a Facility on a single date and, in the case of Eurodollar SOFR Loans, for a single Interest Period. Borrowings of Loans are made and maintained ratably from each of the Lenders under a Facility according to their Percentages of such Facility. A Borrowing is "advanced" on the day Lenders advance funds comprising such Borrowing to the Borrower, is "continued" on the date a new Interest Period for the same type of Loans commences for such Borrowing, and is "converted" when such Borrowing is changed from one type of Loans to the other, all as determined pursuant to Section 2.6. Borrowings of Swingline Loans are made by the Swingline Lender in accordance with the procedures set forth in Section 2.2(b).

"Business Day" means any day (other than a Saturday or Sunday) on which banks are not authorized or required to close in Chicago, Illinois ~~and, if the applicable Business Day relates to the advance or continuation of, or conversion into, or payment of a Eurodollar Loan, on which banks are dealing in U.S. Dollar deposits in the interbank eurodollar market in London, England.~~

"Capital Expenditures" means, with respect to any Person for any period, the aggregate amount of all expenditures (whether paid in cash or accrued as a liability) by such Person during that period for the acquisition or leasing (pursuant to a Capital Lease) of fixed or capital assets or additions to property, plant, or equipment (including replacements, capitalized repairs, and improvements), and for any of the foregoing are required to be capitalized on the balance sheet of such Person in accordance with GAAP.

"Capital Lease" means any lease of Property which in accordance with GAAP is required to be capitalized on the balance sheet of the lessee; *provided* that the adoption or issuance of any accounting standards after the Closing Date will not cause any lease that was not or would not have been a Capital Lease prior to such adoption or issuance to be deemed a Capital Lease.

"Capitalized Lease Obligation" means, for any Person, the amount of the liability shown on the balance sheet of such Person in respect of a Capital Lease determined in accordance with GAAP.

"Cash Collateralize" means, to pledge and deposit with or deliver to the Administrative Agent, for the benefit of one or more of the L/C Issuer or Lenders, as collateral for L/C Obligations or obligations of Lenders to fund participations in respect of L/C Obligations, cash or deposit account balances subject to a first priority perfected security interest in favor of the Administrative Agent or, if the Administrative Agent and each applicable L/C Issuer shall agree in their sole discretion, other credit support, in each case pursuant to documentation in form and substance satisfactory to the Administrative Agent and each 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 (a) cash in banks or on hand and (b) investments with a maturity of three (3) months or less when purchased, which are made in accordance with the Cal-Maine Investment Guidelines as attached hereto as Schedule 1.1,<sup>1</sup> as the same may be amended from time to time with the consent of the Required Lenders.

“*CERCLA*” means the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986, 42 U.S.C. §§9601 *et seq.*, and any future amendments.

“*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, rule, guideline or directive (whether or not having the force of law) by any Governmental Authority; *provided* that notwithstanding anything herein to the contrary, (x) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, regulations, guidelines or directives thereunder or issued in connection therewith and (y) all requests, rules, guidelines or directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States 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, or (b) any “Change of Control” (or words of like import), as defined in any agreement or indenture relating to any issue of Material Indebtedness of any Loan Party or any Subsidiary of a Loan Party, shall occur.

“*Change of Control*” means Fred R. Adams Jr., his spouse, natural children, sons-in-law or grandchildren, or any trust, guardianship, conservatorship or custodianship for the primary benefit of any of the foregoing, or any family limited partnership, similar limited liability company or other entity that 100% of voting control of such entity, is held by any of the foregoing, cease at any time and for any reason (including death or incapacity) to own, legally and beneficially, at least 50% of the votes represented by the Voting Stock of the Borrower.

“*Closing Date*” means the date of this Agreement or such later Business Day upon which each condition described in Section 7.2 shall be satisfied or waived in a manner acceptable to the Administrative Agent in its discretion.

“*Code*” means the Internal Revenue Code of 1986, as amended, and any successor statute thereto.

“*Collateral*” means all properties, rights, interests, and privileges from time to time subject to the Liens granted to the Administrative Agent, or any security trustee therefor, by the Collateral Documents.

“*Collateral Account*” is defined in Section 9.4.

“*Collateral Access Agreement*” means any landlord waiver, warehouse, processor or other bailee letter or other agreement, in form and substance satisfactory to the Administrative Agent, between the Administrative Agent and any third party (including any bailee, consignee, customs broker, or other similar Person) in possession of any Collateral or any landlord of the Borrower or any Subsidiary for any real property where any Collateral is located, as such landlord waiver, bailee letter or other agreement may be amended, restated, or otherwise modified from time to time.

“*Collateral Documents*” means the Security Agreement, and all other mortgages, deeds of trust, security agreements, pledge agreements, assignments, financing statements, control agreements, and other documents as shall from time to time secure or relate to the Secured Obligations or any part thereof.

“*Commitments*” means the Revolving Credit Commitments.

“*Commodity Exchange Act*” means the Commodity Exchange Act (7 U.S.C. § 1 *et seq.*), as amended from time to time, and any successor statute.

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<sup>1</sup> Note to Cal-Maine: Please provide most up to date version of the investment guidelines.

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

“Connection Income Taxes” means Other Connection Taxes that are imposed on or measured by net income (however denominated) or that are franchise Taxes or branch profit Taxes.

“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.

“Controlled Group” means all members of a controlled group of corporations and all trades or businesses (whether or not incorporated) under common control which, together with any Loan Party, are treated as a single employer under Section 414 of the Code.

“Credit Event” means the advancing of any Loan, or the issuance of, or extension of the expiration date or increase in the amount of, any Letter of Credit.

“Daily Simple SOFR” means, for any day, SOFR, with the conventions for this rate (which will include a lookback) being established by the Administrative Agent in accordance with the conventions for this rate selected or recommended by the Relevant Governmental Body for determining “Daily Simple SOFR” for syndicated business loans; provided, that if the Administrative Agent decides that any such convention is not administratively feasible for the Administrative Agent, then the Administrative Agent may establish another convention in its reasonable discretion.

“Debtor Relief Laws” means the Bankruptcy Code of the United States of America, 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.

“Default” means any event or condition which constitutes an Event of Default or any event or condition the occurrence of which would, with the passage of time or the giving of notice, or both, constitute an Event of Default.

*"Defaulting Lender"* means, subject to Section 2.13(b), any Lender that (a) has failed to (i) fund all or any portion of its Loans within two (2) Business Days of the date such Loans were required to be funded hereunder unless such Lender notifies the Administrative Agent and the Borrower in writing that such failure is the result of such Lender's determination that one or more conditions precedent to funding (each of which conditions precedent, together with any applicable default, shall be specifically identified in such writing) has not been satisfied, or (ii) pay to the Administrative Agent, any L/C Issuer, the Swingline Lender or any other Lender any other amount required to be paid by it hereunder (including in respect of its participation in Letters of Credit or Swingline Loans) within two (2) Business Days of the date when due, (b) has notified the Borrower, the Administrative Agent or any L/C Issuer or the Swingline Lender in writing that it does not intend to comply with its funding obligations hereunder, or has made a public statement to that effect (unless such writing or public statement relates to such Lender's obligation to fund a Loan hereunder and states that such position is based on such Lender's determination that a condition precedent to funding (which condition precedent, together with any applicable default, shall be specifically identified in such writing or public statement) cannot be satisfied), (c) has failed, within three (3) Business Days after written request by the Administrative Agent or the Borrower, to confirm in writing to the Administrative Agent and the Borrower that it will comply with its prospective 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 and the Borrower), or (d) has, or has a direct or indirect parent company that has, at any time after the Closing Date (i) become the subject of a proceeding under any Debtor Relief Law, (ii) had appointed for it a receiver, custodian, conservator, trustee, administrator, assignee for the benefit of creditors or similar Person charged with reorganization or liquidation of its business or assets, including the Federal Deposit Insurance Corporation or any other state or federal regulatory authority acting in such a capacity or (iii) 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 judgments or writs of attachment on its assets or permit such Lender (or such Governmental Authority) to reject, repudiate, disavow or disaffirm any contracts or agreements made with such Lender. Any determination by the Administrative Agent that a Lender is a Defaulting Lender under clauses (a) through (d) above shall be conclusive and binding absent manifest error, and such Lender shall be deemed to be a Defaulting Lender (subject to Section 2.13(b)) upon delivery of written notice of such determination to the Borrower, the L/C Issuer, the Swingline Lender and each Lender.

*"Designated Disbursement Account"* means the account of the Borrower maintained with the Administrative Agent or its Affiliate and designated in writing to the Administrative Agent as the Borrower's Designated Disbursement Account (or such other account as the Borrower and the Administrative Agent may otherwise agree).

*"Disposition"* means the sale, lease, conveyance or other disposition of Property, other than (a) the sale or lease of inventory in the ordinary course of business, and (b) the sale, transfer, lease or other disposition of Property of a Loan Party to another Loan Party in the ordinary course of its business.

*"Domestic Subsidiary"* means a Subsidiary that is not a Foreign Subsidiary.

*"EEA Financial Institution"* means (a) any credit institution or investment firm established in any EEA Member Country which is subject to the supervision of an EEA Resolution Authority, (b) any entity established in an EEA Member Country which is a parent of an institution described in clause (a) of this definition, or (c) any financial institution established in an EEA Member Country which is a subsidiary of an institution described in clauses (a) or (b) of this definition and is subject to consolidated supervision with its parent.

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

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

*"Eligible Assignee"* means any Person that meets the requirements to be an assignee under Section 13.2(b)(iii), (v) and (vi) (subject to such consents, if any, as may be required under Section 13.2(b)(iii)).

*"Eligible Line of Business"* means any business engaged in as of the date of this Agreement by the Borrower or any other Loan Party or any business reasonably related thereto, including, without limitation, spent fowl business, further processing, fertilizer or nutrient manufacturing or cooperative purchasing or similar businesses related to Borrower's commercial egg production business.

*“Environmental Claim”* means any investigation, notice, violation, demand, allegation, action, suit, injunction, judgment, order, consent decree, penalty, fine, lien, proceeding or claim (whether administrative, judicial or private in nature), but not including internal reports prepared by or on behalf of Borrower in the ordinary course of business, arising (a) pursuant to, or in connection with an actual or alleged violation of, any Environmental Law, (b) in connection with any Hazardous Material, (c) from any abatement, removal, remedial, investigative, corrective or response action in connection with a Hazardous Material, Environmental Law or order of a governmental authority or (d) from any actual or alleged damage, injury, threat or harm to health, safety, natural resources or the environment.

*“Environmental Law”* means any current or future Legal Requirement pertaining to (a) the protection of health, safety and the indoor or outdoor environment, (b) the conservation, management, protection or use of natural resources and wildlife, (c) the protection or use of surface water or groundwater, (d) the management, manufacture, possession, presence, use, generation, transportation, treatment, storage, disposal, Release, threatened Release, abatement, removal, investigation, remediation or handling of, or exposure to, any Hazardous Material or (e) pollution (including any Release to air, land, surface water or groundwater), and any amendment, rule, regulation, order or directive issued thereunder.

*“Environmental Liability”* means any liability, contingent or otherwise (including any liability for damages, costs of environmental remediation, fines, costs of compliance, penalties or indemnities), of any Loan Party or any Subsidiary of a Loan Party directly or indirectly resulting from or based upon (a) any actual or alleged violation of any Environmental Law, (b) the generation, use, handling, transportation, storage, treatment or disposal of any Hazardous Materials, (c) exposure to any Hazardous Materials, (d) the Release or threatened Release of any Hazardous Materials into the environment or (e) any contract, agreement or other legally enforceable consensual arrangement pursuant to which liability is assumed or imposed with respect to any of the foregoing.

*“ERISA”* means the Employee Retirement Income Security Act of 1974, as amended, or any successor statute thereto.

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

~~*“Eurodollar Loan”* means a Loan bearing interest at the rate specified in Section 2.4(b).~~

~~*“Eurodollar Reserve Percentage”* means the maximum reserve percentage, expressed as a decimal, at which reserves (including, without limitation, any emergency, marginal, special, and supplemental reserves) are imposed by the Board of Governors of the Federal Reserve System (or any successor) on “eurocurrency liabilities”, as defined in such Board’s Regulation D (or any successor thereto), subject to any amendments of such reserve requirement by such Board or its successor, taking into account any transitional adjustments thereto. For purposes of this definition, the relevant Loans shall be deemed to be “eurocurrency liabilities” as defined in Regulation D without benefit or credit for any prorations, exemptions or offsets under Regulation D. The Eurodollar Reserve Percentage shall be adjusted automatically on and as of the effective date of any change in any such reserve percentage.~~

*“Event of Default”* means any event or condition identified as such in Section 9.1.

*“Event of Loss”* means, with respect to any Property, any of the following: (a) any loss, destruction or damage of such Property or (b) any condemnation, seizure, or taking, by exercise of the power of eminent domain or otherwise, of such Property, or confiscation of such Property or the requisition of the use of such Property.

*“Exchange Act”* means the United States Securities and Exchange Act of 1934.

*“Excluded Deposit Account”* means a deposit account the balance of which consists exclusively of (and is identified when established as an account established solely for the purposes of) (a) withheld income Taxes and federal, state, local or foreign employment Taxes in such amounts as are required in the reasonable judgment of a Loan Party to be paid to the Internal Revenue Service or any other U.S., federal, state or local or foreign government agencies within the following month with respect to employees of such Loan Party, (b) amounts required to be paid over to an employee benefit plan pursuant to DOL Reg. Sec. 2510.3-102 on behalf of or for the benefit of employees of any Loan Party, (c) amounts which are required to be pledged or otherwise provided as security pursuant to any requirement of any Governmental Authority or foreign pension requirement, (d) amounts to be used to fund payroll obligations (including, but not limited to, any ZBA for payroll and amounts payable to any employment contracts between any Loan Party and their respective employees), (e) Texas Egg Products, LLC and South Texas Applicators, Inc. deposit accounts, and (f) other deposit accounts maintained in the ordinary course of business containing cash amounts that do not exceed at any time \$2,000,000 in the aggregate for all such accounts under this clause (f), unless requested by the Administrative Agent after the occurrence and during the continuation of an Event of Default.

*“Excluded Equity Issuances”* means (a) the issuance by any Subsidiary of equity securities to the Borrower or any Guarantor, as applicable, (b) the issuance of equity securities by the Borrower to any Person that is an equity holder of the Borrower prior to such issuance, (c) the issuance of equity securities of the Borrower to directors, officers and employees of the Borrower and its Subsidiaries pursuant to employee stock option plans (or other employee incentive plans or other compensation arrangements) approved by the Borrower’s Board of Directors, and (d) the issuance of equity securities of the Borrower in order to finance the purchase consideration (or a portion thereof) in connection with a Permitted Acquisition or Capital Expenditures.

*“Excluded Property”* means (a) any intent-to-use trademark application prior to the filing of a “Statement of Use” or “Amendment to Allege Use” with the United States Patent and Trademark Office with respect thereto, to the extent, if any, that, and solely during the period, if any, in which, the grant of a security interest therein would impair the validity or enforceability of such intent-to-use trademark application under applicable federal law; (b) any permit or license issued to any Loan Party as the permit holder or licensee thereof or any lease to which any Loan Party is lessee thereof, in each case only to the extent and for so long as the terms of such permit, license, or lease effectively (after giving effect to Sections 9-406 through 9-409, inclusive, of the Uniform Commercial Code in the applicable state (or any successor provision or provisions) or any other applicable law) prohibit the creation by such Loan Party of a security interest in such permit, license, or lease in favor of the Administrative Agent or would result in an effective invalidation, termination or breach of the terms of any such permit, license or lease (after giving effect to Sections 9-406 through 9-409, inclusive, of the Uniform Commercial Code in the applicable state (or any successor provision or provisions) or any other applicable law), in each case unless and until any required consents are obtained, *provided* that the Excluded Property will not include, and the Collateral shall include and the security interest granted in the Collateral shall attach to, (x) all proceeds, substitutions or replacements of any such excluded items referred to herein unless such proceeds, substitutions or replacements would constitute excluded items hereunder, (y) all rights to payment due or to become due under any such excluded items referred to herein, and (z) if and when the prohibition which prevents the granting of a security interest in any such Property is removed, terminated, or otherwise becomes unenforceable as a matter of law, the Administrative Agent will be deemed to have, and at all times to have had, a security interest in such property, and the Collateral will be deemed to include, and at all times to have included, such Property without further action or notice by any Person; and (c) Excluded Deposit Accounts.

*“Excluded Swap Obligation”* means, with respect to any Guarantor, any Swap Obligation if, and to the extent that, all or a portion of the Guarantee of such Guarantor of, or the grant by such Guarantor of a security interest to secure, such Swap Obligation (or any Guarantee thereof) is or becomes illegal under the Commodity Exchange Act or any rule, regulation or order of the Commodity Futures Trading Commission (or the application or official interpretation of any thereof) by virtue of such Guarantor’s failure for any reason not to constitute an “eligible contract participant” as defined in the Commodity Exchange Act and the regulations thereunder at the time the Guarantee of such Guarantor or the grant of such security interest becomes effective with respect to such related Swap Obligation. If a Swap Obligation arises under a master agreement governing more than one swap, such exclusion shall apply only to the portion of such Swap Obligation that is attributable to swaps for which such Guarantee or security interest is or becomes illegal.

“*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 net income (however denominated), franchise Taxes, and branch profits Taxes, in each case, (i) imposed as a result of such Recipient being organized under the laws of, or having its principal office or, in the case of any Lender, its applicable lending office located in, the jurisdiction imposing such Tax (or any political subdivision thereof) or (ii) that are Other Connection Taxes, (b) in the case of a Lender, U.S. federal withholding Taxes imposed on amounts payable to or for the account of such Lender with respect to an applicable interest in a Loan or Commitment pursuant to a law in effect on the date on which (i) such Lender acquires such interest in the Loan or Commitment (other than pursuant to an assignment request by the Borrower under Section 2.12) or (ii) such Lender changes its lending office, except in each case to the extent that, pursuant to Section 4.1 amounts with respect to such Taxes were payable either to such Lender’s assignor immediately before such Lender became a party hereto or to such Lender immediately before it changed its lending office, (c) Taxes attributable to such Recipient’s failure to comply with Section 4.1(g), and (d) any U.S. federal withholding Taxes imposed under FATCA .

“*Existing Credit Agreement*” has the meaning specified in the Preliminary Statements hereto.

“*Extended Revolving Credit Commitment*” means any Revolving Credit Commitment the maturity of which has been extended pursuant to Section 2.16.

“*Extended Revolving Loans*” means any Revolving Loans made pursuant to the Extended Revolving Credit Commitments.

“*Extended Incremental Term Loans*” means any Incremental Term Loans the maturity of which shall have been extended pursuant to Section 2.16.

“*Extension*” has the meaning specified in Section 2.16(a).

“*Extension Offer*” has the meaning specified in Section 2.16(a).

“*Facility*” means any of the Revolving Facility or the Incremental Term Facility.

“*FATCA*” means Sections 1471 through 1474 of the Code, as of the date of this Agreement (or any amended or successor version that is substantively comparable and not materially more onerous to comply with), any current or future regulations or official interpretations thereof, and any agreements entered into pursuant to Section 1471(b)(1) of the Code.

“*FCPA*” means the Foreign Corrupt Practices Act, 15 U.S.C. §§78dd-1, et seq.

“*Federal Funds Rate*” means, for any day, the rate per annum equal to the weighted average of the rates on overnight federal funds transactions with members of the Federal Reserve System, as published by the Federal Reserve Bank of New York on the Business Day next succeeding such day; *provided* that (a) if such day is not a Business Day, the Federal Funds Rate for such day shall be such rate on such transactions on the next preceding Business Day as so published on the next succeeding Business Day, and (b) if no such rate is so published on such next succeeding Business Day, the Federal Funds Rate for such day shall be the average rate (rounded upward, if necessary, to a whole multiple of 1/100 of 1%) charged to the Administrative Agent on such day on such transactions as determined by the Administrative Agent; *provided* that in no event shall the Federal Funds Rate be less than 0.00%.

“*Financial Officer*” of any Person means the chief financial officer, principal accounting officer, treasurer or controller of such Person.

“*Floor*” means the rate per annum of interest equal to 0%.

“*Foreign Lender*” means a Lender that is not a U.S. Person.

“*Foreign Subsidiary*” means each Subsidiary that (a) is organized under the laws of a jurisdiction other than the United States of America or any state thereof or the District of Columbia, (b) conducts substantially all of its business outside of the United States of America, and (c) has substantially all of its assets outside of the United States of America.

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

“*Fronting Exposure*” means, at any time there is a Defaulting Lender, (a) with respect to any L/C Issuer, such Defaulting Lender’s Revolver Percentage of the outstanding L/C Obligations with respect to 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, and (b) with respect to the Swingline Lender, such Defaulting Lender’s Revolver Percentage of outstanding Swingline Loans made by the Swingline Lender other than Swingline Loans as to which such Defaulting Lender’s participation obligation has been reallocated to other Lenders.

“*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 business.

“*GAAP*” means generally accepted accounting principles set forth from time to time in the opinions and pronouncements of the Accounting Principles Board and the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board (or agencies with similar functions of comparable stature and authority within the U.S. accounting profession), which are applicable to the circumstances as of the date of determination.

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

“*Guarantee*” of or by any Person (the “*guarantor*”) means any obligation, contingent or otherwise, of the guarantor guaranteeing or having the economic effect of guaranteeing any Indebtedness or other obligation of any other Person (the “*primary obligor*”) in any manner, whether directly or indirectly, and including any obligation of the guarantor, direct or indirect, (a) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness or other obligation or to purchase (or to advance or supply funds for the purchase of) any security for the payment thereof, (b) to purchase or lease property, securities or services for the purpose of assuring the owner of such Indebtedness or other obligation of the payment thereof, (c) to maintain working capital, equity capital or any other financial statement condition or liquidity of the primary obligor so as to enable the primary obligor to pay such Indebtedness or other obligation or (d) as an account party in respect of any letter of credit or letter of guaranty issued to support such Indebtedness or obligation; *provided* that the term Guarantee shall not include endorsements for collection or deposit in the ordinary course of business.

“*Guaranty Agreements*” means and includes the Guarantee of the Loan Parties provided for in Section 11, and any other guaranty agreement executed and delivered in order to guarantee the Secured Obligations or any part thereof in form and substance acceptable to the Administrative Agent.

“*Guarantors*” means and includes each Wholly-owned Subsidiary that is a Domestic Subsidiary of the Borrower, and Borrower, in its capacity as a guarantor of the Secured Obligations of another Loan Party.

“*Hazardous Material*” means any substance, chemical, compound, product, solid, gas, liquid, waste, byproduct, pollutant, contaminant or material which is hazardous, toxic, or a pollutant and regulated pursuant to any Environmental Law and includes, without limitation, (a) asbestos, polychlorinated biphenyls and petroleum (including crude oil or any fraction thereof) and (b) any material classified or regulated as “hazardous,” “toxic,” or a “pollutant” or words of like import pursuant to an Environmental Law. For the purposes of this Agreement, however, the Parties acknowledge and agree that Borrower is in the live animal agriculture business and routinely generates, stores, handles, transports, composts, disposes of, applies and/or sells manure for beneficial reuse (fertilizer) in the ordinary course of business, that manure naturally breaks down and releases ammonia, phosphorus and other substances and such manure and its constituent parts shall not be “Hazardous Material” hereunder.

“*Hazardous Material Activity*” means any activity, event or occurrence involving a Hazardous Material, including, without limitation, the manufacture, possession, presence, use, generation, transportation, treatment, storage, disposal, Release, threatened Release, abatement, removal, remediation, handling of or corrective or response action to any Hazardous Material.

“*Hedging Agreement*” means any agreement with respect to any swap, forward, future or derivative transaction or option or similar agreement involving, or settled by reference to, one or more rates, currencies, commodities, equity or debt instruments or securities, or economic, financial or pricing indices or measures of economic, financial or pricing risk or value or any similar transaction or any combination of these transactions; *provided* that no phantom stock or similar plan providing for payments only on account of services provided by current or former directors, officers, employees or consultants of any Loan Party or its Subsidiaries shall be a Hedging Agreement.

“*Hedging Liability*” means the liability of any Loan Party to any of the Lenders, or any Affiliates of such Lenders in respect of any Hedging Agreement as such Loan Party may from time to time enter into with any one or more of the Lenders party to this Agreement or their Affiliates, whether absolute or contingent and howsoever and whensoever created, arising, evidenced or acquired (including all renewals, extensions and modifications thereof and substitutions therefor); *provided, however*, that, with respect to any Guarantor, Hedging Liability Guaranteed by such Guarantor shall exclude all Excluded Swap Obligations.

“*Hostile Acquisition*” means the acquisition of the capital stock or other equity interests of a Person through a tender offer or similar solicitation of the owners of such capital stock or other equity interests which has not been approved (prior to such acquisition) by resolutions of the Board of Directors of such Person or by similar action if such Person is not a corporation, or as to which such approval has been withdrawn.

“*Increase*” is defined in Section 2.15.

“*Increase Date*” is defined in Section 2.15.

“*Incremental Amendment*” is defined in Section 2.15.

“*Incremental Term Facility*” means the credit facility for Incremental Term Loans.

“*Incremental Term Loans*” is defined in Section 2.15.

“*Incremental Term Loan Percentage*” means, for each Lender, the percentage held by such Lender of the aggregate principal amount of all Incremental Term Loans outstanding, if any.

“*Indebtedness*” means for any Person (without duplication) (a) all indebtedness created, assumed or incurred in any manner by such Person representing money borrowed (including by the issuance of debt securities), (b) all indebtedness for the deferred purchase price of property or services (other than trade accounts payable arising in the ordinary course of business), (c) all indebtedness secured by any Lien upon Property of such Person, whether or not such Person has assumed or become liable for the payment of such indebtedness, (d) all Capitalized Lease Obligations of such Person, (e) all obligations of such Person on or with respect to letters of credit, bankers’ acceptances and other extensions of credit to the extent any of the foregoing are not cash collateralized, whether or not representing obligations for borrowed money, (f) all obligations of such Person to purchase, redeem, retire, defease or otherwise make any payment in respect of any equity interest in such Person or any other Person or any warrant, right or option to acquire such equity interest, valued, in the case of a redeemable preferred interest, at the greater of its voluntary or involuntary liquidation preference plus accrued and unpaid dividends, (g) all net obligations (determined as of any time based on the termination value thereof) of such Person under any interest rate, foreign currency, and/or commodity swap, exchange, cap, collar, floor, forward, future or option agreement, or any other similar interest rate, currency or commodity hedging arrangement; 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.

“*Indemnified Taxes*” means (a) all 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 (a), Other Taxes.

“*Interest Payment Date*” means (a) with respect to any ~~Eurodollar~~SOFR Loan, the last day of each Interest Period with respect to such ~~Eurodollar~~SOFR Loan and on the maturity date and, if the applicable Interest Period is longer than three (3) ~~three~~ months, on each day occurring every three (3) months after the commencement of such Interest Period, (b) with respect to any Base Rate Loan (other than Swingline Loans), the last day of every calendar quarter and on the maturity date, and (c) as to any Swingline Loan, (i) bearing interest by reference to the Base Rate, the last day of every calendar month, and on the maturity date and (ii) bearing interest by reference to the Swingline Lender’s Quoted Rate, the last day of the Interest Period with respect to such Swingline Loan, and on the maturity date; provided that, as to any such Loan, (i) if any such date would be a day other than a Business Day, such date 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 date shall be the next preceding Business Day and (ii) the Interest Payment Date with respect to any Borrowing that occurs on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in any applicable calendar month) shall be the last Business Day of any such succeeding applicable calendar month.

“Interest Period” means the period commencing on the date a Borrowing of Eurodollar/SOFR Loans or Swingline Loans (bearing interest at the Swingline Lender’s Quoted Rate) is advanced, continued, or created by conversion and ending (a) in the case of Eurodollar/SOFR Loans, on the numerically corresponding day in the calendar month that is one (1), two (2), three (3), or six (6) or twelve (12) months thereafter, as specified in the applicable borrowing request or interest election request and (b) in the case of Swingline Loans bearing interest at the Swingline Lender’s Quoted Rate, on the date one (1) to five (5) Business Days thereafter as mutually agreed by the Borrower and the Swingline Lender, ~~provided, however,~~ that:

(i) no Interest Period shall extend beyond the final maturity date of the relevant Loans;

(ii) whenever the last day of any Interest Period would otherwise be a day that is not a Business Day, the last day of such Interest Period shall be extended to the next succeeding Business Day, *provided* that, if such extension would cause the last day of an Interest Period for a Borrowing of Eurodollar/SOFR Loans to occur in the following calendar month, the last day of such Interest Period shall be the immediately preceding Business Day; ~~and~~

(iii) for purposes of determining an Interest Period for a Borrowing of Eurodollar/SOFR Loans, a month means a period starting on one day in a calendar month and ending on the numerically corresponding day in the next calendar month; *provided, however,* that if there is no numerically corresponding day in the month in which such an Interest Period is to end or if such an Interest Period begins on the last Business Day of a calendar month, then such Interest Period shall end on the last Business Day of the calendar month in which such Interest Period is to end; and

(iv) no tenor that has been removed from this definition pursuant to Section 4.8 below shall be available for specification in such borrowing request or interest election request.

“IRS” means the United States Internal Revenue Service.

“L/C Issuer” means BMO Harris Bank N.A., in its capacity as the issuer of Letters of Credit hereunder, in each case together with its successors in such capacity as provided in Section 2.3(h).

“L/C Obligations” means the aggregate undrawn face amounts of all outstanding Letters of Credit and all unpaid Reimbursement Obligations.

“L/C Participation Fee” is defined in Section 3.1(b).

“L/C Sublimit” means \$15,000,000, as reduced or otherwise amended pursuant to the terms hereof.

“Legal Requirement” means any treaty, convention, statute, law, common law, rule, regulation, ordinance, license, permit, governmental approval, injunction, judgment, order, consent decree or other requirement of any governmental authority, whether federal, state, or local.

“Lenders” means and includes BMO Harris Bank N.A. and the other Persons listed on Schedule 2.1/2.2 and any other Person that shall have become party hereto pursuant to an Assignment and Assumption, other than any such Person that ceases to be a party hereto pursuant to an Assignment and Assumption. Unless the context requires otherwise, the term “Lenders” includes the Swingline Lender.

“Lending Office” is defined in Section 4.7.

“Letter of Credit” is defined in Section 2.3(a).

~~“LIBOR” means, for an Interest Period for a Borrowing of Eurodollar Loans, (a) the LIBOR Index Rate for such Interest Period, if such rate is available, and (b) if the LIBOR Index Rate cannot be determined, the arithmetic average of the rates of interest per annum (rounded upwards, if necessary, to the nearest 1/100 of 1%) at which deposits in U.S. Dollars in immediately available funds are offered to the Administrative Agent at 11:00 a.m. (London, England time) two (2) Business Days before the beginning of such Interest Period by three (3) or more major banks in the interbank euro dollar market selected by the Administrative Agent for delivery on the first day of and for a period equal to such Interest Period and in an amount equal or comparable to the principal amount of the Eurodollar Loan scheduled to be made as part of such Borrowing, provided that in no event shall “LIBOR” be less than 0.00%.~~

~~“LIBOR Index Rate” means, for any Interest Period, the rate per annum (rounded upwards, if necessary, to the next higher one hundred thousandth of a percentage point) for deposits in U.S. Dollars for a period equal to such Interest Period, as reported on the applicable Bloomberg screen page (or such other commercially available source providing such quotations as may be designated by the Administrative Agent from time to time) as of 11:00 a.m. (London, England time) on the day two (2) Business Days before the commencement of such Interest Period.~~

“Lien” means any mortgage, lien, security interest, pledge, charge or encumbrance of any kind in respect of any Property, including the interests of a vendor or lessor under any conditional sale, Capital Lease or other title retention arrangement.

“Loan” means any Revolving Loan, Swingline Loan, or Incremental Term Loan (if any) whether outstanding as a Base Rate Loan or ~~Eurodollar~~ SOFR Loan or otherwise, each of which is a “type” of Loan hereunder.

“Loan Documents” means this Agreement, the Notes (if any), the Applications, the Collateral Documents, the Guaranty Agreements, and each other instrument or document to be delivered hereunder or thereunder or otherwise in connection therewith.

“Loan Party” means the Borrower and each of the Guarantors.

“Marketable Securities” means investments with a maturity of more than three (3) months when purchased which are made in accordance with the Cal-Maine Investment Guidelines as attached hereto as Schedule 1.1, as the same may be amended from time to time with the consent of the Required Lenders.

“Material Adverse Effect” means (a) a material adverse change in, or material adverse effect upon, the operations, business, or financial condition of the Borrower or of the Loan Parties and their Subsidiaries taken as a whole, (b) a material impairment of the ability of any Loan Party to perform its material obligations under any Loan Document or (c) a material adverse effect upon (i) the legality, validity, binding effect or enforceability against any Loan Party of any Loan Document or the material rights and remedies of the Administrative Agent and the Lenders thereunder or (ii) the perfection or priority of any Lien granted under any Collateral Document.

“Material Indebtedness” means Indebtedness (other than the Loans and Letters of Credit), or obligations in respect of one or more Hedging Agreements, of any one or more of the Loan Parties and its Subsidiaries with an individual outstanding principal amount exceeding \$30,000,000. For purposes of determining Material Indebtedness, the “obligations” of any Loan Party or any Subsidiary in respect of any Hedging Agreement at any time shall be the maximum aggregate amount (giving effect to any netting agreements) that such Loan Party or such Subsidiary would be required to pay if such Hedging Agreement were terminated at such time.

“Minimum Collateral Amount” means, at any time, (a) with respect to Cash Collateral consisting of cash or deposit account balances, an amount equal to 105% (or 100% if such Cash Collateral consists of a demand or time deposit account) of the Fronting Exposure of all L/C Issuers with respect to Letters of Credit issued and outstanding at such time and (b) otherwise, an amount determined by the Administrative Agent and the L/C Issuer in their sole discretion.

“Moody’s” means Moody’s Investors Service, Inc.

“Net Cash Proceeds” means, as applicable, (a) with respect to any Disposition by a Person, cash and cash equivalent proceeds received by or for such Person’s account, net of (i) reasonable direct costs relating to such Disposition, (ii) sale, use or other transactional taxes paid or payable by such Person as a direct result of such Disposition, and (iii) the amount of any Indebtedness permitted hereby which is secured by a prior perfected Lien on the asset subject to such Disposition and is required to be repaid in connection with such Disposition, (b) with respect to any Event of Loss of a Person, cash and cash equivalent proceeds received by or for such Person’s account (whether as a result of payments made under any applicable insurance policy therefor or in connection with condemnation proceedings or otherwise), net of reasonable direct costs incurred in connection with the collection of such proceeds, awards or other payments, and the amount of any Indebtedness permitted hereby which is secured by a prior perfected Lien in the asset subject to the Event of Loss and (c) with respect to any offering of equity securities of a Person or the issuance of any Indebtedness by a Person, cash and cash equivalent proceeds received by or for such Person’s account, net of reasonable legal, underwriting, and other fees and expenses incurred as a direct result thereof.

“*Net Income*” means, with reference to any period, the net income (or net loss) of the Borrower and its Subsidiaries for such period computed on a consolidated basis in accordance with GAAP; *provided* that there shall be excluded from Net Income (a) the net income (or net loss) of any Person accrued prior to the date it becomes a Subsidiary of, or has merged into or consolidated with, the Borrower or another Subsidiary, (b) the net income (or net loss) of any Person (other than a Subsidiary) in which the Borrower or any of its Subsidiaries has an equity interest, except to the extent of the amount of dividends or other distributions actually paid to the Borrower or any of its Subsidiaries during such period, and (c) the undistributed earnings of any Subsidiary to the extent that the declaration or payment of dividends or similar distributions by such Subsidiary is not at the time permitted by the terms of any contractual obligation (other than under any Loan Document) or requirement of law applicable to such Subsidiary.

“*Net Worth*” means, at any time the same is to be determined, total shareholder’s equity (including capital stock, additional paid in capital, and retained earnings after deducting treasury stock) that would appear on the balance sheet of the Borrower and its Subsidiaries, determined in accordance with GAAP on a consolidated basis.

“*Non-Consenting Lender*” means any Lender that does not approve any consent, waiver or amendment that (a) requires the approval of all affected Lenders in accordance with the terms of Section 13.3 and (b) has been approved by the Required Lenders.

“*Non-Defaulting Lender*” means, at any time, each Lender that is not a Defaulting Lender at such time.

“*Note*” and “*Notes*” each is defined in Section 2.10.

“*Obligations*” means all obligations of the Borrower to pay principal and interest on the Loans, all Reimbursement Obligations owing under the Applications, all fees and charges payable hereunder, and all other payment obligations of the Borrower or any other Loan Party arising under or in relation to any Loan Document, in each case whether now existing or hereafter arising, due or to become due, direct or indirect, absolute or contingent, and howsoever evidenced, held or acquired.

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

“*OFAC Event*” is defined in Section 8.15.

“*OFAC Sanctions Programs*” means all laws, regulations, and Executive Orders administered by OFAC, including without limitation, the Bank Secrecy Act, anti-money laundering laws (including, without limitation, the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, Pub. L. 107-56 (a/k/a the USA Patriot Act)), and all economic and trade sanction programs administered by OFAC, any and all similar United States federal laws, regulations or Executive Orders (whether administered by OFAC or otherwise), and any similar laws, regulations or orders adopted by any State within the United States.

“*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 from such Recipient having executed, delivered, become a party to, performed its obligations under, received payments under, received or perfected a security interest under, engaged in any other transaction pursuant to or enforced any Loan Document, or sold or assigned an interest in any Loan or Loan Document).

“*Other Taxes*” means all present or future stamp, court or documentary, intangible, recording, filing or similar Taxes that arise from any payment made under, from the execution, delivery, performance, enforcement or registration of, from the receipt or perfection of a security interest under, or otherwise with respect to, any Loan Document, except any such Taxes that are Other Connection Taxes imposed with respect to an assignment (other than an assignment made pursuant to Section 2.12).

“*Participant*” has the meaning assigned to such term in clause (d) of Section 13.2.

“*Participant Register*” has the meaning specified in clause (d) of Section 13.2.

“*Participating Interest*” is defined in Section 2.3(e).

“*Participating Lender*” is defined in Section 2.3(e).

“*PBGC*” means the Pension Benefit Guaranty Corporation or any Person succeeding to any or all of its functions under ERISA.

“*Percentage*” means for any Lender its Revolver Percentage or its Incremental Term Loan Percentage, as applicable.

“*Permitted Acquisition*” means any Acquisition with respect to which all of the following conditions shall have been satisfied:

(a) the Acquired Business is in an Eligible Line of Business and has its primary operations within the United States of America;

(b) the Acquisition shall not be a Hostile Acquisition;

(c) the Borrower or a Subsidiary shall be the surviving entity in any merger to which it is a party in connection with such Acquisition;

(d) if a new Subsidiary is formed or acquired as a result of or in connection with the Acquisition, the Borrower shall have complied with the requirements of Section 12.3 within 30 days of the completion thereof;

(e) after giving effect to the Acquisition and any Credit Event in connection therewith, no Default shall exist, including with respect to the financial covenants contained in Section 8.22 on a pro forma basis (looking back four completed fiscal quarters as if the Acquisition occurred on the first day of such period and after giving effect to the payment of the purchase price for the Acquired Business); and

(f) after giving effect to the Acquisition and any Credit Event in connection therewith, the sum of cash and Cash Equivalents of the Borrower plus availability under the Revolving Facility shall equal at least \$50,000,000.

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

“*Plan*” means any employee pension benefit plan covered by Title IV of ERISA or subject to the minimum funding standards under Section 412 of the Code that either (a) is maintained by a member of the Controlled Group for employees of a member of the Controlled Group or (b) is maintained pursuant to a collective bargaining agreement or any other arrangement under which more than one employer makes contributions and to which a member of the Controlled Group is then making or accruing an obligation to make contributions or has within the preceding five plan years made contributions.

“*Premises*” means the real property owned or leased by any Loan Party or any Subsidiary of a Loan Party.

“*Property*” means, as to any Person, all types of real, personal, tangible, intangible or mixed property owned by such Person whether or not included in the most recent balance sheet of such Person and its subsidiaries under GAAP.

“*Qualified ECP Guarantor*” means, in respect of any Swap Obligation, each Loan Party that has total assets exceeding \$10,000,000 at the time the relevant Guarantee or grant of the relevant security interest becomes effective with respect to such Swap Obligation or such other person as constitutes an “eligible contract participant” under the Commodity Exchange Act or any regulations promulgated thereunder and can cause another person to qualify as an “eligible contract participant” at such time by entering into a keepwell under Section 1a(18)(A)(v)(II) of the Commodity Exchange Act.

“*RCRA*” means the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 and Hazardous and Solid Waste Amendments of 1984, 42 U.S.C. §§6901 *et seq.*, and any future amendments.

“*Recipient*” means (a) the Administrative Agent, (b) any Lender, and (c) any L/C Issuer, as applicable.

“*Register*” is defined in Section 13.2(c).

“*Reimbursement Obligation*” is defined in Section 2.3(c).

“*Related Parties*” means, with respect to any Person, such Person’s Affiliates and the partners, directors, officers, employees, agents, trustees, administrators, managers, advisors and representatives of such Person and of such Person’s Affiliates.

“*Release*” means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, migrating, dumping, or disposing into the indoor or outdoor environment, including, without limitation, the abandonment or discarding of barrels, drums, containers, tanks or other receptacles containing or previously containing any Hazardous Material.

“*Relevant Governmental Body*” means the FRB and/or the Federal Reserve Bank of New York, or a committee officially endorsed or convened by the FRB and/or the Federal Reserve Bank of New York, or any successor thereto.

“*Required Lenders*” means, at any time, Lenders having Total Credit Exposures representing (a) if there are 2 or less Lenders, all of the Lenders, and (b) if there are 3 or more Lenders, 50.0% or more of the Total Credit Exposures of all Lenders. To the extent provided in the last paragraph of Section 13.3, the Total Credit Exposure of any Defaulting Lender shall be disregarded in determining Required Lenders at any time.

“*Responsible Officer*” of any person means any executive officer or Financial Officer of such Person and any other officer, general partner or managing member or similar official thereof with responsibility for the administration of the obligations of such person in respect of this Agreement whose signature and incumbency shall have been certified to the Administrative Agent on or after the Closing Date pursuant to an incumbency certificate of the type contemplated by Section 7.2.

“*Revolver Percentage*” means, for each Lender, the percentage of the total Revolving Credit Commitments represented by such Lender’s Revolving Credit Commitment or, if the Revolving Credit Commitments have been terminated or expired, the percentage of the total Revolving Credit Exposure then outstanding held by such Lender.

“*Revolving Facility*” means the credit facility for making Revolving Loans and Swingline Loans and issuing Letters of Credit described in Sections 2.1, 2.2 and 2.3.

“*Revolving Credit Commitment*” means, as to any Lender, the obligation of such Lender to make Revolving Loans and to participate in Swingline Loans and Letters of Credit issued for the account of the Borrower hereunder in an aggregate principal or face amount at any one time outstanding not to exceed the amount set forth opposite such Lender’s name on Schedule 2.1/2.2 attached hereto and made a part hereof, as the same may be reduced or modified at any time or from time to time pursuant to the terms hereof (including, without limitation, Section 2.15 hereof). The Borrower and the Lenders acknowledge and agree that the Revolving Credit Commitments of the Lenders aggregate \$250,000,000 on the Closing Date.

“*Revolving Credit Exposure*” means, as to any Lender at any time, the aggregate principal amount at such time of its outstanding Revolving Loans and such Lender’s participation in L/C Obligations and Swingline Loans at such time.

“*Revolving Credit Termination Date*” means November 15, 2026 or such earlier date on which the Revolving Credit Commitments are terminated in whole pursuant to Section 2.11, 9.2 or 9.3.

“*Revolving Loan*” is defined in Section 2.1 and, as so defined, includes a Base Rate Loan or a ~~Eurodollar~~ SOFR Loan, each of which is a “type” of Revolving Loan hereunder.

“*Revolving Note*” is defined in Section 2.10.

“*S&P*” means Standard & Poor’s Ratings Services Group, a Standard & Poor’s Financial Services LLC business.

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

“*Secured Obligations*” means the Obligations, Hedging Liability, and Bank Product Obligations, in each case whether now existing or hereafter arising, due or to become due, direct or indirect, absolute or contingent, and howsoever evidenced, held or acquired (including all interest, costs, fees, and charges after the entry of an order for relief against any Loan Party in a case under the United States Bankruptcy Code or any similar proceeding, whether or not such interest, costs, fees and charges would be an allowed claim against such Loan Party in any such proceeding); *provided, however*, that, with respect to any Guarantor, Secured Obligations Guaranteed by such Guarantor shall exclude all Excluded Swap Obligations.

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

“*Security Agreement*” means that certain Security Agreement dated as of July 10, 2018, as amended and reaffirmed by that certain Reaffirmation, Modification and Omnibus Joinder Agreement dated as of the date hereof among the Loan Parties and the Administrative Agent, as the same may be amended, modified, amended and restated, supplemented or otherwise modified from time to time.

“*SOFR*” means a rate equal to the secured overnight financing rate as administered by the Federal Reserve Bank of New York or a successor administrator of the secured overnight financing rate).

“*SOFR Loan*” means a Loan bearing interest based on Adjusted Term SOFR, other than pursuant to clause (c) of the definition of “Base Rate.”

“*Subsidiary*” means, as to any particular parent corporation or organization, any other corporation or organization more than 50% of the outstanding Voting Stock of which is at the time directly or indirectly owned by such parent corporation or organization or by any one or more other entities which are themselves subsidiaries of such parent corporation or organization. Unless otherwise expressly noted herein, the term “*Subsidiary*” means a Subsidiary of the Borrower or of any of its direct or indirect Subsidiaries.

“*Swap Obligation*” means, with respect to any Guarantor, any obligation to pay or perform under any agreement, contract or transaction that constitutes a “swap” within the meaning of Section 1a(47) of the Commodity Exchange Act.

“*Sweep Depository*” shall have the meaning set forth in the definition of Sweep to Loan Arrangement.

“*Sweep to Loan Arrangement*” means a cash management arrangement established by the Borrower with the Swingline Lender or an Affiliate of the Swingline Lender, as depository (in such capacity, the “*Sweep Depository*”), pursuant to which the Swingline Lender is authorized (a) to make advances of Swingline Loans hereunder, the proceeds of which are deposited by the Swing Lender into a designated account of the Borrower maintained at the Sweep Depository, and (b) to accept as prepayments of the Swingline Loans hereunder proceeds of excess targeted balances held in such designated account at the Sweep Depository, which cash management arrangement is subject to such agreement(s) and on such terms acceptable to the Sweep Depository and the Swing Lender.

“*Swingline*” means the credit facility for making one or more Swingline Loans described in Section 2.2.

“*Swingline Lender*” means BMO Harris Bank N.A., in its capacity as the Lender of Swingline Loans hereunder, or any successor Lender acting in such capacity appointed pursuant to Section 13.2.

“*Swingline Lender’s Quoted Rate*” is defined in Section 2.2(b).

“*Swingline Sublimit*” means \$15,000,000, as reduced pursuant to the terms hereof.

“*Swingline Loan*” and “*Swingline Loans*” each is defined in Section 2.2(b).

“*Swing Note*” is defined in Section 2.10.

“*Tangible Net Worth*” means total shareholder’s equity that would appear on the balance sheet of the Borrower and its Subsidiaries minus the sum of (a) all assets which would be classified as intangible assets under GAAP, including, without limitation, goodwill, patents, trademarks, trade names, copyrights, franchises and deferred charges (including, without limitation, unamortized debt discount and expense, organization costs and deferred research and development expense) and similar assets, and (b) the write up of assets above cost (other than marketable securities); provided, however, that intangible assets shall not include prepaid expenses (including, without limitation, prepaid insurance, software licenses and support agreements, consulting contracts and prepaid financing fees) carried on the consolidated balance sheet, in each case determined on a consolidated basis in accordance with GAAP.

“*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 SOFR” means, for the applicable tenor, the Term SOFR Reference Rate on the day (such day, the “Term SOFR Determination Day”) that is two (2) U.S. Government Securities Business Days prior to (a) in the case of SOFR Loans, the first day of such applicable Interest Period, or (b) with respect to Base Rate, such day of determination of the Base Rate, in each case as such rate is published by the Term SOFR Administrator; provided, however, that if as of 5:00 p.m. (New York City time) on any Term SOFR Determination Day the Term SOFR Reference Rate for the applicable tenor has not been published by the Term SOFR Administrator, then Term SOFR will be the Term SOFR Reference Rate for such tenor as published by the Term SOFR Administrator on the first preceding U.S. Government Securities Business Day for which such Term SOFR Reference Rate for such tenor was published by the Term SOFR Administrator so long as such first preceding U.S. Government Securities Business Day is not more than three (3) U.S. Government Securities Business Days prior to such Term SOFR Determination Day.

“Term SOFR Administrator” means CME Group Benchmark Administration Limited (CBA) or a successor administrator of the Term SOFR Reference Rate selected by the Administrative Agent in its reasonable discretion in a manner substantially consistent with market practice).

“Term SOFR Reference Rate” means the forward-looking term rate based on SOFR.

“Total Capitalization” means, at any time the same is to be determined, the sum of (a) Total Funded Debt and (b) Net Worth.

“Total Credit Exposure” means, as to any Lender at any time, the unused Commitments, Revolving Credit Exposure, and Incremental Term Loans (if any) of such Lender at such time.

“Total Funded Debt” means, at any time the same is to be determined, the sum (but without duplication) of (a) all Indebtedness of the Borrower and its Subsidiaries at such time described in clauses (a) through (f), both inclusive, of the definition thereof, and (b) all Indebtedness of any other Person which is directly or indirectly Guaranteed by the Borrower or any of its Subsidiaries or which the Borrower or any of its Subsidiaries has agreed (contingently or otherwise) to purchase or otherwise acquire or in respect of which the Borrower or any of its Subsidiaries has otherwise assured a creditor against loss.

“Total Funded Debt to Capitalization Ratio” means, as of the last day of any fiscal quarter of the Borrower, the ratio of (a) Total Funded Debt of the Borrower and its Subsidiaries as of the last day of such fiscal quarter to (b) Total Capitalization of the Borrower and its Subsidiaries as of the last day of such fiscal quarter.

“Unadjusted Benchmark Replacement” means the applicable Benchmark Replacement excluding the related Benchmark Replacement Adjustment.

“Unfunded Vested Liabilities” means, for any Plan at any time, the amount (if any) by which the present value of all vested nonforfeitable accrued benefits under such Plan exceeds the fair market value of all Plan assets allocable to such benefits, all determined as of the then most recent valuation date for such Plan, but only to the extent that such excess represents a potential liability of a member of the Controlled Group to the PBGC or the Plan under Title IV of ERISA.

“U.S. Dollars” and “\$” each means the lawful currency of the United States of America.

“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” has the meaning assigned to such term in subsection (f) of Section 4.1.

“Voting Stock” of any Person means capital stock or other equity interests of any class or classes (however designated) having ordinary power to vote as prescribed for such class of capital stock or equity interest for the election of directors or other similar governing body of such Person, other than stock or other equity interests having such power only by reason of the happening of a contingency.

“Welfare Plan” means a “welfare plan” as defined in Section 3(1) of ERISA.

“Wholly-owned Subsidiary” means a Subsidiary of which all of the issued and outstanding shares of capital stock (other than directors’ qualifying shares as required by law) or other equity interests are owned by the Borrower and/or one or more Wholly-owned Subsidiaries within the meaning of this definition.

“Withholding Agent” means any Loan Party and the Administrative Agent.

“Write-Down and Conversion Powers” means, 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.

*Section 1.2. Interpretation.* The foregoing definitions are equally applicable to both the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words “include,” “includes” and “including” shall be deemed to be followed by the phrase “without limitation.” The word “will” shall be construed to have the same meaning and effect as the word “shall.” Unless the context requires otherwise (a) any definition of or reference to any agreement, instrument or other document herein shall be construed as referring to such agreement, instrument or other document as from time to time amended, supplemented or otherwise modified (subject to any restrictions on such amendments, supplements or modifications set forth herein), (b) any reference herein to any Person shall be construed to include such Person’s successors and assigns, (c) the words “herein,” “hereof” and “hereunder,” and words of similar import, shall be construed to refer to this Agreement in its entirety and not to any particular provision hereof, (d) all references herein to Articles, Sections, Exhibits and Schedules shall be construed to refer to Articles and Sections of, and Exhibits and Schedules to, this Agreement, (e) any reference to any law or regulation herein shall, unless otherwise specified, refer to such law or regulation as amended, modified or supplemented from time to time, and (f) 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. All references to time of day herein are references to Chicago, Illinois, time unless otherwise specifically provided. Where the character or amount of any asset or liability or item of income or expense is required to be determined or any consolidation or other accounting computation is required to be made for the purposes of this Agreement, it shall be done in accordance with GAAP, except where there is variation from GAAP as currently reflected under the current financial statements as consistently applied and except where such principles are inconsistent with the specific provisions of this Agreement.

*Section 1.3. Change in Accounting Principles.* If, after the date of this Agreement, there shall occur any change in GAAP from those used in the preparation of the financial statements referred to in Section 6.5 and such change shall result in a change in the method of calculation of any financial covenant, standard or term found in this Agreement, either the Borrower or the Required Lenders may by notice to the Lenders and the Borrower, respectively, require that the Lenders and the Borrower negotiate in good faith to amend such covenants, standards, and terms so as equitably to reflect such change in accounting principles, with the desired result being that the criteria for evaluating the financial condition of the Borrower and its Subsidiaries shall be the same as if such change had not been made. No delay by the Borrower or the Required Lenders in requiring such negotiation shall limit their right to so require such a negotiation at any time after such a change in accounting principles. Until any such covenant, standard, or term is amended in accordance with this Section, financial covenants shall be computed and determined in accordance with GAAP in effect prior to such change in accounting principles. Without limiting the generality of the foregoing, the Borrower shall neither be deemed to be in compliance with any financial covenant hereunder nor out of compliance with any financial covenant hereunder if such state of compliance or noncompliance, as the case may be, would not exist but for the occurrence of a change in accounting principles after the date hereof.

*Section 1.4. Interest Rates.* The Administrative Agent does not warrant or accept responsibility for, and shall not have any liability with respect to (a) the continuation of, administration of, submission of, calculation of or any other matter related to Term SOFR, any component definition thereof or rates referred to in the definition thereof, or any alternative, successor or replacement rate thereto, including whether the composition or characteristics of any such alternative, successor or replacement rate will be similar to, or produce the same value or economic equivalence of, or have the same volume or liquidity as, Term SOFR, or (b) the effect, implementation or composition of any Conforming Changes. The Administrative Agent and its affiliates or other related entities may engage in transactions in good faith that affect the calculation of Term SOFR, any alternative, successor or replacement rate 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 Term SOFR, 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.

Section 1.5. *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 2. THE REVOLVING FACILITY

*Section 2.1. Revolving Facility.* Subject to the terms and conditions hereof, each Lender, by its acceptance hereof, severally agrees to make a loan or loans (individually a "Revolving Loan" and collectively for all the Lenders the "Revolving Loans") in U.S. Dollars to the Borrower from time to time on a revolving basis up to the amount of such Lender's Revolving Credit Commitment, subject to any reductions thereof pursuant to the terms hereof, before the Revolving Credit Termination Date. The sum of the aggregate principal amount of Revolving Loans, Swingline Loans, and L/C Obligations at any time outstanding shall not exceed the Revolving Credit Commitments in effect at such time. Each Borrowing of Revolving Loans shall be made ratably by the Lenders in proportion to their respective Revolver Percentages. As provided in Section 2.6(a), the Borrower may elect that each Borrowing of Revolving Loans be either Base Rate Loans or ~~Eurodollar~~ SOFR Loans. Revolving Loans may be repaid and the principal amount thereof reborrowed before the Revolving Credit Termination Date, subject to the terms and conditions hereof.

*Section 2.2 Swingline Loans.* (a) *Generally.* Subject to the terms and conditions hereof, as part of the Revolving Facility, the Swingline Lender may, in its sole discretion, make loans in U.S. Dollars to the Borrower under the Swingline (individually a "Swingline Loan" and collectively the "Swingline Loans") which shall not in the aggregate at any time outstanding exceed the Swingline Sublimit. Swingline Loans may be availed of from time to time and borrowings thereunder may be repaid and used again during the period ending on the Revolving Credit Termination Date. Each Swingline Loan shall be in a minimum amount of \$150,000 or such greater amount which is an integral multiple of \$100,000. Each Swingline Loan shall bear interest until maturity (whether by acceleration or otherwise) at a rate per annum equal to (x) the rate per annum for Base Rate Loans under the Revolving Facility as from time to time in effect or (y) the Swingline Lender's Quoted Rate (computed on the basis of a year of 360 days for the actual number of days elapsed). Interest on each Swingline Loan shall be due and payable by the Borrower on each Interest Payment Date and at maturity (whether by acceleration or otherwise).

(b) *Requests for Swingline Loans.* The Borrower shall give the Administrative Agent prior notice (which may be written or oral) no later than 12:00 Noon (Chicago time) on the date upon which the Borrower requests that any Swingline Loan be made, of the amount and date of such Swingline Loan, and, if applicable, the Interest Period requested therefor. The Administrative Agent shall promptly advise the Swingline Lender of any such notice received from the Borrower. Thereafter, the Swingline Lender shall notify the Administrative Agent (who shall thereafter promptly notify the Borrower) whether or not it has elected to make such Swingline Loan. If the Swingline Lender agrees to make such Swingline Loan, it may in its discretion quote an interest rate to the Borrower at which the Swingline Lender would be willing to make such Swingline Loan available to the Borrower for the Interest Period so requested (the rate so quoted for a given Interest Period being herein referred to as "Swingline Lender's Quoted Rate"). The Borrower acknowledges and agrees that the interest rate quote is given for immediate and irrevocable acceptance. If the Borrower does not so immediately accept the Swingline Lender's Quoted Rate for the full amount requested by the Borrower for such Swingline Loan, the Swingline Lender's Quoted Rate shall be deemed immediately withdrawn. If the Swingline Lender's Quoted Rate is not accepted or otherwise does not apply, such Swingline Loan shall bear interest at the rate per annum for Base Rate Loans under the Revolving Facility as from time to time in effect. Subject to the terms and conditions hereof, the proceeds of each Swingline Loan extended to the Borrower shall be deposited or otherwise wire transferred to the Borrower's Designated Disbursement Account or as the Borrower, the Administrative Agent, and the Swingline Lender may otherwise agree. Anything contained in the foregoing to the contrary notwithstanding, the undertaking of the Swingline Lender to make Swingline Loans shall be subject to all of the terms and conditions of this Agreement (provided that the Swingline Lender shall be entitled to assume that the conditions precedent to an advance of any Swingline Loan have been satisfied unless notified to the contrary by the Administrative Agent or the Required Lenders).

(c) *Refunding Swingline Loans.* In its sole and absolute discretion, the Swingline Lender may at any time, on behalf of the Borrower (which hereby irrevocably authorizes the Swingline Lender to act on its behalf for such purpose) and with notice to the Borrower and the Administrative Agent, request each Lender to make a Revolving Loan in the form of a Base Rate Loan in an amount equal to such Lender's Revolver Percentage of the amount of the Swingline Loans outstanding on the date such notice is given (which Loans shall thereafter bear interest as provided for in Section 2.4(a)). Unless an Event of Default described in Section 9.1(j) or 9.1(k) exists with respect to the Borrower, regardless of the existence of any other Event of Default, each Lender shall make the proceeds of its requested Revolving Loan available to the Administrative Agent for the account of the Swingline Lender), in immediately available funds, at the Administrative Agent's office in Chicago, Illinois (or such other location designated by the Administrative Agent), before 12:00 Noon (Chicago time) on the Business Day following the day such notice is given. The Administrative Agent shall promptly remit the proceeds of such Borrowing to the Swingline Lender to repay the outstanding Swingline Loans.

(d) *Participation in Swingline Loans.* If any Lender refuses or otherwise fails to make a Revolving Loan when requested by the Swingline Lender pursuant to Section 2.2(b) above (because an Event of Default described in Section 9.1(j) or 9.1(k) exists with respect to the Borrower or otherwise), such Lender will, by the time and in the manner such Revolving Loan was to have been funded to the Swingline Lender, purchase from the Swingline Lender an undivided participating interest in the outstanding Swingline Loans in an amount equal to its Revolver Percentage of the aggregate principal amount of Swingline Loans that were to have been repaid with such Revolving Loans. From and after the date of any such purchase, the parties hereto hereby acknowledge and agree that such Swingline Loans shall thereafter bear interest at the rate for such Swingline Loan as determined in accordance with Section 2.2(b) hereof. Each Lender that so purchases a participation in a Swingline Loan shall thereafter be entitled to receive its Revolver Percentage of each payment of principal received on the Swingline Loan and of interest received thereon accruing from the date such Lender funded to the Swingline Lender its participation in such Loan. The several obligations of the Lenders under this Section shall be absolute, irrevocable, and unconditional under any and all circumstances whatsoever and shall not be subject to any set-off, counterclaim or defense to payment which any Lender may have or have had against the Borrower, any other Lender, or any other Person whatsoever. Without limiting the generality of the foregoing, such obligations shall not be affected by any Default or by any reduction or termination of the Commitments of any Lender, and each payment made by a Lender under this Section shall be made without any offset, abatement, withholding, or reduction whatsoever.

(e) *Sweep to Loan Arrangement.* So long as a Sweep to Loan Arrangement is in effect, and subject to the terms and conditions thereof, Swingline Loans may be advanced and prepaid hereunder notwithstanding any notice, minimum amount, or funding and payment location requirements hereunder for any advance of Swingline Loans or for any prepayment of any Swingline Loans. The making of any such Swingline Loans shall otherwise be subject to the other terms and conditions of this Agreement. The Swingline Lender shall have the right in its sole discretion to suspend or terminate the making and/or prepayment of Swingline Loans pursuant to such Sweep to Loan Arrangement with notice to the Sweep Depository and the Borrower (which may be provided on a same-day basis), whether or not any Default exists. The Swingline Lender shall not be liable to the Borrower or any other Person for any losses directly or indirectly resulting from events beyond the Swingline Lender's reasonable control, including without limitation any interruption of communications or data processing services or legal restriction or for any special, indirect, consequential or punitive damages in connection with any Sweep to Loan Arrangement.

### *Section 2.3. Letters of Credit.*

(a) *General Terms.* Subject to the terms and conditions hereof, as part of the Revolving Facility, the L/C Issuer shall issue standby and commercial letters of credit (each a "*Letter of Credit*") for the account of the Borrower or for the account of the Borrower and one or more of its Subsidiaries in an aggregate undrawn face amount up to the L/C Sublimit. Each Letter of Credit shall be issued by the L/C Issuer, but each Lender shall be obligated to reimburse the L/C Issuer for such Lender's Revolver Percentage of the amount of each drawing thereunder and, accordingly, Letters of Credit shall constitute usage of the Revolving Credit Commitment of each Lender pro rata in an amount equal to its Revolver Percentage of the L/C Obligations then outstanding.

(b) *Applications.* At any time before the Revolving Credit Termination Date, the L/C Issuer shall, at the request of the Borrower, issue one or more Letters of Credit in U.S. Dollars, in a form satisfactory to the L/C Issuer, with expiration dates no later than the earlier of 12 months from the date of issuance (or which are cancelable not later than 12 months from the date of issuance and each renewal) or thirty (30) days prior to the Revolving Credit Termination Date, in an aggregate face amount as set forth above, upon the receipt of an application duly executed by the Borrower and, if such Letter of Credit is for the account of one of its Subsidiaries, such Subsidiary for the relevant Letter of Credit in the form then customarily prescribed by the L/C Issuer for the Letter of Credit requested (each an "Application"). The Borrower agrees that if on the Revolving Credit Termination Date any Letters of Credit remain outstanding the Borrower shall then deliver to the Administrative Agent, without notice or demand, Cash Collateral in an amount equal to 105% of the aggregate amount of each Letter of Credit then outstanding (which shall be held by the Administrative Agent pursuant to the terms of Section 9.4). Notwithstanding anything contained in any Application to the contrary: (i) the Borrower shall pay fees in connection with each Letter of Credit as set forth in Section 3.1, (ii) except as otherwise provided herein or in Sections 2.8, 2.13 or 2.14, unless an Event of Default exists, the L/C Issuer will not call for the funding by the Borrower of any amount under a Letter of Credit before being presented with a drawing thereunder, and (iii) if the L/C Issuer is not timely reimbursed for the amount of any drawing under a Letter of Credit on the date such drawing is paid, except as otherwise provided for in Section 2.6(c), the Borrower's obligation to reimburse the L/C Issuer for the amount of such drawing shall bear interest (which the Borrower hereby promises to pay) from and after the date such drawing is paid at a rate per annum equal to the sum of the Applicable Margin plus the Base Rate from time to time in effect (computed on the basis of a year of 365 or 366 days, as the case may be, and the actual number of days elapsed). If the L/C Issuer issues any Letter of Credit with an expiration date that is automatically extended unless the L/C Issuer gives notice that the expiration date will not so extend beyond its then scheduled expiration date, unless the Administrative Agent or the Required Lenders instruct the L/C Issuer otherwise, the L/C Issuer will give such notice of non-renewal before the time necessary to prevent such automatic extension if before such required notice date: (i) the expiration date of such Letter of Credit if so extended would be after the Revolving Credit Termination Date, (ii) the Revolving Credit Commitments have been terminated, or (iii) an Event of Default exists and either the Administrative Agent or the Required Lenders (with notice to the Administrative Agent) have given the L/C Issuer instructions not to so permit the extension of the expiration date of such Letter of Credit. The L/C Issuer agrees to issue amendments to the Letter(s) of Credit increasing the amount, or extending the expiration date, thereof at the request of the Borrower subject to the conditions of Section 7 and the other terms of this Section.

(c) *The Reimbursement Obligations.* Subject to Section 2.3(b), the obligation of the Borrower to reimburse the L/C Issuer for all drawings under a Letter of Credit (a "Reimbursement Obligation") shall be governed by the Application related to such Letter of Credit, except that reimbursement shall be made (i) by no later than 2:00 p.m. (Chicago time) on the date when each drawing is to be paid if the Borrower has been informed of such drawing by the L/C Issuer on or before 10:00 a.m. (Chicago time) on the date when such drawing is to be paid and the Borrower has notified the Administrative Agent by 1:00 p.m. (Chicago time) on such date that the Borrower will reimburse the L/C Issuer on the date each such drawing is to be paid, or (ii) if notice of such drawing is given to the Borrower after 10:00 a.m. (Chicago time) on the date when such drawing is to be paid or if the Borrower fails to notify the Administrative Agent by 1:00 p.m. (Chicago time) on such date that the Borrower will reimburse the L/C Issuer on the date each such drawing is to be paid, by no later than 12:00 Noon (Chicago time) on the following Business Day, in each case, in immediately available funds at the Administrative Agent's principal office in Chicago, Illinois, or such other office as the Administrative Agent may designate in writing to the Borrower (who shall thereafter cause to be distributed to the L/C Issuer such amount(s) in like funds). If the Borrower does not make any such reimbursement payment on the date due and the Participating Lenders fund their participations therein in the manner set forth in Section 2.3(e) below, then all payments thereafter received by the Administrative Agent in discharge of any of the relevant Reimbursement Obligations shall be distributed in accordance with Section 2.3(e) below.

(d) *Obligations Absolute.* The Borrower's obligation to reimburse L/C Obligations shall be absolute, unconditional and irrevocable, and shall be performed strictly in accordance with the terms of this Agreement and the relevant Application under any and all circumstances whatsoever and irrespective of (i) any lack of validity or enforceability of any Letter of Credit or this Agreement, or any term or provision therein, (ii) any draft or other document presented under a Letter of Credit proving to be forged, fraudulent or invalid in any respect or any statement therein being untrue or inaccurate in any respect, (iii) payment by the L/C Issuer under a Letter of Credit against presentation of a draft or other document that does not strictly comply with the terms of such Letter of Credit, or (iv) any other event or circumstance whatsoever, whether or not similar to any of the foregoing, that might, but for the provisions of this Section, constitute a legal or equitable discharge of, or provide a right of setoff against, the Borrower's obligations hereunder. None of the Administrative Agent, the Lenders, or the L/C Issuer shall have any liability or responsibility by reason of or in connection with the issuance or transfer of any Letter of Credit or any payment or failure to make any payment thereunder (irrespective of any of the circumstances referred to in the preceding sentence), or any error, omission, interruption, loss or delay in transmission or delivery of any draft, notice or other communication under or relating to any Letter of Credit (including any document required to make a drawing thereunder), any error in interpretation of technical terms or any consequence arising from causes beyond the control of the L/C Issuer; *provided* that the foregoing shall not be construed to excuse the L/C Issuer from liability to the Borrower to the extent of any direct damages (as opposed to consequential damages, claims in respect of which are hereby waived by the Borrower and each other Loan Party to the extent permitted by applicable law) suffered by the Borrower or any Loan Party that are caused by the L/C Issuer's failure to exercise care when determining whether drafts and other documents presented under a Letter of Credit comply with the terms thereof. The parties hereto expressly agree that, in the absence of gross negligence or willful misconduct on the part of the L/C Issuer (as determined by a court of competent jurisdiction by final and nonappealable judgment), the L/C Issuer shall be deemed to have exercised care in each such determination. In furtherance of the foregoing and without limiting the generality thereof, the parties agree that, with respect to documents presented which appear on their face to be in substantial compliance with the terms of a Letter of Credit, the L/C Issuer may, in its reasonable discretion, either accept and make payment upon such documents without responsibility for further investigation, or refuse to accept and make payment upon such documents if such documents are not in strict compliance with the terms of such Letter of Credit.

(e) *The Participating Interests.* Each Lender (other than the Lender acting as L/C Issuer in issuing the relevant Letter of Credit), by its acceptance hereof, severally agrees to purchase from the L/C Issuer, and the L/C Issuer hereby agrees to sell to each such Lender (a "*Participating Lender*"), an undivided percentage participating interest (a "*Participating Interest*"), to the extent of its Revolver Percentage, in each Letter of Credit issued by, and each Reimbursement Obligation owed to, the L/C Issuer. Upon any failure by the Borrower to pay any Reimbursement Obligation at the time required on the date the related drawing is to be paid, as set forth in Section 2.3(c) above, or if the L/C Issuer is required at any time to return to the Borrower or to a trustee, receiver, liquidator, custodian or other Person any portion of any payment of any Reimbursement Obligation, each Participating Lender shall, not later than the Business Day it receives a certificate in the form of Exhibit A hereto from the L/C Issuer (with a copy to the Administrative Agent) to such effect, if such certificate is received before 1:00 p.m. (Chicago time), or not later than 1:00 p.m. (Chicago time) the following Business Day, if such certificate is received after such time, pay to the Administrative Agent for the account of the L/C Issuer an amount equal to such Participating Lender's Revolver Percentage of such unpaid or recaptured Reimbursement Obligation together with interest on such amount accrued from the date the related payment was made by the L/C Issuer to the date of such payment by such Participating Lender at a rate per annum equal to: (i) from the date the related payment was made by the L/C Issuer to the date two (2) Business Days after payment by such Participating Lender is due hereunder, at the greater of the Federal Funds Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation for each such day and (ii) from the date two (2) Business Days after the date such payment is due from such Participating Lender to the date such payment is made by such Participating Lender, the Base Rate in effect for each such day. Each such Participating Lender shall thereafter be entitled to receive its Revolver Percentage of each payment received in respect of the relevant Reimbursement Obligation and of interest paid thereon, with the L/C Issuer retaining its Revolver Percentage thereof as a Lender hereunder. The several obligations of the Participating Lenders to the L/C Issuer under this Section shall be absolute, irrevocable, and unconditional under any and all circumstances whatsoever and shall not be subject to any set-off, counterclaim or defense to payment which any Participating Lender may have or have had against the Borrower, the L/C Issuer, the Administrative Agent, any Lender or any other Person whatsoever. Without limiting the generality of the foregoing, such obligations shall not be affected by any Default or by any reduction or termination of any Commitment of any Lender, and each payment by a Participating Lender under this Section shall be made without any offset, abatement, withholding or reduction whatsoever.

(f) *Indemnification.* The Participating Lenders shall, to the extent of their respective Revolver Percentages, indemnify the L/C Issuer (to the extent not reimbursed by the Borrower) against any cost, expense (including reasonable counsel fees and disbursements), claim, demand, action, loss or liability (except such as result from such L/C Issuer's gross negligence or willful misconduct as determined by a court of competent jurisdiction by final and nonappealable judgment) that the L/C Issuer may suffer or incur in connection with any Letter of Credit issued by it. The obligations of the Participating Lenders under this subsection (f) and all other parts of this Section shall survive termination of this Agreement and of all Applications, Letters of Credit, and all drafts and other documents presented in connection with drawings thereunder.

(g) *Manner of Requesting a Letter of Credit.* The Borrower shall provide at least five (5) Business Days' advance written notice to the Administrative Agent of each request for the issuance of a Letter of Credit, such notice in each case to be accompanied by an Application for such Letter of Credit properly completed and executed by the Borrower and, in the case of an extension or amendment or an increase in the amount of a Letter of Credit, a written request therefor, in a form acceptable to the Administrative Agent and the L/C Issuer, in each case, together with the fees called for by this Agreement. The Administrative Agent shall promptly notify the L/C Issuer of the Administrative Agent's receipt of each such notice (and the L/C Issuer shall be entitled to assume that the conditions precedent to any such issuance, extension, amendment or increase have been satisfied unless notified to the contrary by the Administrative Agent or the Required Lenders) and the L/C Issuer shall promptly notify the Administrative Agent and the Lenders of the issuance of the Letter of Credit so requested.

(h) *Replacement of the L/C Issuer.* The L/C Issuer may be replaced at any time by written agreement among the Borrower, the Administrative Agent, the replaced L/C Issuer, and the successor L/C Issuer. The Administrative Agent shall notify the Lenders of any such replacement of the L/C Issuer. At the time any such replacement shall become effective, the Borrower shall pay all unpaid fees accrued for the account of the replaced L/C Issuer. From and after the effective date of any such replacement (i) the successor L/C Issuer shall have all the rights and obligations of the L/C Issuer under this Agreement with respect to Letters of Credit to be issued thereafter and (ii) references herein to the term "L/C Issuer" shall be deemed to refer to such successor or to any previous L/C Issuer, or to such successor and all previous L/C Issuers, as the context shall require. After the replacement of a L/C Issuer hereunder, the replaced L/C Issuer shall remain a party hereto and shall continue to have all the rights and obligations of a L/C Issuer under this Agreement with respect to Letters of Credit issued by it prior to such replacement, but shall not be required to issue additional Letters of Credit.

#### Section 2.4. *Applicable Interest Rates.*

(a) *Base Rate Loans.* Each Base Rate Loan made or maintained by a Lender shall bear interest (computed on the basis of a year of 365 or 366 days, as the case may be (360 days, in the case of clause (c) of the definition of Base Rate relating to ~~the LIBOR Quoted Rate~~ Adjusted Term SOFR), and the actual days elapsed on the unpaid principal amount thereof from the date such Loan is advanced, or created by conversion from a ~~Eurodollar SOFR~~ Loan, until maturity (whether by acceleration or otherwise) at a rate per annum equal to the sum of the Applicable Margin plus the Base Rate from time to time in effect, payable by the Borrower on each Interest Payment Date and at maturity (whether by acceleration or otherwise).

(b) *Eurodollar SOFR Loans.* Each ~~Eurodollar SOFR~~ Loan made or maintained by a Lender shall bear interest during each Interest Period it is outstanding (computed on the basis of a year of 360 days and actual days elapsed) on the unpaid principal amount thereof from the date such Loan is advanced or continued, or created by conversion from a Base Rate Loan, until maturity (whether by acceleration or otherwise) at a rate per annum equal to the sum of the Applicable Margin plus the Adjusted ~~LIBOR Term SOFR~~ applicable for such Interest Period, payable by the Borrower on each Interest Payment Date and at maturity (whether by acceleration or otherwise).

(c) *Rate Determinations.* The Administrative Agent shall determine each interest rate applicable to the Loans and the Reimbursement Obligations hereunder, and its determination thereof shall be conclusive and binding except in the case of manifest error. In connection with the use or administration of Term SOFR, the Administrative Agent will have the right to make Conforming Changes from time to time and, notwithstanding anything to the contrary herein or in any other Loan Document, any amendments implementing such Conforming Changes will become effective without any further action or consent of any other party to this Agreement or any other Loan Document. The Administrative Agent will promptly notify the Borrower and the Lenders of the effectiveness of any Conforming Changes in connection with the use or administration of Term SOFR.

Section 2.5. *Minimum Borrowing Amounts; Maximum Eurodollar SOFR Loans.* Each Borrowing of Base Rate Loans advanced under a Facility shall be in an amount not less than \$100,000. Each Borrowing of ~~Eurodollar SOFR~~ Loans advanced, continued or converted under a Facility shall be in an amount equal to \$1,000,000 or such greater amount which is an integral multiple of \$500,000. Without the Administrative Agent's consent, there shall not be more than ten (10) Borrowings of ~~Eurodollar SOFR~~ Loans outstanding hereunder at any one time.

Section 2.6. Manner of Borrowing Loans and Designating Applicable Interest Rates.

(a) *Notice to the Administrative Agent.* The Borrower shall give notice to the Administrative Agent by no later than 12:00 noon (Chicago time): (i) at least three (3) Business Days before the date on which the Borrower requests the Lenders to advance a Borrowing of Eurodollar SOFR Loans and (ii) on the date the Borrower requests the Lenders to advance a Borrowing of Base Rate Loans. The Loans included in each Borrowing shall bear interest initially at the type of rate specified in such notice of a new Borrowing. Thereafter, subject to the terms and conditions hereof, the Borrower may from time to time elect to change or continue the type of interest rate borne by each Borrowing or, subject to the minimum amount requirement for each outstanding Borrowing set forth in Section 2.5, a portion thereof, as follows: (i) if such Borrowing is of Eurodollar SOFR Loans, on the last day of the Interest Period applicable thereto, the Borrower may continue part or all of such Borrowing as Eurodollar SOFR Loans or convert part or all of such Borrowing into Base Rate Loans or (ii) if such Borrowing is of Base Rate Loans, on any Business Day, the Borrower may convert all or part of such Borrowing into Eurodollar SOFR Loans for an Interest Period or Interest Periods specified by the Borrower. The Borrower shall give all such notices requesting the advance, continuation or conversion of a Borrowing to the Administrative Agent by telephone, teletype, or other telecommunication device acceptable to the Administrative Agent (which notice shall be irrevocable once given and, if by telephone, shall be promptly confirmed in writing in a manner acceptable to the Administrative Agent), substantially in the form attached hereto as Exhibit B (Notice of Borrowing) or Exhibit C (Notice of Continuation/Conversion), as applicable, or in such other form acceptable to the Administrative Agent. Notice of the continuation of a Borrowing of Eurodollar SOFR Loans for an additional Interest Period or of the conversion of part or all of a Borrowing of Base Rate Loans into Eurodollar SOFR Loans must be given by no later than 12:00 noon (Chicago time) at least three (3) Business Days before the date of the requested continuation or conversion. All such notices concerning the advance, continuation or conversion of a Borrowing shall specify the date of the requested advance, continuation or conversion of a Borrowing (which shall be a Business Day), the amount of the requested Borrowing to be advanced, continued or converted, the type of Loans to comprise such new, continued or converted Borrowing and, if such Borrowing is to be comprised of Eurodollar SOFR Loans, the Interest Period applicable thereto. Upon notice to the Borrower by the Administrative Agent or the Required Lenders (or, in the case of an Event of Default under Section 9.1(j) or 9.1(k) with respect to the Borrower, without notice), no Borrowing of Eurodollar SOFR Loans shall be advanced, continued, or created by conversion if any Default then exists. The Borrower agrees that the Administrative Agent may rely on any such telephonic, teletype or other telecommunication notice given by any person the Administrative Agent in good faith believes is an Authorized Representative without the necessity of independent investigation, and in the event any such notice by telephone conflicts with any written confirmation such telephonic notice shall govern if the Administrative Agent has acted in reliance thereon.

(b) *Notice to the Lenders.* The Administrative Agent shall give prompt telephonic, teletype or other telecommunication notice to each Lender of any notice from the Borrower received pursuant to Section 2.6(a) above and ~~if the amount of such notice requests the Lenders to make Eurodollar Loans, the Administrative Agent shall give notice to the Borrower and each Lender by like means of the interest rate applicable thereto promptly after the Administrative Agent has made such determination~~ Lender's Loan to be made as part of the requested Borrowing.

(c) *Borrower's Failure to Notify.* If the Borrower fails to give notice pursuant to Section 2.6(a) above of the continuation or conversion of any outstanding principal amount of a Borrowing of Eurodollar SOFR Loans before the last day of its then current Interest Period within the period required by Section 2.6(a) and such Borrowing is not prepaid in accordance with Section 2.8(a), such Borrowing shall automatically be converted into a Borrowing of Base Rate Loans. In the event the Borrower fails to give notice pursuant to Section 2.6(a) above of a Borrowing equal to the amount of a Reimbursement Obligation and has not notified the Administrative Agent by 12:00 noon (Chicago time) on the day such Reimbursement Obligation becomes due that it intends to repay such Reimbursement Obligation through funds not borrowed under this Agreement, the Borrower shall be deemed to have requested a Borrowing of Base Rate Loans under the Revolving Facility (or, at the option of the Swingline Lender, under the Swingline) on such day in the amount of the Reimbursement Obligation then due, which Borrowing shall be applied to pay the Reimbursement Obligation then due.

(d) *Disbursement of Loans.* Not later than 2:00 p.m. (Chicago time) on the date of any requested advance of a new Borrowing, subject to Section 7, each Lender shall make available its Loan comprising part of such Borrowing in funds immediately available at the principal office of the Administrative Agent in Chicago, Illinois (or at such other location as the Administrative Agent shall designate). The Administrative Agent shall make the proceeds of each new Borrowing available to the Borrower at the Administrative Agent's principal office in Chicago, Illinois (or at such other location as the Administrative Agent shall designate), by depositing or wire transferring such proceeds to the credit of the Borrower's Designated Disbursement Account or as the Borrower and the Administrative Agent may otherwise agree.

(e) *Administrative Agent Reliance on Lender Funding.* Unless the Administrative Agent shall have been notified by a Lender prior to (or, in the case of a Borrowing of Base Rate Loans, by 1:00 p.m. (Chicago time) on) the date on which such Lender is scheduled to make payment to the Administrative Agent of the proceeds of a Loan (which notice shall be effective upon receipt) that such Lender does not intend to make such payment, the Administrative Agent may assume that such Lender has made such payment when due and the Administrative Agent may in reliance upon such assumption (but shall not be required to) make available to the Borrower the proceeds of the Loan to be made by such Lender and, if any Lender has not in fact made such payment to the Administrative Agent, such Lender shall, on demand, pay to the Administrative Agent the amount made available to the Borrower attributable to such Lender together with interest thereon in respect of each day during the period commencing on the date such amount was made available to the Borrower and ending on (but excluding) the date such Lender pays such amount to the Administrative Agent at a rate per annum equal to: (i) from the date the related advance was made by the Administrative Agent to the date two (2) Business Days after payment by such Lender is due hereunder, the greater of the Federal Funds Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation for each such day and (ii) from the date two (2) Business Days after the date such payment is due from such Lender to the date such payment is made by such Lender, the Base Rate in effect for each such day. If such amount is not received from such Lender by the Administrative Agent immediately upon demand, the Borrower will, on demand, repay to the Administrative Agent the proceeds of the Loan attributable to such Lender with interest thereon at a rate per annum equal to the interest rate applicable to the relevant Loan, but without such payment being considered a payment or prepayment of a Loan under Section 4.5 so that the Borrower will have no liability under such Section with respect to such payment. 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.

*Section 2.7. Maturity of Loans.*

(a) *Revolving Loans.* Each Revolving Loan, both for principal and interest not sooner paid, shall mature and be due and payable by the Borrower on the Revolving Credit Termination Date.

(b) *Swingline Loans.* Each Swingline Loan, both for principal and interest not sooner paid, shall mature and be due and payable by the Borrower on the Revolving Credit Termination Date.

*Section 2.8. Prepayment.*

(a) *Optional.* The Borrower may prepay in whole or in part (but, if in part, then: (i) if such Borrowing is of Base Rate Loans, in an amount not less than \$100,000, (ii) if such Borrowing is of ~~Eurodollar~~SOFR Loans, in an amount not less than \$500,000, and (iii) in each case, in an amount such that the minimum amount required for a Borrowing pursuant to Sections 2.2(b) and 2.5 remains outstanding) upon not less than three (3) Business Days prior notice by the Borrower to the Administrative Agent in the case of any prepayment of a Borrowing of ~~Eurodollar~~SOFR Loans and notice delivered by the Borrower to the Administrative Agent no later than 12:00 noon (Chicago ~~time~~Time) on the date of prepayment in the case of a Borrowing of Base Rate Loans (or, in any case, such shorter period of time then agreed to by the Administrative Agent), such prepayment to be made by the payment of the principal amount to be prepaid and, in the case of any Incremental Term Loans, any ~~Eurodollar~~SOFR Loans or Swingline Loans, accrued interest thereon to the date fixed for prepayment plus any amounts due the Lenders under Section 4.5.

(b) *Mandatory.* (i) The Borrower shall, on each date the Revolving Credit Commitments are reduced pursuant to Section 2.11, prepay the Swingline Loans, Revolving Loans, and, if necessary, prefund the L/C Obligations by the amount, if any, necessary to reduce the sum of the aggregate principal amount of Swingline Loans, Revolving Loans, and L/C Obligations then outstanding to the amount to which the Revolving Credit Commitments have been so reduced.

(ii) If the Borrower or any Subsidiary shall at any time or from time to time make or agree to make a Disposition (other than a Disposition permitted pursuant to Section 8.10 hereof) or shall suffer an Event of Loss with respect to any Property, then the Borrower shall promptly notify the Administrative Agent of such proposed Disposition or Event of Loss (including the amount of the estimated Net Cash Proceeds to be received by the Borrower or such Subsidiary in respect thereof) and, promptly upon receipt by the Borrower or such Subsidiary of the Net Cash Proceeds of such Disposition or Event of Loss, the Borrower shall prepay the Obligations in an aggregate amount equal to 100% of the amount of all such Net Cash Proceeds; *provided that* (x) so long as no Default then exists, this subsection shall not require any such prepayment with respect to Net Cash Proceeds received on account of an Event of Loss so long as such Net Cash Proceeds are applied to replace or restore the relevant Property in accordance with the relevant Collateral Documents, (y) this subsection shall not require any such prepayment with respect to Net Cash Proceeds received on account of Dispositions during any fiscal year of the Borrower not exceeding \$10,000,000 in the aggregate so long as no Default then exists, and (z) in the case of any Disposition not covered by clause (y) above, so long as no Default then exists, if the Borrower states in its notice of such event that the Borrower or the relevant Subsidiary intends to reinvest, within 180 days of the applicable Disposition, the Net Cash Proceeds thereof in assets similar to the assets which were subject to such Disposition, then the Borrower shall not be required to make a mandatory prepayment under this subsection in respect of such Net Cash Proceeds to the extent such Net Cash Proceeds are actually reinvested in such similar assets with such 180-day period. Promptly after the end of such 180-day period, the Borrower shall notify the Administrative Agent whether the Borrower or such Subsidiary has reinvested such Net Cash Proceeds in such similar assets, and, to the extent such Net Cash Proceeds have not been so reinvested, the Borrower shall promptly prepay the Obligations in the amount of such Net Cash Proceeds not so reinvested. The amount of each such prepayment shall be applied, subject to Section 2.8(b)(v) below, first to the outstanding Incremental Term Loans, if any, on a ratable basis based on the outstanding principal amounts thereof, and then to the Revolving Facility, but without a reduction of the Revolving Credit Commitments. If the Administrative Agent or the Required Lenders so request, all proceeds of such Disposition or Event of Loss shall be deposited with the Administrative Agent (or its agent) and held by it in the Collateral Account. So long as no Default exists, the Administrative Agent is authorized to disburse amounts representing such proceeds from the Collateral Account to or at the Borrower's direction for application to or reimbursement for the costs of replacing, rebuilding or restoring such Property.

(iii) If after the Closing Date the Borrower or any Subsidiary shall issue new equity securities (whether common or preferred stock or otherwise), other than Excluded Equity Issuances, the Borrower shall promptly notify the Administrative Agent of the estimated Net Cash Proceeds of such issuance to be received by or for the account of the Borrower or such Subsidiary in respect thereof. Promptly upon receipt by the Borrower or such Subsidiary of Net Cash Proceeds of such issuance, the Borrower shall prepay the Obligations in an aggregate amount equal to 100% of the amount of such Net Cash Proceeds. The amount of each such prepayment shall be applied, subject to Section 2.8(b)(v) below, first to the outstanding Incremental Term Loans, if any, on a ratable basis based on the outstanding principal amounts thereof, and then to the Revolving Facility, but without a reduction of the Revolving Credit Commitments. The Borrower acknowledges that its performance hereunder shall not limit the rights and remedies of the Lenders for any breach of Section 8.11 (Maintenance of Subsidiaries) or Section 9.1(i) (Change of Control) or any other terms of the Loan Documents.

(iv) If after the Closing Date the Borrower or any Subsidiary shall issue any Indebtedness, other than Indebtedness permitted by Section 8.7, the Borrower shall promptly notify the Administrative Agent of the estimated Net Cash Proceeds of such issuance to be received by or for the account of the Borrower or such Subsidiary in respect thereof. Promptly upon receipt by the Borrower or such Subsidiary of Net Cash Proceeds of such issuance, the Borrower shall prepay the Obligations in an aggregate amount equal to 100% of the amount of such Net Cash Proceeds. The amount of each such prepayment shall be applied, subject to Section 2.8(b)(v) below, first to the outstanding Incremental Term Loans, if any, on a ratable basis based on the outstanding principal amounts thereof, and then to the Revolving Facility, but without a reduction of the Revolving Credit Commitments. The Borrower acknowledges that its performance hereunder shall not limit the rights and remedies of the Lenders for any breach of Section 8.7 or any other terms of the Loan Documents.

(v) Unless the Borrower otherwise directs, prepayments of Loans under this Section 2.8(b) shall be applied first to Borrowings of Base Rate Loans until payment in full thereof with any balance applied to Borrowings of ~~Eurodollar~~SOFR Loans in the order in which their Interest Periods expire. Each prepayment of Loans under this Section 2.8(b) shall be made by the payment of the principal amount to be prepaid and, in the case of any Incremental Term Loans, ~~Eurodollar~~SOFR Loans or Swingline Loans, accrued interest thereon to the date of prepayment together with any amounts due the Lenders under Section 4.5. Each prefunding of L/C Obligations shall be made in accordance with Section 9.4.

(c) Any amount of Swingline Loans and Revolving Loans paid or prepaid before the Revolving Credit Termination Date may, subject to the terms and conditions of this Agreement, be borrowed, repaid and borrowed again. No amount of the Incremental Term Loans, if any, paid or prepaid may be reborrowed, and, in the case of any partial prepayment, such prepayment shall be applied to the remaining payments on all Incremental Term Loans in inverse order of maturity.

*Section 2.9. Default Rate.* Notwithstanding anything to the contrary contained herein, while any Event of Default exists or after acceleration, the Borrower shall pay interest (after as well as before entry of judgment thereon to the extent permitted by law) on the principal amount of all Loans and Reimbursement Obligations, letter of credit fees and other amounts at a rate per annum equal to:

(a) for any Base Rate Loan or any Swingline Loan bearing interest based on the Base Rate, the sum of 2.0% *plus* the Applicable Margin *plus* the Base Rate from time to time in effect;

(b) for any Eurodollar SOFR Loan or any Swingline Loan bearing interest at the Administrative Agent's Quoted Rate, the sum of 2.0% *plus* the rate of interest in effect thereon at the time of such Event of Default until the end of the Interest Period applicable thereto and, thereafter, at a rate per annum equal to the sum of 2.0% *plus* the Applicable Margin for Base Rate Loans *plus* the Base Rate from time to time in effect;

(c) for any Reimbursement Obligation, the sum of 2.0% *plus* the amounts due under Section 2.3 with respect to such Reimbursement Obligation;

(d) for any Letter of Credit, the sum of 2.0% *plus* the L/C Participation Fee due under Section 3.1(b) with respect to such Letter of Credit; and

(e) for any other amount owing hereunder not covered by clauses (a) through (d) above, the sum of 2% *plus* the Applicable Margin *plus* the Base Rate from time to time in effect;

*provided, however,* that in the absence of acceleration pursuant to Section 9.2 or 9.3, any adjustments pursuant to this Section shall be made at the election of the Administrative Agent, acting at the request or with the consent of the Required Lenders, with written notice to the Borrower (which election may be retroactively effective to the date of such Event of Default). While any Event of Default exists or after acceleration, interest shall be paid on demand of the Administrative Agent at the request or with the consent of the Required Lenders.

*Section 2.10. Evidence of Indebtedness.* (a) Each Lender shall maintain in accordance with its usual practice an account or accounts evidencing the indebtedness of the Borrower to such Lender resulting from each Loan made by such Lender from time to time, including the amounts of principal and interest payable and paid to such Lender from time to time hereunder.

(b) The Administrative Agent shall also maintain accounts in which it will record (i) the amount of each Loan made hereunder, the type thereof and the Interest Period with respect thereto, (ii) the amount of any principal or interest due and payable or to become due and payable from the Borrower to each Lender hereunder and (iii) the amount of any sum received by the Administrative Agent hereunder from the Borrower and each Lender's share thereof.

(c) The entries maintained in the accounts maintained pursuant to subsections (a) and (b) above shall be *prima facie* evidence of the existence and amounts of the Obligations therein recorded; *provided, however,* that the failure of the Administrative Agent or any Lender to maintain such accounts or any error therein shall not in any manner affect the obligation of the Borrower to repay the Obligations in accordance with their terms.

(d) Any Lender may request that its Loans be evidenced by a promissory note or notes in the forms of Exhibit D-1 (in the case of its Revolving Loans and referred to herein as a "Revolving Note"), or D-2 (in the case of its Swingline Loans and referred to herein as a "Swing Note"), as applicable (the Revolving Notes and Swing Note being hereinafter referred to collectively as the "Notes" and individually as a "Note"). In such event, the Borrower shall prepare, execute and deliver to such Lender a Note payable to such Lender or its registered assigns in the amount of the relevant Commitment, or Swingline Sublimit, as applicable. Thereafter, the Loans evidenced by such Note or Notes and interest thereon shall at all times (including after any assignment pursuant to Section 13.2) be represented by one or more Notes payable to the order of the payee named therein or any assignee pursuant to Section 13.2, except to the extent that any such Lender or assignee subsequently returns any such Note for cancellation and requests that such Loans once again be evidenced as described in subsections (a) and (b) above.

*Section 2.11. Commitment Terminations.*

(a) *Optional Revolving Credit Terminations.* The Borrower shall have the right at any time and from time to time, upon five (5) Business Days prior written notice to the Administrative Agent (or such shorter period of time agreed to by the Administrative Agent), to terminate the Revolving Credit Commitments without premium or penalty and in whole or in part, any partial termination to be (i) in an amount not less than \$5,000,000 or any whole multiple thereof and (ii) allocated ratably among the Lenders in proportion to their respective Revolver Percentages, provided that the Revolving Credit Commitments may not be reduced to an amount less than the sum of the aggregate principal amount of Swingline Loans, Revolving Loans, and L/C Obligations then outstanding. Any termination of the Revolving Credit Commitments below the L/C Sublimit or the Swingline Sublimit then in effect shall reduce the L/C Sublimit and Swingline Sublimit, as applicable, by a like amount. The Administrative Agent shall give prompt notice to each Lender of any such termination of the Revolving Credit Commitments.

(b) Any termination of the Revolving Credit Commitments pursuant to this Section may not be reinstated.

*Section 2.12. Replacement of Lenders.* If any Lender requests compensation under Section 4.4, 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 4.1 and, in each case, such Lender has declined or is unable to designate a different lending office in accordance with Section 4.7, or if any Lender is a Defaulting Lender or a Non-Consenting 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 13.2), all of its interests, rights (other than its existing rights to payments pursuant to Section 4.1 or Section 4.4) and obligations under this Agreement and the related Loan Documents to an Eligible Assignee that shall assume such obligations (which assignee may be another Lender, if a Lender accepts such assignment); *provided that:*

(i) the Borrower shall have paid to the Administrative Agent the assignment fee (if any) specified in Section 13.2;

(ii) such Lender shall have received payment of an amount equal to the outstanding principal of its Loans and funded participations in L/C Obligations, accrued interest thereon, accrued fees and all other amounts payable to it hereunder and under the other Loan Documents (including any amounts under Section 4.5 as if the Loans owing to it were prepaid rather than assigned) from the assignee (to the extent of such outstanding principal and accrued interest and fees) or the Borrower (in the case of all other amounts);

(iii) in the case of any such assignment resulting from a claim for compensation under Section 4.4 or payments required to be made pursuant to Section 4.1, such assignment will result in a reduction in such compensation or payments thereafter;

(iv) such assignment does not conflict with applicable law; and

(v) in the case of any assignment resulting from a Lender becoming a Non-Consenting Lender, the applicable assignee shall have consented to the applicable amendment, 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.

*Section 2.13. Defaulting Lenders.*

(a) *Defaulting Lender Adjustments.* Notwithstanding anything to the contrary contained in this Agreement, if any Lender becomes a Defaulting Lender, then, until such time as such Lender is no longer a Defaulting Lender, to the extent permitted by applicable law:

(i) *Waivers and Amendments.* Such Defaulting Lender's right to approve or disapprove any amendment, waiver or consent with respect to this Agreement shall be restricted as set forth in the definition of Required Lenders.

(ii) *Defaulting Lender Waterfall*. Any payment of principal, interest, fees or other amounts received by the Administrative Agent for the account of such Defaulting Lender (whether voluntary or mandatory, at maturity, pursuant to Section 9 or otherwise) or received by the Administrative Agent from a Defaulting Lender pursuant to Section 13.7 hereto 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 such Defaulting Lender to the Administrative Agent hereunder; *second*, to the payment on a pro rata basis of any amounts owing by such Defaulting Lender to any L/C Issuer or the Swingline Lender hereunder; *third*, to Cash Collateralize the L/C Issuer's Fronting Exposure with respect to such Defaulting Lender in accordance with Section 2.14; *fourth*, as the Borrower may request (so long as no Default exists), to the funding of any Loan in respect of which such Defaulting Lender has failed to fund its portion thereof as required by this Agreement, as determined by the Administrative Agent; *fifth*, if so determined by the Administrative Agent and the Borrower, to be held in a deposit account and released pro rata in order to (x) satisfy such Defaulting Lender's potential future funding obligations with respect to Loans under this Agreement and (y) Cash Collateralize the L/C Issuer's future Fronting Exposure with respect to such Defaulting Lender with respect to future Letters of Credit issued under this Agreement, in accordance with Section 2.14; *sixth*, to the payment of any amounts owing to the Lenders, the L/C Issuer or the Swingline Lender as a result of any judgment of a court of competent jurisdiction obtained by any Lender, the L/C Issuer or the Swingline Lender against such Defaulting Lender as a result of such 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 such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement; and *eighth*, to such Defaulting Lender or as otherwise directed by a court of competent jurisdiction; *provided* that if (x) such payment is a payment of the principal amount of any Loans or L/C Obligations in respect of which such Defaulting Lender has not fully funded its appropriate share, and (y) such Loans were made or the related Letters of Credit were issued at a time when the conditions set forth in Section 7.1 were satisfied or waived, such payment shall be applied solely to pay the Loans of, and L/C Obligations 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 Obligations owed to, such Defaulting Lender until such time as all Loans and funded and unfunded participations in L/C Obligations and Swingline Loans are held by the Lenders pro rata in accordance with their Percentages of the relevant Commitments without giving effect to Section 2.13(a)(iv) below. 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 2.13(a)(ii) shall be deemed paid to and redirected by such Defaulting Lender, and each Lender irrevocably consents hereto.

(iii) *Certain Fees*.

(A) No Defaulting Lender shall be entitled to receive any commitment fee 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).

(B) Each Defaulting Lender shall be entitled to receive L/C Participation Fees for any period during which that Lender is a Defaulting Lender only to the extent allocable to its Percentage of the stated amount of Letters of Credit for which it has provided Cash Collateral pursuant to Section 2.14.

(C) With respect to any L/C Participation Fee not required to be paid to any Defaulting Lender pursuant to clause (B) above, the Borrower shall (x) pay to each Non-Defaulting Lender that portion of any such fee otherwise payable to such Defaulting Lender with respect to such Defaulting Lender's participation in L/C Obligations or Swingline Loans that has been reallocated to such Non-Defaulting Lender pursuant to clause (iv) below, (y) pay to each L/C Issuer and Swingline Lender, as applicable, the amount of any such fee otherwise payable to such Defaulting Lender to the extent allocable to such L/C Issuer's or Swingline Lender's Fronting Exposure to such Defaulting Lender, and (z) not be required to pay the remaining amount of any such fee.

(iv) *Reallocation of Participations to Reduce Fronting Exposure.* All or any part of such Defaulting Lender's participation in L/C Obligations and Swingline Loans shall be reallocated among the Non-Defaulting Lenders in accordance with their respective Percentages of the relevant Commitments (calculated without regard to such Defaulting Lender's Commitments) but only to the extent that (x) the conditions set forth in Section 7.1 are satisfied at the time of such reallocation (and, unless the Borrower shall have otherwise notified the Administrative Agent at such time, the Borrower shall be deemed to have represented and warranted that such conditions are satisfied at such time), and (y) such reallocation does not cause the aggregate Revolving Loans and interests in L/C Obligations and Swingline Loans of any Non-Defaulting Lender to exceed such Non-Defaulting Lender's Revolving Credit Commitment. Subject to Section 13.21, no reallocation hereunder shall constitute a waiver or release of any claim of any party hereunder against a Defaulting Lender arising from that Lender having become a Defaulting Lender, including any claim of a Non-Defaulting Lender as a result of such Non-Defaulting Lender's increased exposure following such reallocation.

(v) *Cash Collateral; Repayment of Swingline Loans.* If the reallocation described in clause (iv) above cannot, or can only partially, be effected, the Borrower shall, without prejudice to any right or remedy available to them hereunder or under law, (x) first, prepay Swingline Loans in an amount equal to the Swing Lender's Fronting Exposure and (y) second, Cash Collateralize the L/C Issuer's Fronting Exposure in accordance with the procedures set forth in Section 2.14.

(b) *Defaulting Lender Cure.* If the Borrower, the Administrative Agent, the Swingline Lender and each L/C Issuer agree in writing that a Lender is no longer 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 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 and Swingline Loans to be held pro rata by the Lenders in accordance with their respective Percentages of the relevant Commitments (without giving effect to Section 2.13(a)(iv)), whereupon such Lender will cease to be a Defaulting Lender; *provided* that no adjustments will be made retroactively with respect to fees accrued or payments made by or on behalf of the Borrower while that Lender was a Defaulting Lender; and *provided, further*, that except to the extent otherwise expressly agreed by the affected parties, no change hereunder from Defaulting Lender to Lender will constitute a waiver or release of any claim of any party hereunder arising from that Lender's having been a Defaulting Lender.

(c) *New Swingline Loans/Letters of Credit.* So long as any Lender is a Defaulting Lender, (i) the Swingline Lender shall not be required to fund any Swingline Loans unless it is satisfied that it will have no Fronting Exposure after giving effect to such Swingline Loan and (ii) no L/C Issuer shall be required to issue, extend, renew or increase any Letter of Credit unless it is satisfied that it will have no Fronting Exposure after giving effect thereto.

*Section 2.14. Cash Collateral for Fronting Exposure.* At any time that there shall exist a Defaulting Lender, within one (1) Business Day following the written request of the Administrative Agent or any L/C Issuer (with a copy to the Administrative Agent) the Borrower shall Cash Collateralize the L/C Issuers' Fronting Exposure with respect to such Defaulting Lender (determined after giving effect to Section 2.13(a)(iv) and any Cash Collateral provided by such Defaulting Lender) in an amount not less than the Minimum Collateral Amount.

(a) *Grant of Security Interest.* The Borrower, and to the extent provided by any Defaulting Lender, such Defaulting Lender, hereby grants to the Administrative Agent, for the benefit of the L/C Issuers, and agree to maintain, a first priority security interest in all such Cash Collateral as security for such Defaulting Lender's obligation to fund participations in respect of L/C Obligations, to be applied pursuant to clause (b) below. 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 and the L/C Issuers as herein provided, or that the total amount of such Cash Collateral is less than the Minimum Collateral Amount, the Borrower shall, 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 (after giving effect to any Cash Collateral provided by the Defaulting Lender).

(b) *Application.* Notwithstanding anything to the contrary contained in this Agreement, Cash Collateral provided under this Section 2.14 or Section 2.13 in respect of Letters of Credit shall be applied to the satisfaction of the Defaulting Lender's obligation to fund participations in respect of L/C Obligations (including, as to Cash Collateral provided by a Defaulting Lender, any interest accrued on such obligation) for which the Cash Collateral was so provided, prior to any other application of such property as may otherwise be provided for herein.

(c) *Termination of Requirement.* Cash Collateral (or the appropriate portion thereof) provided to reduce any L/C Issuer's Fronting Exposure shall no longer be required to be held as Cash Collateral pursuant to this Section 2.14(c) following (A) the elimination of the applicable Fronting Exposure (including by the termination of Defaulting Lender status of the applicable Lender), or (B) the determination by the Administrative Agent and each L/C Issuer that there exists excess Cash Collateral; *provided that*, subject to Section 2.14, the Person providing Cash Collateral and each L/C Issuer may agree that Cash Collateral shall be held to support future anticipated Fronting Exposure or other obligations; and *provided further* that to the extent that such Cash Collateral was provided by the Borrower or any other Loan Party, such Cash Collateral shall remain subject to the security interest granted pursuant to the Loan Documents.

*Section 2.15. Increase in Revolving Credit Commitments; Making of Incremental Term Loans.* The Borrower may, on any Business Day prior to the Revolving Credit Termination Date, with the written consent of the Administrative Agent, the L/C Issuer, and the Swingline Lender, increase the aggregate amount of the Revolving Credit Commitments and/or borrow one or more term loans (collectively, the "*Incremental Term Loans*"), in each case, by delivering an Increase Request substantially in the form attached hereto as Exhibit I (or in such other form acceptable to the Administrative Agent) to the Administrative Agent at least five (5) Business Days prior to the desired effective date of such increase (the "*Increase*") identifying an additional Lender, which qualifies as an Eligible Assignee (or additional Revolving Credit Commitments or a commitment to make Incremental Term Loans for an existing Lender) and the amount of its Revolving Credit Commitment or Incremental Term Loan (or, for an existing Lender, the amount of additional Revolving Credit Commitments or the amount of a commitment to make Incremental Term Loans); *provided, however*, that:

(a) the aggregate amount of all such Increases shall not exceed \$200,000,000 and any such Increase shall be in an amount not less than \$10,000,000 (or such lesser amount then agreed to by the Administrative Agent);

(b) no Default shall have occurred and be continuing at the time of the request or the effective date of the Increase and after giving pro forma effect to the use of proceeds thereof; and

(c) each of the representations and warranties set forth in Section 6 and in the other Loan Documents shall be and remain true and correct in all material respects on the effective date of such Increase (where not already qualified by materiality, otherwise in all respects), except to the extent the same expressly relate to an earlier date, in which case they shall be true and correct in all material respects (where not already qualified by materiality, otherwise in all respects) as of such earlier date.

The effective date (the "*Increase Date*") of the Increase shall be agreed upon by the Borrowers, the Administrative Agent and the Lender(s) providing such Increase. Upon the Increase Date, Schedule 2.1/2.2 shall be deemed amended to reflect the Increase. With respect to an Increase in the Revolving Credit Commitments as described above, on the Increase Date, the new Revolving Lender(s) (or, if applicable, existing Lender(s)) shall advance Revolving Loans, as applicable, in an amount sufficient such that after giving effect to such advance(s) or loan(s) and the prepayment of Revolving Loans by any Lender(s) whose commitment is not increased, each Lender shall have outstanding its Revolver Percentage of Revolving Loans. It shall be a condition to such effectiveness that (A) if any Eurodollar/SOFR Loans are outstanding on the date of such effectiveness, such Eurodollar/SOFR Loans shall be deemed to be prepaid on such date and the Borrower shall pay any amounts owing to the Lenders pursuant to Section 4.5 and (B) the Borrower shall not have terminated any portion of the Revolving Credit Commitments pursuant to Section 2.11. The Borrower agrees to pay the expenses of the Administrative Agent (including reasonable attorney's fees) relating to any Increase. Notwithstanding anything herein to the contrary, no Lender shall have any obligation to increase its Revolving Credit Commitment or to make any Incremental Term Loan and no Lender's Revolving Credit Commitment shall be increased without its consent thereto, and each Lender may at its option, unconditionally and without cause, decline to provide any Increase.

Each Revolving Credit Increase shall be on the same terms (including pricing and maturity, but excluding customary arrangement, commitment, structuring and underwriting fees, and amendment fees not generally shared with other Lenders with respect to such Revolving Credit Increase) as the Revolving Credit Commitments outstanding prior to the Increase Date. Each Incremental Term Loan shall be on terms and conditions specified in an Incremental Amendment.

Commitments in respect of Incremental Term Loans and increases in the Revolving Credit Commitment shall become commitments (or in the case of an increase in the Revolving Credit Commitment to be provided by an existing Lender, an increase in such Lender's applicable Revolving Credit Commitment) under this Agreement pursuant to an amendment (an "Incremental Amendment") to this Agreement and, as appropriate, the other Loan Documents, executed by the Borrowers, each existing Lender agreeing to provide such Increase, if any, each additional Lender, if any, and the Administrative Agent. The Incremental Amendment 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 reasonable opinion of the Administrative Agent and the Borrowers, to effect the provisions of this Section 2.15.

*Section 2.16. Extension Option.* (a) The Borrower may, by written notice to the Administrative Agent from time to time, request an extension (each, an "Extension") of the Revolving Credit Termination Date and/or, if applicable, any maturity date applicable to any Incremental Term Loan to the extended maturity date specified in such request. Such notice shall set forth (i) the amount of the Revolving Credit Commitments and/or Incremental Term Loans to be extended (which shall be in minimum increments of \$5,000,000 and a minimum of \$10,000,000) and (ii) the date on which such Extension is requested to become effective (which date shall not be less than ten (10) Business Days nor more than sixty (60) days after the date of such requested Extension (or such longer or shorter periods as the Administrative Agent shall agree). Each Lender shall be offered (an "Extension Offer") an opportunity to participate in such Extension on a pro rata basis and on the same terms and conditions as each other Lender pursuant to procedures established by, or reasonably acceptable to, the Administrative Agent. Any Lender approached to participate in such Extension may elect or decline, in its sole discretion, to participate in such Extension (it being understood that if a Lender shall fail to respond to any request for participation in an Extension within five (5) Business Days of receipt of the Extension Offer, such Lender shall be deemed to have declined to participate in such Extension). If the aggregate principal amount of Revolving Credit Commitments or Incremental Term Loans, (calculated on the face amount thereof), as applicable, in respect of which Lenders shall have accepted the relevant Extension Offer shall exceed the maximum aggregate principal amount of the Revolving Credit Commitment or Incremental Term Loan, as applicable, requested to be extended by the Borrower pursuant to the Extension Offer, then the Revolving Credit Commitments or Incremental Term Loans, as applicable of the Lenders shall be extended ratably up to such maximum amount based on the respective principal amounts (but not to exceed actual holdings of record) with respect to which such Lenders have accepted such Extension Offer.

(b) It shall be a condition precedent to the effectiveness of any Extension that: (i) no Default shall have occurred and be continuing immediately prior to and immediately after giving effect to such Extension, (ii) the representations and warranties of the Borrower and each other Loan Party contained in Section 6 or any other Loan Document, or which are contained in any document furnished at any time under or in connection herewith or therewith, shall be true and correct in all material respects (and in all respects if any such representation or warranty is already qualified by materiality or reference to Material Adverse Effect) on and as of the date of such Extension, except 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 (and in all respects if any such representation or warranty is already qualified by materiality or reference to Material Adverse Effect) as of such earlier date, (iii) the L/C Issuer and the Swingline Lender shall have consented to any Extension of the Revolving Credit Commitments if such Extension provides for the issuance of Letters of Credit or the making of Swingline Loans at any time during the extended period, and (iv) the terms of such Extension shall comply with Section 2.16(c).

(c) The terms of each Extension shall be determined by the Borrower and the applicable extending Lenders and be set forth in an Additional Credit Extension Amendment, provided, that (i) the final maturity date of any Extended Revolving Credit Commitment or Extended Incremental Term Loan shall be no earlier than the Revolving Credit Termination Date or the maturity date applicable to the existing Incremental Term Loans, (ii)(A) there shall be no scheduled amortization of the Extended Revolving Credit Commitments and (B) the scheduled amortization of the Extended Incremental Term Loans shall be as agreed among the Borrower and the Lenders providing such Extended Incremental Term Loans, (iii)(A) the Extended Revolving Loans and the Extended Incremental Term Loans will rank pari passu in right of payment with the Revolving Loans and the Incremental Term Loans being extended, and (B) the borrower and the guarantors of the Extended Revolving Credit Commitments or the Extended Incremental Term Loans, as applicable, shall be the Borrower and the Guarantors, (iv) the interest rate margins and fees applicable to any Extended Revolving Credit Commitments (and the Extended Revolving Loans thereunder) and Extended Incremental Loans shall be determined by the Borrower and the applicable extending Lenders, and (v) to the extent the terms of the Extended Revolving Credit Commitments or Extended Incremental Term Loans are inconsistent with the terms set forth herein (except as set forth in clauses (i) through (iv) above), such terms shall be reasonably satisfactory to the Administrative Agent.

(d) In connection with any Extension, the Borrower, the Administrative Agent and each applicable extending Lender shall execute and deliver to the Administrative Agent an Additional Credit Extension Amendment and such other documentation as the Administrative Agent shall reasonably specify to evidence the Extension. The Administrative Agent shall promptly notify each Lender as to the effectiveness of each Extension. Notwithstanding anything herein to the contrary, any Additional Credit Extension Amendment may, without the consent of any other Lender, effect such amendment to this Agreement and the other Loan Documents as may be necessary or appropriate (but only to such extent), in the reasonable opinion of the Administrative Agent and the Borrower, to implement the terms of any such Extension Offer, including any amendments necessary to establish Extended Revolving Credit Commitments or Extended Incremental Term Loans as a new tranche of Revolving Credit Commitments or Incremental Term Loan, as applicable, and such other technical amendments as may be necessary or appropriate in the reasonable opinion of the Administrative Agent and the Borrower in connection with the establishment of such new tranche (including to preserve the pro rata treatment of the extended and non-extended tranches and to provide for the reallocation of any L/C Obligations or obligations under Swingline Loans upon the expiration or termination of the commitments under any tranche), in each case on terms consistent with this Section 2.16.

(e) This Section 2.16 shall supersede any provisions of Section 13.3 to the contrary.

### SECTION 3. FEES.

#### *Section 3.1. Fees.*

(a) *Revolving Credit Commitment Fee.* The Borrower shall pay to the Administrative Agent for the ratable account of the Lenders in accordance with their Revolver Percentages a commitment fee at the rate per annum equal to the Applicable Margin (computed on the basis of a year of 360 days and the actual number of days elapsed) times the daily amount by which the aggregate Revolving Credit Commitments exceeds the principal amount of Revolving Loans and L/C Obligations then outstanding. For the avoidance of doubt, the principal amount of Swingline Loans shall not be counted towards or considered usage of the Revolving Credit Commitments for purposes of this Section. Such commitment fee shall be payable quarterly in arrears on the last day of each March, June, September, and December in each year (commencing on the first such date occurring after the Closing Date) and on the Revolving Credit Termination Date, unless the Revolving Credit Commitments are terminated in whole on an earlier date, in which event the commitment fee for the period to the date of such termination in whole shall be paid on the date of such termination.

(b) *Letter of Credit Fees.* On the date of issuance or extension, or increase in the amount, of any Letter of Credit pursuant to Section 1.3, the Borrower shall pay to the L/C Issuer for its own account a fronting fee equal to 0.125% of the face amount of (or of the increase in the face amount of) such Letter of Credit. Quarterly in arrears, on the last day of each March, June, September, and December, commencing on the first such date occurring after the Closing Date, the Borrower shall pay to the Administrative Agent, for the ratable benefit of the Lenders in accordance with their Revolver Percentages, a letter of credit fee (the "*L/C Participation Fee*") at a rate per annum equal to the Applicable Margin (computed on the basis of a year of 360 days and the actual number of days elapsed) in effect during each day of such quarter applied to the daily average face amount of Letters of Credit outstanding during such quarter. In addition, the Borrower shall pay to the L/C Issuer for its own account the L/C Issuer's standard issuance, drawing, negotiation, amendment, assignment, and other administrative fees for each Letter of Credit as established by the L/C Issuer from time to time.

(c) *Administrative Agent Fees.* The Borrower shall pay to the Administrative Agent, for its own use and benefit, the fees agreed to between the Administrative Agent and the Borrower in a letter dated as of the date hereof, or as otherwise agreed to in writing between them.

### SECTION 4. TAXES; CHANGE IN CIRCUMSTANCES, INCREASED COSTS, AND FUNDING INDEMNITY

#### *Section 4.1. Taxes.*

(a) *Certain Defined Terms.* For purposes of this Section, the term "Lender" includes any L/C Issuer and the term "applicable law" includes FATCA.

(b) *Payments Free of Taxes.* Any and all payments by or on account of any obligation of any Loan Party under any Loan Document shall be made without deduction or withholding for any Taxes, except as required by applicable law. If any applicable law (as determined in the good faith discretion of an applicable Withholding Agent) requires 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 law 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.

(c) *Payment of Other Taxes by the Loan Parties.* The Loan Parties shall timely pay to the relevant Governmental Authority in accordance with applicable law, or at the option of the Administrative Agent timely reimburse it for the payment of, any Other Taxes.

(d) *Indemnification by the Loan Parties.* The Loan Parties shall jointly and severally indemnify each Recipient, within thirty (30) 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) payable or paid by such Recipient or required to be withheld or deducted from a payment to such Recipient and any reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to the Borrower by a Lender (with a copy to the Administrative Agent), or by the Administrative Agent on its own behalf or on behalf of a Lender, shall be conclusive absent manifest error.

(e) *Indemnification by the Lenders.* Each Lender shall severally indemnify the Administrative Agent, within ten (10) days after demand therefor, for (i) any Indemnified Taxes or Other Taxes attributable to such Lender (but only to the extent that any Loan Party has not already indemnified the Administrative Agent for such Indemnified Taxes or Other Taxes and without limiting the obligation of the Loan Parties to do so), (ii) any Taxes attributable to such Lender's failure to comply with the provisions of Section 13.2(d) relating to the maintenance of a Participant Register and (iii) any Excluded Taxes attributable to such Lender, 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. A certificate as to the amount of such payment or liability delivered to any Lender by the Administrative Agent shall be conclusive absent manifest error. Each Lender hereby authorizes the Administrative Agent to set off and apply any and all amounts at any time owing to such Lender under any Loan Document or otherwise payable by the Administrative Agent to the Lender from any other source against any amount due to the Administrative Agent under this subsection (e).

(f) *Evidence of Payments.* As soon as practicable after any payment of Taxes by any Loan Party to a Governmental Authority pursuant to this Section, such Loan Party shall deliver to the Administrative Agent the original or a certified copy of a receipt issued by such Governmental Authority evidencing such payment, a copy of the return reporting such payment or other evidence of such payment reasonably satisfactory to the Administrative Agent.

(g) *Status of Lenders.* (i) Any Lender that is entitled to an exemption from or reduction of withholding Tax with respect to payments made under any Loan Document shall deliver to the Borrower and 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 law 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 completion, execution and submission of such documentation (other than such documentation set forth in Section 4.1(g)(ii)(A), (ii)(B) and (ii)(D) below) shall not be required if in the Lender's reasonable judgment such completion, execution or submission would subject such Lender to any material unreimbursed cost or expense or would materially prejudice the legal or commercial position of such Lender.

(ii) Without limiting the generality of the foregoing,

(A) any Lender that is a U.S. Person shall deliver to the Borrower and the Administrative Agent on or prior to the date on which such 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 originals of IRS Form W-9 certifying that such Lender is exempt from U.S. federal backup withholding tax;

(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 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), whichever of the following is applicable:

(i) 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 originals of IRS Form W-8BEN 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 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;

(ii) executed originals of IRS Form W-8ECI;

(iii) 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 "bank" within the meaning of Section 881(c)(3)(A) of the Code, a "10 percent shareholder" of the Borrower within the meaning of Section 881(c)(3)(B) of the Code, or a "controlled foreign corporation" described in Section 881(c)(3)(C) of the Code (a "U.S. Tax Compliance Certificate") and (y) executed originals of IRS Form W-8BEN; or

(iv) to the extent a Foreign Lender is not the beneficial owner, executed originals of IRS Form W-8IMY, accompanied by IRS Form W-8ECI, IRS Form W-8BEN, a U.S. Tax Compliance Certificate substantially in the form of Exhibit H-2 or Exhibit 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;

(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 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 originals 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; and

(D) 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 (D), "FATCA" shall include any amendments made to FATCA after the date of this Agreement.

Each Lender agrees that if any form or certification it previously delivered expires or becomes obsolete or inaccurate in any respect, it shall update such form or certification or promptly notify the Borrower and the Administrative Agent in writing of its legal inability to do so.

(h) *Treatment of Certain Refunds.* If any party receives a refund of any Taxes as to which it has been indemnified pursuant to this Section (including by the payment of additional amounts pursuant to this Section), it shall pay to the indemnifying party an amount equal to such refund (but only to the extent of indemnity payments made under this Section with respect to the Taxes giving rise to such refund), net of all out-of-pocket expenses (including Taxes) of such indemnified party and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund). Such indemnifying party, upon the request of such indemnified party, shall repay to such indemnified party the amount paid over pursuant to this subsection (h) (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) in the event that such indemnified party is required to repay such refund to such Governmental Authority. Notwithstanding anything to the contrary in this subsection (h), in no event will the indemnified party be required to pay any amount to an indemnifying party pursuant to this subsection (h) the payment of which would place the indemnified party in a less favorable net after-Tax position than the indemnified party would have been in if the Tax subject to indemnification had not been deducted, withheld or otherwise imposed and the indemnification payments or additional amounts giving rise to such refund had never been paid. This subsection shall not be construed to require any indemnified party to make available its Tax returns (or any other information relating to its Taxes that it deems confidential) to the indemnifying party or any other Person.

(i) *Survival.* Each party's obligations under this Section shall survive the resignation or replacement of the Administrative Agent or any assignment of rights by, or the replacement of, a Lender, the termination of the Commitments and the repayment, satisfaction or discharge of all obligations under any Loan Document.

*Section 4.2. Change of Law.* Notwithstanding any other provisions of this Agreement or any other Loan Document, if at any time any Change in Law makes it unlawful for any Lender to make or continue to maintain any Eurodollar SOFR Loans or to perform its obligations as contemplated hereby, such Lender shall promptly give notice thereof to the Borrower and such Lender's obligations to make or maintain Eurodollar SOFR Loans under this Agreement shall be suspended until it is no longer unlawful for such Lender to make or maintain Eurodollar SOFR Loans. The Borrower shall prepay on demand the outstanding principal amount of any such affected Eurodollar SOFR Loans, together with all interest accrued thereon and all other amounts then due and payable to such Lender under this Agreement; *provided, however,* subject to all of the terms and conditions of this Agreement, the Borrower may then elect to borrow the principal amount of the affected Eurodollar SOFR Loans from such Lender by means of Base Rate Loans from such Lender, which Base Rate Loans shall not be made ratably by the Lenders but only from such affected Lender and which shall be determined without reference to clause (c) of the definition of "Base Rate". Upon any such repayment, the Borrower shall also pay any additional amounts required pursuant to Section 4.5.

*Section 4.3. Unavailability of Deposits or Inability to Ascertain, or Inadequacy of, LIBOR. (a) Reserved. Determine Rates.* Subject to Section 4.8, if on or prior to the first day of any Interest Period for any SOFR Loan:

~~(b) *Replacing USD LIBOR.* On March 5, 2021 the Financial Conduct Authority ("FCA"), the regulatory supervisor of USD LIBOR's administrator ("IBA"), announced in a public statement the future cessation or loss of representativeness of overnight/Spot Next, 1-month, 3-month, 6-month and 12-month USD LIBOR tenor settings. On the earlier of (i) the date that all Available Tenors of USD LIBOR have either permanently or indefinitely ceased to be provided by IBA or have been announced by the FCA pursuant to public statement or publication of information to be no longer representative and (ii) the Benchmark Replacement Date relating to an Early Opt-in Election, if the then current Benchmark is USD LIBOR, the Benchmark Replacement will replace such Benchmark for all purposes hereunder and under any Loan Document in respect of any setting of such Benchmark on such day and all subsequent settings without any amendment to, or further action or consent of any other party to this Agreement or any other Loan Document. If the Benchmark Replacement is Daily Simple SOFR, all interest payments will be payable on a quarterly basis.~~

~~(c) *Effect of Benchmark Transition Event.* (i) Notwithstanding anything to the contrary herein or in any other Loan Document, if a Benchmark Transition Event or an Early Opt-in Election, as applicable, and its related Benchmark Replacement Date have occurred prior to the Reference Time in respect of any setting of the then current Benchmark, then (x) if a Benchmark Replacement is determined in accordance with clause (1) or (2) of the definition of "Benchmark Replacement" for such Benchmark Replacement Date, such Benchmark Replacement will replace such Benchmark for all purposes hereunder and under any Loan Document in respect of such Benchmark setting and subsequent Benchmark settings without any amendment to, or further action or consent of any other party to, this Agreement or any other Loan Document and (y) if a Benchmark Replacement is determined in accordance with clause (3) of the definition of "Benchmark Replacement" for such Benchmark Replacement Date, such Benchmark Replacement will replace such Benchmark for all purposes hereunder and under any Loan Document in respect of any Benchmark setting at or after 5:00 p.m. (Chicago time) on the 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.~~

~~(ii) Notwithstanding anything to the contrary herein or in any other Loan Document and subject to the proviso below in this paragraph, if a Term SOFR Event and its related Benchmark Replacement Date have occurred prior to the Reference Time in respect of any setting of the then current Benchmark, then the applicable Benchmark Replacement will replace the then current Benchmark for all purposes hereunder or under any Loan Document in respect of such Benchmark setting and subsequent Benchmark settings, without any amendment to, or further action or consent of any other party to, this Agreement or any other Loan Document; provided that, this clause (ii) shall not be effective unless the Administrative Agent has delivered to the Lenders and the Borrower a Term SOFR Notice.~~

~~(iii) In connection with the implementation of a Benchmark Replacement, the Administrative Agent will have the right to make Benchmark Replacement Conforming Changes from time to time and, notwithstanding anything to the contrary herein or in any other Loan Document, any amendments implementing such Benchmark Replacement Conforming Changes will become effective without any further action or consent of any other party to this Agreement or any other Loan Document.~~

~~(iv) The Administrative Agent will promptly notify the Borrower and the Lenders of (A) any occurrence of a Benchmark Transition Event, Term SOFR Event or Early Opt-in Election, as applicable, and its related Benchmark Replacement Date, (B) the implementation of any Benchmark Replacement, (C) the effectiveness of any Benchmark Replacement Conforming Changes, (D) the removal or reinstatement of any tenor of a Benchmark pursuant to clause (v) below and (E) the commencement or conclusion of any Benchmark Unavailability Period. Any determination, decision or election that may be made by the Administrative Agent or, if applicable, any Lender (or group of Lenders) pursuant to this Section 4.3(c), including any determination with respect to a tenor, rate or adjustment or of the occurrence or non-occurrence of an event, circumstance or date and any decision to take or refrain from taking any action or any selection, will be made in good faith in its or their reasonable discretion giving due consideration to any selection or recommendation by the Relevant Governmental Body and to any prevailing market practices for U.S. Dollar denominated syndicated credit facilities and shall be conclusive and binding absent manifest error without consent from any other party to this Agreement or any other Loan Document, except, in each case, as expressly required pursuant to this Section 4.3(c). The parties hereto acknowledge that, on March 5, 2021, the ICE Benchmark Administration (the "IBA"), the administrator of the London interbank offered rate ("LIBOR Rate"), stated that as a result of its not having access to input data necessary to calculate LIBOR Rate settings on a representative basis beyond the intended cessation dates set forth in such statement, it would have to cease publication of all 35 LIBOR Rate settings immediately after such dates. The IBA did not identify any successor administrator in its announcement. The IBA also noted that the U.K. Financial Conduct Authority (the "FCA"), the regulatory supervisor for the IBA, could, at a later date, use proposed new powers to require the IBA to publish LIBOR Rate settings on a synthetic basis. The FCA also issued a separate announcement confirming that the IBA had notified the FCA of its intent to cease providing all LIBOR Rate settings. While the FCA stated that, subject to the establishment of the new proposed powers, it would consult on the issue of requiring the IBA to produce certain LIBOR Rate tenors on a synthetic basis, it confirmed that all 35 LIBOR Rate settings will either cease to be provided by any administrator or will no longer be representative as of the dates set forth in such statement.~~

~~(v) Notwithstanding anything to the contrary herein or in any other Loan Document, at any time (including in connection with the implementation of a Benchmark Replacement), (A) if the then current Benchmark is a term rate (including Term SOFR or LIBOR) and either (1) any tenor for such Benchmark is not displayed on a screen or other information service that publishes such rate from time to time as selected by the Administrative Agent in good faith and in its reasonable discretion giving due consideration to any prevailing market practice for U.S. Dollar denominated syndicated credit facilities or (2) the regulatory supervisor for the administrator of such Benchmark has provided a public statement or publication of information announcing that any tenor for such Benchmark is or will be no longer representative, then the Administrative Agent may modify the definition of "Interest Period" for any Benchmark settings at or after such time to remove such unavailable or non-representative tenor and (B) if a tenor that was removed pursuant to clause (A) above either (1) is subsequently displayed on a screen or information service for a Benchmark (including a Benchmark Replacement) or (2) is not, or is no longer, subject to an announcement that it is or will no longer be representative for a Benchmark (including a Benchmark Replacement), then the Administrative Agent may modify the definition of "Interest Period" for all Benchmark settings at or after such time to reinstate such previously removed tenor.~~

~~(vi) Upon the Borrower's~~

~~(a) the Administrative Agent determines in good faith (which determination shall be conclusive and binding absent manifest error) that "Term SOFR" cannot be determined pursuant to the definition thereof.~~

then the Administrative Agent will promptly so notify the Borrower and each Lender. Upon notice thereof by the Administrative Agent to the Borrower, any obligation of the Lenders to make or continue SOFR Loans shall be suspended (to the extent of the affected SOFR Loans and, in the case of a SOFR Loan, the affected Interest Periods) until the Administrative Agent revokes such notice. Upon receipt of such notice of the commencement of a Benchmark Unavailability Period, (i) the Borrower may revoke any pending request for a Borrowing of, conversion to or continuation of Eurodollar SOFR Loans (to be made, converted or continued during any Benchmark Unavailability Period and the extent of the affected SOFR Loans and, in the case of a SOFR Loan, the affected Interest Periods) or, failing that, the Borrowers/Borrower will be deemed to have converted any such request into a request for a Borrowing of or conversion to Base Rate Loans. During any Benchmark Unavailability Period or at any time that a tenor for the then current Benchmark is not an Available Tenor, the component of Base Rate based upon the then current Benchmark or such tenor for such Benchmark, as applicable, will not be used in any determination of Base Rate, in the amount specified therein and (ii) any outstanding affected SOFR Loans will be deemed to have been converted into Base Rate Loans immediately or, in the case of a SOFR Loans, at the end of the applicable Interest Period. Upon any such conversion, the Borrower shall also pay any additional amounts required pursuant to Section 4.5.

~~(vii) Certain Defined Terms. As used in this Section 4.3(c):~~

~~“Available Tenor” means, as of any date of determination and with respect to the then current Benchmark, as applicable, any tenor for such Benchmark or payment period for interest calculated with reference to such Benchmark, as applicable, that is or may be used for determining the length of an Interest Period pursuant to this Agreement as of such date and not including, for the avoidance of doubt, any tenor for such Benchmark that is then removed from the definition of “Interest Period” pursuant to clause (v) of this Section 4.3(c).~~

~~“Benchmark” means, initially, the LIBOR Index Rate; provided that if a Benchmark Transition Event, a Term SOFR Event or an Early Opt-in Election, as applicable, and its related Benchmark Replacement Date have occurred with respect to the LIBOR Index Rate or the then current Benchmark, then “Benchmark” means the applicable Benchmark Replacement to the extent that such Benchmark Replacement has replaced such prior benchmark rate pursuant to clause (i) or (ii) of this Section 4.3(c).~~

~~“Benchmark Replacement” means, for any Available Tenor, the first alternative set forth in the order below that can be determined by the Administrative Agent for the applicable Benchmark Replacement Date:~~

~~(1) the sum of: (a) Term SOFR and (b) the related Benchmark Replacement Adjustment;~~

~~(2) the sum of: (a) Daily Simple SOFR and (b) the related Benchmark Replacement Adjustment;~~

~~(3) the sum of: (a) the alternate benchmark rate that has been selected by the Administrative Agent and the Borrower as the replacement for the then current Benchmark for the applicable Corresponding Tenor giving due consideration to (i) any selection or recommendation of a replacement benchmark rate or the mechanism for determining such a rate by the Relevant Governmental Body or (ii) any evolving or then prevailing market convention for determining a benchmark rate as a replacement for the then current Benchmark for U.S. dollar-denominated syndicated credit facilities at such time and (b) the related Benchmark Replacement Adjustment;~~

~~provided that, in the case of clause (1), such Unadjusted Benchmark Replacement is displayed on a screen or other information service that publishes such rate from time to time as selected by the Administrative Agent in good faith and in its reasonable discretion giving due consideration to any prevailing market practice for U.S. Dollar-denominated syndicated credit facilities; provided further that, notwithstanding anything to the contrary in this Agreement or in any other Loan Document, upon the occurrence of a Term SOFR Event, and the delivery of a Term SOFR Notice, on the applicable Benchmark Replacement Date the “Benchmark Replacement” shall revert to and shall be deemed to be the sum of (a) Term SOFR and (b) the related Benchmark Replacement Adjustment, as set forth in clause (1) of this definition (subject to the first proviso above).~~

~~If the Benchmark Replacement as determined pursuant to clause (1), (2) or (3) above would be less than the Floor, the Benchmark Replacement will be deemed to be the Floor for the purposes of this Agreement and the other Loan Documents.~~

~~“Benchmark Replacement Adjustment” means, with respect to any replacement of the then current Benchmark with an Unadjusted Benchmark Replacement for any applicable Interest Period and Available Tenor for any setting of such Unadjusted Benchmark Replacement:~~

~~(1) for purposes of clauses (1) and (2) of the definition of “Benchmark Replacement,” the first alternative set forth in the order below that can be determined by the Administrative Agent:~~

~~(a) the spread adjustment, or method for calculating or determining such spread adjustment, (which may be a positive or negative value or zero) as of the Reference Time such Benchmark Replacement is first set for such Interest Period that has been selected or recommended by the Relevant Governmental Body for the replacement of such Benchmark with the applicable Unadjusted Benchmark Replacement for the applicable Corresponding Tenor;~~

~~(b) the spread adjustment (which may be a positive or negative value or zero) as of the Reference Time such Benchmark Replacement is first set for such Interest Period that would apply to the fallback rate for a derivative transaction referencing the ISDA Definitions to be effective upon an index cessation event with respect to such Benchmark for the applicable Corresponding Tenor; and~~

~~(2) for purposes of clause (2) of the definition of “Benchmark Replacement,” the spread adjustment, or method for calculating or determining such spread adjustment, (which may be a positive or negative value or zero) that has been selected by the Administrative Agent and the Borrower for the applicable Corresponding Tenor giving due consideration to (i) any selection or recommendation of a spread adjustment, or method for calculating or determining such spread adjustment, for the replacement of such Benchmark with the applicable Unadjusted Benchmark Replacement by the Relevant Governmental Body on the applicable Benchmark Replacement Date and/or (ii) any evolving or then prevailing market convention for determining a spread adjustment, or method for calculating or determining such spread adjustment, for the replacement of such Benchmark with the applicable Unadjusted Benchmark Replacement for U.S. dollar-denominated syndicated credit facilities;~~

~~provided that, in the case of clause (1) above, such adjustment is displayed on a screen or other information service that publishes such Benchmark Replacement Adjustment from time to time as selected by the Administrative Agent in its reasonable discretion.~~

~~“Benchmark Replacement Conforming Changes” means, with respect to any Benchmark Replacement, any technical, administrative or operational changes (including changes to the definition of “Base Rate,” the definition of “Business Day,” the definition of “Interest Period,” the timing and frequency of determining rates and making payments of interest, the timing of borrowing requests or prepayment, conversion or continuation notices, the length of lookback periods, the applicability of breakage provisions, and other technical, administrative or operational matters) that the Administrative Agent reasonably decides may be appropriate to reflect the adoption and implementation of such Benchmark Replacement and to permit the administration thereof by the Administrative Agent in a manner substantially consistent with market practice (or, if the Administrative Agent in good faith decides that adoption of any portion of such market practice is not administratively feasible or if the Administrative Agent determines in good faith that no market practice for the administration of such Benchmark Replacement exists, in such other manner of administration as the Administrative Agent in good faith decides is reasonably necessary in connection with the administration of this Agreement and the other Loan Documents).~~

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

~~(1) in the case of clause (1) or (2) of the definition of “Benchmark Transition Event,” the later of (a) the date of the public statement or publication of information referenced therein and (b) the date on which the administrator of such Benchmark (or the published component used in the calculation thereof) permanently or indefinitely ceases to provide all Available Tenors of such Benchmark (or such component thereof);~~

~~(2) in the case of clause (3) of the definition of “Benchmark Transition Event,” the date of the public statement or publication of information referenced therein;~~

~~(3) in the case of a Term SOFR Event, the date that is 30 days after the date a Term SOFR Notice is provided to the Lenders and the Borrower pursuant to this Section 4.3(c)(ii); or~~

~~(4) in the case of an Early Opt-in Election, the 6th Business Day after the date notice of such Early Opt-in Election is provided to the Lenders, so long as the Administrative Agent has not received, by 5:00 p.m. (Chicago time) on the 5th Business Day after the date notice of such Early Opt-in Election is provided to the Lenders, written notice of objection to such Early Opt-in Election from Lenders comprising the Required Lenders.~~

~~For the avoidance of doubt, (i) if the event giving rise to the Benchmark Replacement Date occurs on the same day as, but earlier than, the Reference Time in respect of any determination, the Benchmark Replacement Date will be deemed to have occurred prior to the Reference Time for such determination and (ii) the “Benchmark Replacement Date” will be deemed to have occurred in the case of clause (1) or (2) with respect to any Benchmark upon the occurrence of the applicable event or events set forth therein with respect to all then-current Available Tenors of such Benchmark (or the published component used in the calculation thereof).~~

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

~~(1) a public statement or publication of information by or on behalf of the administrator of such Benchmark (or the published component used in the calculation thereof) announcing that such administrator has ceased or will cease to provide all Available Tenors of such Benchmark (or such component thereof), permanently or indefinitely; provided that, at the time of such statement or publication, there is no successor administrator that will continue to provide any Available Tenor of such Benchmark (or such component thereof);~~

~~(2) a public statement or publication of information by the regulatory supervisor for the administrator of such Benchmark (or the published component used in the calculation thereof), the FRB, the NYFRB, an insolvency official with jurisdiction over the administrator for such Benchmark (or such component), a resolution authority with jurisdiction over the administrator for such Benchmark (or such component) or a court or an entity with similar insolvency or resolution authority over the administrator for such Benchmark (or such component), which states that the administrator of such Benchmark (or such component) has ceased or will cease to provide all Available Tenors of such Benchmark (or such component thereof) permanently or indefinitely; provided that, at the time of such statement or publication, there is no successor administrator that will continue to provide any Available Tenor of such Benchmark (or such component thereof); or~~

~~(3) a public statement or publication of information by the regulatory supervisor for the administrator of such Benchmark (or the published component used in the calculation thereof) announcing that all Available Tenors of such Benchmark (or such component thereof) are no longer representative.~~

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

~~“Benchmark Unavailability Period” means the period (if any) (x) beginning at the time that a Benchmark Replacement Date pursuant to clauses (1) or (2) of that definition has occurred if, at such time, no Benchmark Replacement has replaced the then current Benchmark for all purposes hereunder and under any Loan Document in accordance with this Section 4.3(c) and (y) ending at the time that a Benchmark Replacement has replaced the then current Benchmark for all purposes hereunder and under any Loan Document in accordance with this Section 4.3(c).~~

~~“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.~~

~~“Daily Simple SOFR” means, for any day, SOFR, with the conventions for this rate (which will include a lookback) being established by the Administrative Agent in accordance with the conventions for this rate selected or recommended by the Relevant Governmental Body for determining “Daily Simple SOFR” for syndicated business loans; provided that if the Administrative Agent decides in good faith that any such convention is not administratively feasible for the Administrative Agent, then the Administrative Agent may establish another convention in good faith and in its reasonable discretion giving due consideration to any prevailing market practices for U.S. Dollar denominated syndicated credit facilities.~~

~~“Early Opt-in Election” means, if the then current Benchmark is the LIBOR Index Rate, the occurrence of:~~

~~(1) a notification by the Administrative Agent to (or the request by the Borrower to the Administrative Agent to notify) each of the other parties hereto that at least five currently outstanding U.S. dollar denominated syndicated credit facilities at such time contain (as a result of amendment or as originally executed) a SOFR based rate (including SOFR, a term SOFR or any other rate based upon SOFR) as a benchmark rate (and such syndicated credit facilities are identified in such notice and are publicly available for review), and~~

~~(2) the joint election by the Administrative Agent and the Borrower to trigger a fallback from LIBOR and the provision by the Administrative Agent of written notice of such election to the Lenders.~~

~~“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 LIBOR.~~

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

~~“ISDA Definitions” means the 2006 ISDA Definitions published by the International Swaps and Derivatives Association, Inc. or any successor thereto, as amended or supplemented from time to time, or any successor definitional booklet for interest rate derivatives published from time to time by the International Swaps and Derivatives Association, Inc. or such successor thereto.~~

~~“NYFRB” means the Federal Reserve Bank of New York.~~

~~“NYFRB’s Website” means the website of the Federal Reserve Bank of New York at <http://www.newyorkfed.org>, or any successor source.~~

~~“Reference Time” with respect to any setting of the then current Benchmark means (1) if such Benchmark is the LIBOR Index Rate, 11:00 a.m. (London time) on the day that is two London banking days preceding the date of such setting, and (2) if such Benchmark is not the LIBOR Index Rate, the time determined by the Administrative Agent in good faith and in its reasonable discretion giving due consideration to any prevailing market practice for U.S. Dollar denominated syndicated credit facilities.~~

~~“Relevant Governmental Body” means the FRB and/or the NYFRB, or a committee officially endorsed or convened by the FRB and/or the NYFRB, or any successor thereto.~~

~~“SOFR” means, with respect to any Business Day, a rate per annum equal to the secured overnight financing rate for such Business Day published by the SOFR Administrator on the SOFR Administrator’s Website on the immediately succeeding Business Day.~~

~~“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.~~

~~“Term SOFR” means, for the applicable Corresponding Tenor as of the applicable Reference Time, the forward looking term rate based on SOFR that has been selected or recommended by the Relevant Governmental Body.~~

~~“Term SOFR Event” means the determination by the Administrative Agent that (a) Term SOFR has been recommended for use by the Relevant Governmental Body, (b) the administration of Term SOFR is administratively feasible for the Administrative Agent and (c) a Benchmark Transition Event has previously occurred resulting in a Benchmark Replacement in accordance with this Section 4.3(c) that is not Term SOFR.~~

~~“Term SOFR Notice” means a notification by the Administrative Agent to the Lenders and the Borrower of the occurrence of a Term SOFR Event.~~

~~“Unadjusted Benchmark Replacement” means the applicable Benchmark Replacement excluding the related Benchmark Replacement Adjustment.~~

#### Section 4.4. Increased Costs.

(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 reflected in the Adjusted LIBOR)~~ or any L/C Issuer;

(ii) subject any Recipient to any Taxes (other than (A) Indemnified Taxes, (B) Taxes described in clauses (b) through (d) of the definition of Excluded Taxes and (C) Connection Income Taxes) on its loans, loan principal, letters of credit, commitments, 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 ~~London~~ applicable interbank market any other condition, cost or expense (other than Taxes) affecting this Agreement or Loans made by such Lender or any Letter of Credit or participation therein;

and the result of any of the foregoing shall be to increase the cost to such Lender or such other Recipient of making, converting to, continuing or maintaining any Loan or of maintaining its obligation to make any such Loan, or to increase the cost to such Lender, such L/C Issuer or such other Recipient of participating in, issuing or maintaining any Letter of Credit (or of maintaining its obligation to participate in or to issue any Letter of Credit), or to reduce the amount of any sum received or receivable by such Lender, L/C Issuer or other Recipient hereunder (whether of principal, interest or any other amount) then, upon request of such Lender, L/C Issuer or other Recipient, the Borrower will pay to such Lender, L/C Issuer or other Recipient, as the case may be, such additional amount or amounts as will compensate such Lender, L/C Issuer or other Recipient, as the case may be, for such additional costs incurred or reduction suffered.

(b) *Capital Requirements.* If any Lender or L/C Issuer determines that any Change in Law affecting such Lender or L/C Issuer or any lending office of such Lender or such Lender's or 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 L/C Issuer's capital or on the capital of such Lender's or 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 or Swingline Loans held by, such Lender, or the Letters of Credit issued by any L/C Issuer, to a level below that which such Lender or L/C Issuer or such Lender's or L/C Issuer's holding company could have achieved but for such Change in Law (taking into consideration such Lender's or L/C Issuer's policies and the policies of such Lender's or L/C Issuer's holding company with respect to capital adequacy), then from time to time the Borrower will pay to such Lender or L/C Issuer, as the case may be, such additional amount or amounts as will compensate such Lender or L/C Issuer or such Lender's or L/C Issuer's holding company for any such reduction suffered.

(c) *Certificates for Reimbursement.* A certificate of a Lender or L/C Issuer setting forth the amount or amounts necessary to compensate such Lender or 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 L/C Issuer, as the case may be, the amount shown as due on any such certificate within thirty (30) days after receipt thereof.

(d) *Delay in Requests.* Failure or delay on the part of any Lender or L/C Issuer to demand compensation pursuant to this Section shall not constitute a waiver of such Lender's or L/C Issuer's right to demand such compensation; provided that the Borrower shall not be required to compensate a Lender or L/C Issuer pursuant to this Section for any increased costs incurred or reductions suffered more than six (6) months prior to the date that such Lender or 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 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 nine-month period referred to above shall be extended to include the period of retroactive effect thereof).

*Section 4.5. Funding Indemnity.* If any Lender shall incur any loss, cost or expense (including, without limitation, any loss, cost or expense incurred by reason of the liquidation or re-employment of deposits or other funds acquired by such Lender to fund or maintain any EurodollarSOFR Loan or Swingline Loan bearing interest at the Swingline Lender's Quoted Rate or the relending or reinvesting of such deposits or amounts paid or prepaid to such Lender) as a result of:

- (a) any payment, prepayment or conversion of a EurodollarSOFR Loan or such Swingline Loan on a date other than the last day of its Interest Period,
- (b) any failure (because of a failure to meet the conditions of Section 7 or otherwise) by the Borrower to borrow or continue a EurodollarSOFR Loan or such Swingline Loan, or to convert a Base Rate Loan into a EurodollarSOFR Loan or such Swingline Loan on the date specified in a notice given pursuant to Section 2.6(a) or 2.2(b),
- (c) any failure by the Borrower to make any payment of principal on any EurodollarSOFR Loan or such Swingline Loan when due (whether by acceleration or otherwise), or
- (d) any acceleration of the maturity of a EurodollarSOFR Loan or such Swingline Loan as a result of the occurrence of any Event of Default hereunder,

then, upon the demand of such Lender, the Borrower shall pay to such Lender such amount as will reimburse such Lender for such loss, cost or expense. If any Lender makes such a claim for compensation, it shall provide to the Borrower, with a copy to the Administrative Agent, a certificate setting forth the amount of such loss, cost or expense in reasonable detail and the amounts shown on such certificate shall be conclusive absent manifest error.

*Section 4.6. Discretion of Lender as to Manner of Funding.* ~~Notwithstanding any other provision of this Agreement, each Lender shall be entitled to fund and maintain its funding of all or any part of its Loans in any manner it sees fit, it being understood, however, that for the purposes of this Agreement all determinations hereunder with respect to Eurodollar Loans shall be made as if each Lender had actually funded and maintained each Eurodollar Loan through the purchase of deposits in the interbank euro-dollar market having a maturity corresponding to such Loan's Interest Period, and bearing an interest rate equal to LIBOR for such Interest Period.~~ Reserved.

*Section 4.7. Lending Offices; Mitigation Obligations.* Each Lender may, at its option, elect to make its Loans hereunder at the branch, office or affiliate specified in its Administrative Questionnaire (each a “Lending Office”) for each type of Loan available hereunder or at such other of its branches, offices or affiliates as it may from time to time elect and designate in a written notice to the Borrower and the Administrative Agent. If any Lender requests compensation under Section 4.4, or requires the Borrower to pay any Indemnified Taxes or additional amounts to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 4.1, then such Lender shall (at the request of the Borrower) use reasonable efforts to designate a different lending office for funding or booking its Loans hereunder or to assign its rights and obligations hereunder to another of its offices, branches or affiliates, if, in the judgment of such Lender, such designation or assignment (i) would eliminate or reduce amounts payable pursuant to Section 4.1 or 4.4, as the case may be, in the future, and (ii) would not subject such Lender to any unreimbursed cost or expense and would not otherwise be disadvantageous to such Lender. The Borrower hereby agrees to pay all reasonable costs and expenses incurred by any Lender in connection with any such designation or assignment.

*Section 4.8. Effect of Benchmark Transition Event.* Notwithstanding anything to the contrary herein or in any other Loan Document (and any interest rate swap agreement shall be deemed not to be a “Loan Document” for the purposes of this Section 4.8):

(a) *Benchmark Replacement.* Notwithstanding anything to the contrary herein or in any other Loan Document, if a Benchmark Transition Event and its related Benchmark Replacement Date have occurred prior 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” 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” for such Benchmark Replacement Date, such Benchmark Replacement will replace such Benchmark for all purposes hereunder and under any Loan Document in respect of any Benchmark setting at or after 5:00 p.m. (New York City time) on the fifth (5<sup>th</sup>) 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. If the Benchmark Replacement is Daily Simple SOFR, all interest payments will be payable on a monthly basis.

(b) *Benchmark Replacement Conforming Changes.* In connection with the use, administration, adoption or implementation of a Benchmark Replacement, the Administrative Agent will have the right to make Conforming Changes from time to time and, notwithstanding anything to the contrary herein or in any other Loan Document, any amendments implementing such Conforming Changes will become effective without any further action or consent of any other party to this Agreement or any other Loan Document.

(c) *Notice; Standards for Decisions and Determinations.* The Administrative Agent will promptly notify the Borrower and the Lenders of (i) the implementation of any Benchmark Replacement and (ii) the effectiveness of any Conforming Changes in connection with the use, administration, adoption or implementation of a Benchmark Replacement. The Administrative Agent will promptly notify the Borrower of the removal or reinstatement of any tenor of a Benchmark pursuant to Section 4.8. Any determination, decision or election that may be made by the Administrative Agent or, if applicable, any Lender (or group of Lenders) in good faith pursuant to this Section, including any determination with respect to a tenor, rate or adjustment or of the occurrence or non-occurrence of an event, circumstance or date and any decision to take or refrain from taking any action or any selection, will be conclusive and binding absent manifest error and may be made, in its or their reasonable discretion and without consent from any other party to this Agreement or any other Loan Document, except, in each case, as expressly required pursuant to this Section.

(d) Unavailability of Tenor of Benchmark. Notwithstanding anything to the contrary herein or in any other Loan Document, at any time (including in connection with the implementation of a Benchmark Replacement), (i) if the then-current Benchmark is a term rate (including the Term SOFR Reference Rate) and either (A) any tenor for such Benchmark is not displayed on a screen or other information service that publishes such rate from time to time as selected by the Administrative Agent in its reasonable discretion or (B) the administration of such Benchmark or the regulatory supervisor for the administrator of such Benchmark has provided a public statement or publication of information announcing that any tenor for such Benchmark is not or will not be representative, then the Administrative Agent may modify the definition of "Interest Period" (or any similar or analogous definition) for any Benchmark settings at or after such time to remove such unavailable, non-representative, non-compliant or non-aligned tenor and (ii) if a tenor that was removed pursuant to clause (i) above either (A) is subsequently displayed on a screen or information service for a Benchmark (including a Benchmark Replacement) or (B) is not or is no longer subject to an announcement that it is not or will not be representative for a Benchmark (including a Benchmark Replacement), then the Administrative Agent may modify the definition of "Interest Period" (or any similar or analogous definition) for all Benchmark settings at or after such time to reinstate such previously removed tenor.

(e) Benchmark Unavailability Period. Upon the Borrower's receipt of notice of the commencement of a Benchmark Unavailability Period, the Borrower may revoke any pending request for a SOFR Borrowing of, conversion to or continuation of SOFR Loans to be made, converted or continued during any Benchmark Unavailability Period and, failing that, the Borrower will be deemed to have converted any such request into a request for a Borrowing of or conversion to Base Rate Loans. During a Benchmark Unavailability Period or at any time that a tenor for the then-current Benchmark is not an Available Tenor, the component of Base Rate based upon the then-current Benchmark or such tenor for such Benchmark, as applicable, will not be used in any determination of Base Rate.

## SECTION 5. PLACE AND APPLICATION OF PAYMENTS.

*Section 5.1. Place and Application of Payments.* All payments of principal of and interest on the Loans and the Reimbursement Obligations, and all other Obligations payable by the Borrower under this Agreement and the other Loan Documents, shall be made by the Borrower to the Administrative Agent by no later than 2:00 p.m. (Chicago time) on the due date thereof at the office of the Administrative Agent in Chicago, Illinois (or such other location as the Administrative Agent may designate to the Borrower), for the benefit of the Lender(s) or L/C Issuer entitled thereto. Any payments received after such time shall be deemed to have been received by the Administrative Agent on the next Business Day. All such payments shall be made in U.S. Dollars, in immediately available funds at the place of payment, in each case without set-off or counterclaim. The Administrative Agent will promptly thereafter cause to be distributed like funds relating to the payment of principal or interest on Loans and on Reimbursement Obligations in which the Lenders have purchased Participating Interests ratably to the Lenders and like funds relating to the payment of any other amount payable to any Lender to such Lender, in each case to be applied in accordance with the terms of this Agreement. Unless the Administrative Agent shall have received notice from the Borrower prior to the date on which any payment is due to the Administrative Agent for the account of the Lenders or the L/C Issuers hereunder that the Borrower will not make such payment, the Administrative Agent may assume that the Borrower has made such payment on such date in accordance herewith and may, in reliance upon such assumption, distribute to the Lenders or the L/C Issuers, as the case may be, the amount due. With respect to any payment that the Administrative Agent makes to any Lender, L/C Issuer or other secured party hereunder as to which Administrative Agent determines (in its sole and absolute discretion) that any of the following applies (such payment referred to as the "Rescindable Amount"): (1) the Borrowers have not in fact made the corresponding payment to the Administrative Agent; (2) the Administrative Agent has made a payment in excess of the amount(s) received by it from the Borrowers either individually or in the aggregate (whether or not then owed); or (3) the Administrative Agent has for any reason otherwise erroneously made such payment; then each of the Lenders, the L/C Issuer and the other Affiliates of the Lenders that are secured parties hereunder severally agrees to repay to the Administrative Agent forthwith on demand the Rescindable Amount so distributed to such Person, in immediately available funds with interest thereon, for each day from and including the date such amount is distributed to it to but excluding the date of payment to the Administrative Agent, at the greater of the Federal Funds Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation.

*Section 5.2. Non-Business Days.* Subject to the definition of Interest Period, if any payment hereunder becomes due and payable on a day which is not a Business Day, the due date of such payment shall be extended to the next succeeding Business Day on which date such payment shall be due and payable. In the case of any payment of principal falling due on a day which is not a Business Day, interest on such principal amount shall continue to accrue during such extension at the rate per annum then in effect, which accrued amount shall be due and payable on the next scheduled date for the payment of interest.

*Section 5.3. Payments Set Aside.* To the extent that any payment by or on behalf of the Borrower or any other Loan Party 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 each 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 greater of the Federal Funds Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation for each such day.

*Section 5.4. Account Debit.* The Borrower hereby irrevocably authorizes the Administrative Agent, upon at least two (2) business days prior notice to Borrower, to charge any of the Borrower's deposit accounts maintained with the Administrative Agent for the amounts from time to time necessary to pay any then due Obligations; *provided* that the Borrower acknowledges and agrees that the Administrative Agent shall not be under an obligation to do so and the Administrative Agent shall not incur any liability to the Borrower or any other Person for the Administrative Agent's failure to do so.

#### SECTION 6. REPRESENTATIONS AND WARRANTIES.

Each Loan Party represents and warrants to the Administrative Agent and the Lenders as follows:

*Section 6.1. Organization and Qualification.* Each Loan Party is duly organized, validly existing, and in good standing as a corporation, limited liability company, or partnership, as applicable, under the laws of the jurisdiction in which it is organized, has the authority and power to own its Property and conduct its business as now conducted, and is duly qualified and in good standing in each jurisdiction in which the nature of the business conducted by it or the nature of the Property owned or leased by it requires such qualifying, except where the failure to do so would not have a Material Adverse Effect.

*Section 6.2. Subsidiaries.* Each Subsidiary that is not a Loan Party is duly organized, validly existing, and in good standing under the laws of the jurisdiction in which it is organized, has the authority and power to own its Property and conduct its business as now conducted, and is qualified and in good standing in each jurisdiction in which the nature of the business conducted by it or the nature of the Property owned or leased by it requires such qualifying, except where the failure to do so would not have a Material Adverse Effect. Schedule 6.2 hereto identifies each Subsidiary (including Subsidiaries that are Loan Parties), the jurisdiction of its organization, the percentage of issued and outstanding shares of each class of its capital stock or other equity interests owned by any Loan Party and its Subsidiaries and, if such percentage is not 100% (excluding directors' qualifying shares as required by law), a description of each class of its authorized capital stock and other equity interests and the number of shares of each class issued and outstanding. All of the outstanding shares of capital stock and other equity interests of each Subsidiary are validly issued and outstanding and fully paid and nonassessable and all such shares and other equity interests indicated on Schedule 6.2 as owned by the relevant Loan Party or another Subsidiary are owned, beneficially and of record, by such Loan Party or such Subsidiary free and clear of all Liens otherwise permitted by this Agreement. There are no outstanding commitments or other obligations of any Subsidiary to issue, and no options, warrants or other rights of any Person to acquire, any shares of any class of capital stock or other equity interests of any Subsidiary.

*Section 6.3. Authority and Validity of Obligations.* Each Loan Party has the right and authority to enter into this Agreement and the other Loan Documents executed by it, to make the borrowings herein provided for (in the case of the Borrower), to guarantee the Secured Obligations (in the case of each Guarantor), to grant to the Administrative Agent the Liens described in the Collateral Documents executed by such Loan Party, and to perform all of its obligations hereunder and under the other Loan Documents executed by it. The Loan Documents delivered by the Loan Parties and their Subsidiaries have been duly authorized, executed, and delivered by such Persons and constitute valid and binding obligations of such Loan Parties and their Subsidiaries enforceable against each of them in accordance with their terms, except as enforceability may be limited by bankruptcy, insolvency, fraudulent conveyance or similar laws affecting creditors' rights generally and general principles of equity (regardless of whether the application of such principles is considered in a proceeding in equity or at law); and this Agreement and the other Loan Documents do not, nor does the performance or observance by any Loan Party or any Subsidiary of any of the matters and things herein or therein provided for, (a) contravene or constitute a default under any provision of law or any judgment, injunction, order or decree binding upon any Loan Party or any Subsidiary of a Loan Party or any provision of the organizational documents (e.g., charter, certificate or articles of incorporation and by-laws, certificate or articles of association and operating agreement, partnership agreement, or other similar organizational documents) of any Loan Party or any Subsidiary of a Loan Party, (b) contravene or constitute a default under any covenant, indenture or agreement of or affecting any Loan Party or any Subsidiary of a Loan Party or any of their respective Property, in each case where such contravention or default, individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect, or (c) result in the creation or imposition of any Lien on any Property of any Loan Party or any Subsidiary of a Loan Party other than the Liens granted in favor of the Administrative Agent pursuant to the Collateral Documents.

*Section 6.4. Use of Proceeds; Margin Stock.* The Borrower shall use the proceeds of the Revolving Facility to finance Capital Expenditures, to finance Permitted Acquisitions and for its general working capital purposes and for such other legal and proper purposes as are consistent with all applicable laws and to pay certain fees and expenses associated with closing of this Agreement. No Loan Party nor any of its Subsidiaries is engaged in the business of extending credit for the purpose of purchasing or carrying margin stock (within the meaning of Regulation U of the Board of Governors of the Federal Reserve System), and no part of the proceeds of any Loan or any other extension of credit made hereunder will be used to purchase or carry any such margin stock or to extend credit to others for the purpose of purchasing or carrying any such margin stock. Margin stock (as hereinabove defined) constitutes less than 25% of the assets of the Loan Parties and their Subsidiaries which are subject to any limitation on sale, pledge or other restriction hereunder.

*Section 6.5. Financial Reports.* The consolidated balance sheet of the Borrower and its Subsidiaries as of May 29, 2021, and the related consolidated statements of operations, comprehensive income (loss), stockholder's equity and cash flows of the Borrower and its Subsidiaries for the fiscal year then ended, and accompanying notes thereto, which financial statements are accompanied by the audit report of Frost, PLLC, independent public accountants, and the unaudited interim consolidated balance sheet of the Borrower and its Subsidiaries as of August 28, 2021, and the related consolidated statements of operations, comprehensive income(loss), shareholder's equity and cash flows of the Borrower and its Subsidiaries for the three (3) months then ended, heretofore furnished to the Administrative Agent and the Lenders, fairly present in all material respects the consolidated financial condition of the Borrower and its Subsidiaries at said dates and the consolidated results of their operations and cash flows for the periods then ended in conformity with GAAP applied on a consistent basis. Neither the Borrower nor any of its Subsidiaries has contingent liabilities which are material to it other than as indicated on such financial statements or, with respect to future periods, on the financial statements furnished pursuant to Section 8.5.

*Section 6.6. No Material Adverse Change.* Since May 29, 2021, there has been no change in the condition (financial or otherwise) or business prospects of any Loan Party or any Subsidiary of a Loan Party except those occurring in the ordinary course of business or as disclosed in its filings with the SEC, none of which individually or in the aggregate could reasonably be expected to have a Material Adverse Effect.

*Section 6.7. Full Disclosure.* The statements and information furnished to the Administrative Agent and the Lenders in connection with the negotiation of this Agreement and the other Loan Documents and the commitments by the Lenders to provide all or part of the financing contemplated hereby do not contain any untrue statements of a material fact or omit a material fact necessary to make the material statements contained herein or therein not misleading, the Administrative Agent and the Lenders acknowledging that as to any projections furnished to the Administrative Agent and the Lenders, the Loan Parties only represent that the same were prepared on the basis of information and estimates the Loan Parties believed to be reasonable in light of the then existing conditions. The Administrative Agent and Lenders recognize that any projections are not to be viewed as facts and that the actual results during the period or periods covered by such projections may vary from such projections. Notwithstanding the foregoing, it is understood and agreed that the periodic reports and other information of Borrower filed with the SEC pursuant to Section 13 of the Exchange Act speak as of the date of such reports or other filings and not of any subsequent time and, therefore, the representation set forth in the first sentence of this paragraph is applicable to the information contained in such reports or other filings only as of the date of such reports or other filings. Additionally, notwithstanding anything to the contrary contained herein, the representation in the first sentence of this paragraph shall not apply to forward-looking information contained in the filings made by Borrower with the SEC pursuant to Section 13 of the Exchange Act, and the Borrowers shall have no liability with respect to such forward-looking information, except to the extent that Borrower would have liability to investors in its public securities under the Exchange Act after the application of Section 21E of the Exchange Act.

*Section 6.8. Trademarks, Franchises, and Licenses.* The Loan Parties and their Subsidiaries own, possess, or have the right to use all necessary patents, licenses, franchises, trademarks, trade names, trade styles, copyrights, trade secrets, know how, and confidential commercial and proprietary information to conduct their businesses as now conducted, without known conflict with any patent, license, franchise, trademark, trade name, trade style, copyright or other proprietary right of any other Person.

*Section 6.9. Governmental Authority and Licensing.* The Loan Parties and their Subsidiaries have received all licenses, permits, and approvals of all federal, state, and local governmental authorities, if any, necessary to conduct their businesses, in each case where the failure to obtain or maintain the same could reasonably be expected to have a Material Adverse Effect. No investigation or proceeding which, if adversely determined, could reasonably be expected to result in revocation or denial of any material license, permit or approval is pending or, to the knowledge of any Loan Party, threatened in writing.

*Section 6.10. Good Title.* The Borrower and its Subsidiaries have good and defensible title (or valid leasehold interests) to their assets as reflected on the most recent consolidated balance sheet of the Borrower and its Subsidiaries furnished to the Administrative Agent and the Lenders (except for sales of assets in the ordinary course of business), subject to no Liens other than such thereof as are permitted by Section 8.8.

*Section 6.11. Litigation and Other Controversies.* Except as set forth in Schedule 6.11, there is no litigation or governmental or arbitration proceeding or labor controversy pending, nor to the knowledge of any Loan Party threatened, against any Loan Party or any Subsidiary of a Loan Party or any of their respective Property which if adversely determined, individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect.

*Section 6.12. Taxes.* All federal and material state, local, and foreign Tax returns required to be filed by any Loan Party or any Subsidiary of a Loan Party in any jurisdiction have, in fact, been filed, and all Taxes upon any Loan Party or any Subsidiary of a Loan Party or upon any of their respective Property, income or franchises, which are shown to be due and payable in such returns, have been paid, except such Taxes, if any, as are being contested in good faith and by appropriate proceedings which prevent enforcement of the matter under contest and as to which adequate reserves established in accordance with GAAP have been provided. No Loan Party knows of any proposed additional Tax assessment against it or its Subsidiaries for which adequate provisions in accordance with GAAP have not been made on their accounts. Adequate provisions in accordance with GAAP for Taxes on the books of each Loan Party and each of its Subsidiaries have been made for all open years, and for its current fiscal period.

*Section 6.13. Approvals.* No authorization, consent, license or exemption from, or filing or registration with, any court or governmental department, agency or instrumentality, nor any approval or consent of any other Person, is or will be necessary to the valid execution, delivery or performance by any Loan Party or any Subsidiary of a Loan Party of any Loan Document, except for (i) such approvals which have been obtained prior to the date of this Agreement and remain in full force and effect and (ii) filings which are necessary to perfect the security interests under the Collateral Documents.

*Section 6.14. Affiliate Transactions.* No Loan Party nor any of its Subsidiaries is a party to any contracts or agreements with any of its Affiliates on terms and conditions which are less favorable to such Loan Party or such Subsidiary than would be usual and customary in similar contracts or agreements between Persons not affiliated with each other.

*Section 6.15. Investment Company.* No Loan Party nor any of its Subsidiaries is an "investment company" or a company "controlled" by an "investment company" within the meaning of the Investment Company Act of 1940, as amended.

*Section 6.16. ERISA.* Except as would not reasonably be expected to result in a Material Adverse Effect, each Loan Party and each other member of its Controlled Group has fulfilled its obligations under the minimum funding standards of and is in compliance in all material respects with ERISA and the Code to the extent applicable to it and has not incurred any liability to the PBGC or a Plan under Title IV of ERISA other than a liability to the PBGC for premiums under Section 4007 of ERISA. Except as would not reasonably be expected to result in a Material Adverse Effect, no Loan Party or any of its Subsidiaries has any contingent liabilities with respect to any post-retirement benefits under a Welfare Plan, other than liability for continuation coverage described in article 6 of Title I of ERISA.

*Section 6.17. Compliance with Laws.* (a) The Loan Parties and their Subsidiaries are in compliance with all Legal Requirements applicable to or pertaining to their Property or business operations, where any such non-compliance, individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect.

(b) Except for such matters, individually or in the aggregate, which could not reasonably be expected to result in a Material Adverse Effect, the Loan Parties represent and warrant that: (i) the Loan Parties and their Subsidiaries, and each of the Premises, comply in all material respects with all applicable Environmental Laws; (ii) the Loan Parties and their Subsidiaries have obtained, maintain and are in compliance with all approvals, permits, or authorizations of Governmental Authorities required for their operations and each of the Premises; (iii) the Loan Parties and their Subsidiaries have not, and no Loan Party has knowledge of any other Person who has, caused any Release, threatened Release or disposal of any Hazardous Material or any other waste or product, including manure, at, on, or from any of the Premises in violation of any Environmental Laws; (iv) the Loan Parties and their Subsidiaries are not subject to and have not received written notice of any material Environmental Claim involving any Loan Party or any Subsidiary of a Loan Party or any of the Premises, and, to the knowledge of the Loan Parties and their Subsidiaries, there are no conditions or occurrences at any of the Premises which could reasonably be anticipated to form the basis for such a material Environmental Claim; (v) none of the Premises contain and have contained any sites on or nominated for the National Priority List or similar state list; (vi) the Loan Parties and their Subsidiaries have conducted no Hazardous Material Activity at any of the Premises except in compliance with Environmental Laws; (vii) except for permits, licenses and other legal requirements required in the ordinary course of business none of the Premises are subject to any, and no Loan Party has knowledge of any imminent, restriction on the ownership, occupancy, use or transferability of the Premises in connection with any (1) Environmental Law or (2) Release, threatened Release or disposal of a Hazardous Material, waste or product; and (viii) the Loan Parties and their Subsidiaries have no knowledge of any material capital expenditures necessary to bring the Premises or their respective businesses or equipment into compliance with Environmental Laws.

(c) Each Loan Party and each of its Subsidiaries is in material compliance with all Anti-Corruption Laws. To the knowledge of the Responsible Officers of the Loan Parties, no Loan Party nor any Subsidiary has made a payment, offering, or promise to pay, or authorized the payment of, money or anything of value (a) in order to assist in obtaining or retaining business for or with, or directing business to, any foreign official, foreign political party, party official or candidate for foreign political office, (b) to a foreign official, foreign political party or party official or any candidate for foreign political office, and (c) with the intent to induce the recipient to misuse his or her official position to direct business wrongfully to such Loan Party or such Subsidiary or to any other Person, in violation of any Anti-Corruption Laws, which could reasonably be expected to result in a Material Adverse Effect.

*Section 6.18. OFAC.* (a) Each Loan Party is in compliance in all material respects with the requirements of all OFAC Sanctions Programs applicable to it, (b) each Subsidiary of each Loan Party is in compliance in all material respects with the requirements of all OFAC Sanctions Programs applicable to such Subsidiary, (c) each Loan Party has provided to the Administrative Agent, the L/C Issuer, and the Lenders all information requested by them regarding such Loan Party and its Affiliates and Subsidiaries necessary for the Administrative Agent, the L/C Issuer, and the Lenders to comply with all applicable OFAC Sanctions Programs, and (d) no Loan Party nor any of its Subsidiaries nor, to the knowledge of any Loan Party, any officer, director or Affiliate of any Loan Party or any of its Subsidiaries, is a Person, that is, or is owned or controlled by Persons that are, (i) the target of any OFAC Sanctions Programs or (ii) located, organized or resident in a country or territory that is, or whose government is, the subject of any OFAC Sanctions Programs.

*Section 6.19. Labor Matters.* There are no strikes, lockouts or slowdowns against any Loan Party or any Subsidiary of a Loan Party pending or, to the knowledge of any Loan Party, threatened. There are no collective bargaining agreements in effect between any Loan Party or any Subsidiary of a Loan Party and any labor union; and no Loan Party nor any of its Subsidiaries is under any obligation to assume any collective bargaining agreement to or conduct any negotiations with any labor union with respect to any future agreements. Each Loan Party and its Subsidiaries have remitted on a timely basis all amounts required to have been withheld and remitted (including withholdings from employee wages and salaries relating to income tax, employment insurance, and pension plan contributions), goods and services tax and all other amounts which if not paid when due could result in the creation of a Lien against any of its Property, except for Liens permitted by Section 8.8, or which would not reasonably be expected to result in a Material Adverse Effect or which are being contested in good faith by appropriate proceedings which prevent enforcement of any Lien with respect thereto.

*Section 6.20. Other Agreements.* No Loan Party nor any of its Subsidiaries is in default under the terms of any covenant, indenture or agreement of or affecting such Person or any of its Property, which default if uncured could reasonably be expected to have a Material Adverse Effect.

*Section 6.21. Solvency.* The Loan Parties and their Subsidiaries are solvent, able to pay their debts as they become due, and have sufficient capital to carry on their business and all businesses in which they are about to engage.

*Section 6.22. No Default.* No Default has occurred and is continuing.

*Section 6.23. No Broker Fees.* No broker's or finder's fee or commission will be payable with respect hereto or any of the transactions contemplated thereby; and the Loan Parties hereby agree to indemnify the Administrative Agent, the L/C Issuer, and the Lenders against, and agree that they will hold the Administrative Agent, the L/C Issuer, and the Lenders harmless from, any claim, demand, or liability for any such broker's or finder's fees alleged to have been incurred in connection herewith or therewith and any expenses (including reasonable attorneys' fees) arising in connection with any such claim, demand, or liability.

## SECTION 7. CONDITIONS PRECEDENT.

*Section 7.1. All Credit Events.* At the time of each Credit Event hereunder:

- (a) each of the representations and warranties set forth herein and in the other Loan Documents shall be and remain true and correct in all material respects as of said time (where not already qualified by materiality, otherwise in all respects), except to the extent the same expressly relate to an earlier date, in which case they shall be true and correct in all material respects (where not already qualified by materiality, otherwise in all respects) as of such earlier date;
- (b) no Default shall have occurred and be continuing or would occur as a result of such Credit Event;
- (c) after giving effect to such extension of credit the aggregate principal amount of all Swingline Loans, Revolving Loans and L/C Obligations outstanding under this Agreement shall not exceed the Revolving Credit Commitments;
- (d) in the case of a Borrowing the Administrative Agent shall have received the notice required by Section 2.6, in the case of the issuance of any Letter of Credit the L/C Issuer shall have received a duly completed Application for such Letter of Credit together with any fees called for by Section 3.1, and, in the case of an extension or increase in the amount of a Letter of Credit, a written request therefor in a form acceptable to the L/C Issuer together with fees called for by Section 3.1; and
- (e) such Credit Event shall not violate any order, judgment or decree of any court or other authority or any provision of law or regulation applicable to the Administrative Agent, the L/C Issuer or any Lender (including, without limitation, Regulation U of the Board of Governors of the Federal Reserve System) as then in effect.

Each request for a Borrowing hereunder and each request for the issuance of, increase in the amount of, or extension of the expiration date of, a Letter of Credit shall be deemed to be a representation and warranty by the Borrower on the date on such Credit Event as to the facts specified in subsections (a) through (d), both inclusive, of this Section; *provided, however*, that the Lenders may continue to make advances under the Revolving Facility, in the sole discretion of the Lenders with Revolving Credit Commitments, notwithstanding the failure of the Borrower to satisfy one or more of the conditions set forth above and any such advances so made shall not be deemed a waiver of any Default or other condition set forth above that may then exist.

*Section 7.2. Initial Credit Event.* Before or concurrently with the Initial Credit Event:

- (a) the Administrative Agent shall have received this Agreement duly executed by the Borrower and its Wholly-owned Subsidiaries that are Domestic Subsidiaries, as Guarantors, the L/C Issuer, and the Lenders;
- (b) if requested by any Lender, the Administrative Agent shall have received for such Lender such Lender's duly executed Notes of the Borrower dated the date hereof and otherwise in compliance with the provisions of Section 2.10;
- (c) the Administrative Agent shall have received the Reaffirmation, Modification and Omnibus Joinder Agreement dated as of the date hereof, duly executed by the Loan Parties, together with (i) UCC financing statements to be filed against each Loan Party, as debtor, in favor of the Administrative Agent, as secured party, and (ii) deposit account control agreements to the extent requested by the Administrative Agent;
- (d) the Administrative Agent shall have received evidence of insurance in form and substance satisfactory to the Administrative Agent;
- (e) the Administrative Agent shall have received copies of each Loan Party's articles of incorporation and bylaws (or comparable organizational documents) and any amendments thereto, certified in each instance by its Secretary or Assistant Secretary (or comparable Responsible Officer);
- (f) the Administrative Agent shall have received copies of resolutions of each Loan Party's Board of Directors (or similar governing body) authorizing the execution, delivery and performance of this Agreement and the other Loan Documents to which it is a party and the consummation of the transactions contemplated hereby and thereby, together with specimen signatures of the persons authorized to execute such documents on each Loan Party's behalf, all certified in each instance by its Secretary or Assistant Secretary (or comparable Responsible Officer);
- (g) the Administrative Agent shall have received copies of the certificates of good standing for each Loan Party (dated no earlier than 30 days prior to the date hereof) from the office of the secretary of the state of its incorporation or organization;
- (h) the Administrative Agent shall have received a list of the Borrower's Authorized Representatives, which may be included in the certificate of the Secretary or Assistant Secretary (or comparable Responsible Officer) referenced in Sections 7.1(e) and (f);
- (i) *Reserved*;
- (j) the Administrative Agent shall have received the initial fees called for by Section 3.1;
- (k) each Lender shall have received (i) audited financial statements and unaudited monthly financial statements (including an income statement, a balance sheet, and a cash flow statement) of the Loan Parties for the prior 3 years, including unaudited quarterly financial statements for the period ended August 28, 2021, and 5-year projected financial statements, certified to by a Financial Officer of the Borrower (and each Lender hereby acknowledges that it has received copies of each of the foregoing items); and (ii) a certificate from a Responsible Officer of the Borrower certifying that since May 29, 2021, no Material Adverse Effect has occurred;
- (l) the Administrative Agent shall have received financing statement, tax, and judgment lien search results against each Loan Party and its Property evidencing the absence of Liens thereon except as permitted by Section 8.8;

(m) the Administrative Agent shall have received the favorable written opinion of counsel to each Loan Party, in form and substance satisfactory to the Administrative Agent;

(n) each of the Lenders shall have received, sufficiently in advance of the Closing Date, all documentation and other information requested by any such Lender required by bank regulatory authorities under applicable "know your customer" and anti-money laundering rules and regulations, including without limitation, the United States Patriot Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)) including, without limitation, the information described in Section 13.24; and the Administrative Agent shall have received a fully executed Internal Revenue Service Form W-9 (or its equivalent) for the Borrower and each other Loan Party;

(o) at least 5 days prior to the Closing Date, any Borrower that qualifies as a "legal entity customer" under the Beneficial Ownership Regulation shall deliver a Beneficial Ownership Certification in relation to such Borrower; and

(p) the Administrative Agent shall have received such other agreements, instruments, documents, certificates, and opinions as the Administrative Agent may reasonably request.

#### SECTION 8. COVENANTS.

Each Loan Party agrees that, so long as any credit is available to or in use by the Borrower hereunder, except to the extent compliance in any case or cases is waived in writing pursuant to the terms of Section 13.3.

##### *Section 8.1. Maintenance of Business.*

(a) Each Loan Party shall, and shall cause each of its Subsidiaries to, preserve and maintain its existence, except as otherwise provided in Section 8.10(c); *provided, however*, that nothing in this Section shall prevent the Borrower from dissolving any of its Subsidiaries if such action is, in the reasonable business judgment of the Borrower, desirable in the conduct of its business and is not disadvantageous in any material respect to the Lenders.

(b) Each Loan Party shall, and shall cause each of its Subsidiaries to, preserve and keep in force and effect all licenses, permits, franchises, approvals, patents, trademarks, trade names, trade styles, copyrights, and other proprietary rights necessary to the proper conduct of its business where the failure to do so could reasonably be expected to have a Material Adverse Effect.

*Section 8.2. Maintenance of Properties.* Each Loan Party shall, and shall cause each of its Subsidiaries to, maintain, preserve, and keep its property, plant, and equipment in good repair, working order and condition (ordinary wear and tear excepted), and shall from time to time make such repairs, renewals, replacements, additions, and betterments thereto as it deems appropriate in its reasonable business judgment so that the usefulness thereof shall be preserved and maintained, except to the extent that, in the reasonable business judgment of such Person, any such Property is no longer necessary for the proper conduct of the business of such Person.

*Section 8.3. Taxes and Assessments.* Each Loan Party shall duly pay and discharge, and shall cause each of its Subsidiaries to duly pay and discharge, all federal and material state, local, and foreign Taxes, rates, assessments, fees, and governmental charges upon or against it or its Property, in each case before the same become delinquent and before penalties accrue thereon, unless and to the extent that the same are being contested in good faith and by appropriate proceedings which prevent enforcement of the matter under contest and adequate reserves are provided therefor.

*Section 8.4. Insurance.* Each Loan Party shall insure and keep insured, and shall cause each of its Subsidiaries to insure and keep insured, with good and responsible insurance companies, all insurable Property owned by it which is of a character usually insured by Persons similarly situated and operating like Properties against loss or damage from such hazards and risks (including flood insurance with respect to any improvements on real Property consisting of building or parking facilities in an area designated by a governmental body as having special flood hazards), and in such amounts and with such deductibles, as are insured by Persons similarly situated and operating like Properties, but in no event at any time in an amount less than the replacement value of the Collateral, subject to deductibles. Each Loan Party shall also maintain, and shall cause each of its Subsidiaries to maintain, insurance with respect to the business of such Loan Party and its Subsidiaries, covering commercial general liability, statutory worker's compensation and occupational disease, statutory structural work act liability, and business interruption and such other risks with good and responsible insurance companies, in such amounts and on such terms as the Administrative Agent or the Required Lenders shall reasonably request, but in any event as and to the extent usually insured by Persons similarly situated and conducting similar businesses. The Loan Parties shall in any event maintain insurance on the Collateral to the extent required by the Collateral Documents. All such policies of insurance shall contain satisfactory mortgagee/lender's loss payable endorsements, naming the Administrative Agent (or its security trustee) as mortgagee or a loss payee, assignee or additional insured, as appropriate, as its interest may appear, and showing only such other loss payees, assignees and additional insureds as are satisfactory to the Administrative Agent. Each policy of insurance or endorsement shall contain a clause requiring the insurer to give not less than thirty (30) days' (ten (10) days' in the case of nonpayment of insurance premiums) prior written notice to the Administrative Agent in the event of cancellation of the policy for any reason whatsoever. The Borrower shall deliver to the Administrative Agent (a) on the Closing Date and at such other times as the Administrative Agent shall reasonably request, certificates evidencing the maintenance of insurance required hereunder, (b) prior to the termination of any such policies, certificates evidencing the renewal thereof, and (c) promptly following request by the Administrative Agent, copies of all insurance policies of the Loan Parties and their Subsidiaries. The Borrower also agrees to deliver to the Administrative Agent, promptly as rendered, true copies of all reports made in any reporting forms to insurance companies.

*Section 8.5. Financial Reports.* The Loan Parties shall, and shall cause each of their Subsidiaries to, maintain proper books of records and accounts reasonably necessary to prepare financial statements required to be delivered pursuant to this Section 8.5 in accordance with GAAP and shall furnish to the Administrative Agent and each Lender:

(a) as soon as available, and in any event no later than 45 days after the last day of each fiscal quarter of each fiscal year of the Borrower, a copy of the consolidated balance sheet of the Borrower and its Subsidiaries as of the last day of such fiscal quarter and the related consolidated statement of operations, comprehensive income (loss), shareholder's equity, and cash flows of the Borrower and its Subsidiaries for the fiscal quarter and for the fiscal year-to-date period then ended, each in reasonable detail showing in comparative form the figures for the corresponding date and period in the previous fiscal year, prepared by the Borrower in accordance with GAAP (subject to the absence of footnote disclosures and year-end audit adjustments) and certified to by a Financial Officer of the Borrower;

(b) as soon as available, and in any event no later than 90 days after the last day of each fiscal year of the Borrower, a copy of the consolidated balance sheet of the Borrower and its Subsidiaries as of the last day of the fiscal year then ended and the related consolidated statement of operations, comprehensive income (loss), shareholder's equity, and cash flows of the Borrower and its Subsidiaries for the fiscal year then ended, and accompanying notes thereto, each in reasonable detail showing in comparative form the figures for the previous fiscal year, accompanied in the case of the consolidated financial statements by an unqualified opinion of Frost, PLLC or another firm of independent public accountants of recognized standing, selected by the Borrower and reasonably satisfactory to the Administrative Agent, to the effect that the consolidated financial statements have been prepared in accordance with GAAP and present fairly in all material respects in accordance with GAAP the consolidated financial condition of the Borrower and its Subsidiaries as of the close of such fiscal year and the results of their operations for the fiscal year then ended and that an examination of such accounts in connection with such financial statements has been made in accordance with generally accepted auditing standards and, accordingly, such examination included such tests of the accounting records and such other auditing procedures as were considered necessary in the circumstances;

(c) promptly after receipt thereof, any additional written reports, management letters or other detailed information contained in writing concerning significant aspects of any Loan Party's or any of its Subsidiary's operations and financial affairs given to it by its independent public accountants;

(d) promptly after the sending or filing thereof, copies of each financial statement, report, notice or proxy statement sent by any Loan Party or any Subsidiary of a Loan Party to its stockholders or other equity holders, and copies of each regular, periodic or special report, registration statement or prospectus (including all Form 10-K, Form 10-Q and Form 8-K reports) filed by any Loan Party or any Subsidiary of a Loan Party with any securities exchange or the SEC or any successor agency;

(e) promptly after receipt thereof, a copy of any financial audit report made by any regulatory agency of the books and records of any Loan Party or any Subsidiary of a Loan Party that gives notice of any noncompliance with any applicable law, regulation or guideline relating to any Loan Party or any Subsidiary of a Loan Party or their respective business which could reasonably be expected to have a Material Adverse Effect;

(f) as soon as available, and in any event no later than 45 days after the end of each fiscal year of the Borrower, a copy of the consolidated and consolidating business plan for the Borrower and its Subsidiaries for the following fiscal year, such business plan to show the projected consolidated and consolidating revenues, expenses and balance sheet of the Borrower and its Subsidiaries on a quarter-by-quarter basis, such business plan to be in reasonable detail prepared by the Borrower and in form satisfactory to the Administrative Agent (which shall include a summary of all assumptions made in preparing such business plan);

(g) notice of any Change of Control;

(h) promptly after knowledge thereof shall have come to the attention of any Responsible Officer of any Loan Party, written notice of (i) any threatened or pending litigation or governmental or arbitration proceeding or labor controversy against any Loan Party or any Subsidiary of a Loan Party or any of their Property which, if adversely determined, could reasonably be expected to have a Material Adverse Effect and would require disclosure in a report to be filed with the SEC under the Exchange Act, (ii) the occurrence of any Material Adverse Effect, or (iii) the occurrence of any Default;

(i) with each of the financial statements delivered pursuant to subsections (a) and (b) above, a written certificate in the form attached hereto as Exhibit E signed by a Financial Officer of the Borrower to the effect that to the best of such officer's knowledge and belief no Default has occurred during the period covered by such statements or, if any such Default has occurred during such period, setting forth a description of such Default and specifying the action, if any, taken by the relevant Loan Party or its Subsidiary to remedy the same. Such certificate shall also set forth the calculations supporting such statements in respect of Section 8.22 (Financial Covenants);

(j) *Reserved*; and

(k) promptly, from time to time, such other information regarding the operations, business affairs and financial condition of any Loan Party or any Subsidiary of a Loan Party, or compliance with the terms of any Loan Document, as the Administrative Agent or any Lender may reasonably request.

*Section 8.6. Inspection; Field Audits.* Each Loan Party shall, and shall cause each of its Subsidiaries to, permit the Administrative Agent and each Lender, and each of their duly authorized representatives and agents to visit and inspect any of its Property, corporate books, and financial records, to examine and make copies of its books of accounts and other financial records, and to discuss its affairs, finances, and accounts with, and to be advised as to the same by, its officers, employees and independent public accountants (and by this provision the Loan Parties hereby authorize such accountants to discuss with the Administrative Agent and such Lenders the finances and affairs of the Loan Parties and their Subsidiaries) at such reasonable times and intervals as the Administrative Agent or any such Lender may designate and, so long as no Default exists, with reasonable prior notice to the Borrower and compliance with the Borrower's customary on-site policies applicable to visitors (bio-security, etc.). The Borrower shall pay to the Administrative Agent charges for field audits of the Collateral, inspections and visits to Property, inspections of corporate books and financial records, examinations and copies of books of accounts and financial record and other activities permitted in this Section performed by the Administrative Agent or its agents or third party firms, in such amounts as the Administrative Agent may from time to time request (the Administrative Agent acknowledging and agreeing that any internal charges for such audits and inspections shall be computed in the same manner as it at the time customarily uses for the assessment of charges for similar collateral audits); *provided, however*, that in the absence of any Default, the Borrower shall not be required to pay the Administrative Agent for more than one (1) such audit per calendar year.

*Section 8.7. Borrowings and Guaranties.* No Loan Party shall, nor shall it permit any of its Subsidiaries to, issue, incur, assume, create or have outstanding any Indebtedness, or incur liabilities under any Hedging Agreement, or be or become liable as endorser, guarantor, surety or otherwise for any Indebtedness or undertaking of any Person, or otherwise agree to provide funds for payment of the obligations of another, or supply funds thereto or invest therein or otherwise assure a creditor of another against loss, or apply for or become liable to the issuer of a letter of credit which supports an obligation of another, or subordinate any claim or demand it may have to the claim or demand of any Person; *provided, however,* that the foregoing shall not restrict nor operate to prevent:

- (a) the Secured Obligations of the Loan Parties and their Subsidiaries owing to the Administrative Agent and the Lenders (and their Affiliates);
- (b) purchase money indebtedness and Capitalized Lease Obligations of the Loan Parties and their Subsidiaries in an amount not to exceed \$20,000,000 in the aggregate at any one time outstanding;
- (c) obligations of the Loan Parties and their Subsidiaries arising out of interest rate, foreign currency, and commodity Hedging Agreements entered into with financial institutions in connection with bona fide hedging activities in the ordinary course of business and not for speculative purposes;
- (d) endorsement of items for deposit or collection of commercial paper received in the ordinary course of business;
- (e) intercompany advances from time to time owing between any of the Loan Parties and/or any of their Subsidiaries in the ordinary course of business, provided that the aggregate amount of all such intercompany advances made to Subsidiaries of a Loan Party that are not Loan Parties or Subsidiaries of a Loan Party that are not Wholly-owned Subsidiaries shall not exceed an aggregate amount of \$20,000,000 during any fiscal year of the Borrower;
- (f) existing Indebtedness set forth on Schedule 8.7 hereto;
- (g) Indebtedness owed to any Person providing workers' compensation, health, disability or other employee benefits (including contractual and statutory benefits) or property, casualty, liability or credit insurance, pursuant to reimbursement or indemnification obligations to such Person, in each case incurred in the ordinary course of business;
- (h) Indebtedness in respect of bids, trade contracts (other than for debt for borrowed money), leases (other than Capitalized Lease Obligations), statutory obligations, surety, stay, customs and appeal bonds, performance, performance and completion and return of money bonds, government contracts and similar obligations, in each case, provided in the ordinary course of business;
- (i) Indebtedness in respect of netting services, overdraft protection and similar arrangements, in each case, in connection with cash management and deposit accounts;
- (j) Indebtedness representing deferred compensation to directors, officers, employees of any Loan Party or any Subsidiary of a Loan Party incurred in the ordinary course of business; and
- (k) Indebtedness consisting of the financing of insurance premiums in the ordinary course of business;
- (l) Guarantees by a Loan Party of Indebtedness of another Loan Party otherwise permitted under this Section;
- (m) Indebtedness arising from agreements of a Loan Party or its Subsidiary providing for indemnification, adjustment of purchase or acquisition price or similar obligations, in each case, incurred or assumed in connection with a Permitted Acquisition;
- (n) Indebtedness of any Person that becomes a Subsidiary after the Closing Date and Indebtedness acquired or assumed in connection with Permitted Acquisitions, in an amount not to exceed \$50,000,000 in the aggregate at any one time outstanding, *provided* that such Indebtedness exists at the time the Person becomes a Subsidiary or at the time of such Permitted Acquisition and is not created in contemplation of or in connection therewith;

(o) replacements, renewals, re-financings or extensions of any Indebtedness described in this Section that (i) does not exceed the aggregate principal amount (plus accrued interest and applicable premium and associated fees and expenses) of the Indebtedness being replaced, renewed, refinanced or extended, (ii) does not have a weighted average life to maturity at the time of such replacement, renewal, refinancing or extension that is less than the weighted average life to maturity of the Indebtedness being replaced, renewed, refinanced or extended, and (iii) does not rank at the time of such replacement, renewal, refinancing or extension senior to the Indebtedness being replaced, renewed, refinanced or extended;

(p) unsecured indebtedness of the Loan Parties and their Subsidiaries not otherwise permitted by this Section in an amount not to exceed \$400,000,000 in the aggregate at any one time outstanding; and

(q) indebtedness secured by Property of the Loan Parties and their Subsidiaries (other than the Collateral) in an amount not to exceed \$200,000,000 in the aggregate at any one time outstanding.

*Section 8.8. Liens.* No Loan Party shall, nor shall it permit any of its Subsidiaries to, create, incur or permit to exist any Lien of any kind on any Property owned by any such Person; *provided, however,* that the foregoing shall not apply to nor operate to prevent:

(a) Liens arising by statute in connection with worker's compensation, unemployment insurance, old age benefits, social security obligations, Taxes, assessments, statutory obligations or other similar charges (other than Liens arising under ERISA), good faith cash deposits in connection with tenders, contracts or leases to which any Loan Party or any Subsidiary of a Loan Party is a party or other cash deposits required to be made in the ordinary course of business, provided in each case that the obligation is not for borrowed money and that the obligation secured is not overdue or, if overdue, is being contested in good faith by appropriate proceedings which prevent enforcement of the matter under contest and adequate reserves have been established therefor;

(b) mechanics', workmen's, materialmen's, landlords', carriers' or other similar Liens arising in the ordinary course of business with respect to obligations which are not due or which are being contested in good faith by appropriate proceedings which prevent enforcement of the matter under contest;

(c) judgment liens and judicial attachment liens not constituting an Event of Default under Section 9.1(g) and the pledge of assets for the purpose of securing an appeal, stay or discharge in the course of any legal proceeding, provided that the aggregate amount of such judgment liens and attachments and liabilities of the Loan Parties and their Subsidiaries secured by a pledge of assets permitted under this subsection, including interest and penalties thereon, if any, shall not be in excess of \$25,000,000 at any one time outstanding;

(d) Liens on equipment of any Loan Party or any Subsidiary of a Loan Party created solely for the purpose of securing indebtedness permitted by Section 8.7(b), representing or incurred to finance the purchase price of such Property, provided that no such Lien shall extend to or cover other Property of such Loan Party or such Subsidiary other than the respective Property so acquired, and the principal amount of indebtedness secured by any such Lien shall at no time exceed the purchase price of such Property, as reduced by repayments of principal thereon;

(e) any interest or title of a lessor under any operating lease, including the filing of Uniform Commercial Code financing statements solely as a precautionary measure in connection with operating leases entered into by any Loan Party or any Subsidiary of a Loan Party in the ordinary course of its business;

(f) easements, rights-of-way, restrictions, zoning restrictions and other similar encumbrances against real property incurred in the ordinary course of business which, in the aggregate, are not substantial in amount and which do not materially detract from the value of the Property subject thereto or materially interfere with the ordinary conduct of the business of any Loan Party or any Subsidiary of a Loan Party;

(g) bankers' Liens, rights of setoff and other similar Liens (including under Section 4-210 of the Uniform Commercial Code) in one or more deposit accounts maintained by any Loan Party or any Subsidiary of a Loan Party, in each case granted in the ordinary course of business in favor of the bank or banks with which such accounts are maintained, securing amounts owing to such bank with respect to cash management and operating account arrangements, including those involving pooled accounts and netting arrangements; *provided* that, unless such Liens are non-consensual and arise by operation of law, in no case shall any such Liens secure (either directly or indirectly) the repayment of any Indebtedness;

(h) Liens granted in favor of the Administrative Agent pursuant to the Collateral Documents.

(i) non-exclusive licenses of intellectual property granted in the ordinary course of business and not interfering in any material respect with the ordinary conduct of business of any Loan Party or any Subsidiary of a Loan Party;

(j) Liens on insurance policies and the proceeds thereof securing the financing of the premiums with respect thereto permitted by Section 8.7(k);

(k) Liens (i) on cash advances in favor of the seller of any Property to be acquired in a Permitted Acquisition to be applied against the purchase price for such Property, or (ii) consisting of an agreement to dispose of any Property in a disposition permitted under Section 8.10, in each case, solely to the extent such Acquisition or disposition, as the case may be, would have been permitted on the date of the creation of such Lien;

(l) Liens on Property of a Person existing at the time such Person is acquired or merged with or into or consolidated with any Loan Party or any Subsidiary of a Loan Party to the extent permitted hereunder (and not created in anticipation or contemplation thereof) and securing Indebtedness permitted under Section 8.7(n); *provided* that such Liens do not extend to Property not subject to such Liens at the time of acquisition and are no more favorable to the lienholders than such existing Lien;

(m) Liens encumbering any Property (other than the Collateral) to secure or support obligations under or in respect of interest rate, foreign currency, and commodity Hedging Agreements entered into with financial institutions in connection with bona fide hedging activities in the ordinary course of business and not for speculative purposes;

(n) other Liens existing on the Closing Date and not otherwise permitted above listed and identified on Schedule 8.8;

(o) contracted or statutory liens of landlords to the extent relating to the property and assets relating to any lease agreement with such landlord and contractual Liens of suppliers (including sellers of goods) or customers granted in the ordinary course of business to the extent limited to the property or assets related to such contract;

(p) Liens on Property of a Person (other than the Collateral) for the purpose of securing indebtedness permitted by Section 8.7(q) and which do not encumber any Collateral; and

(q) other Liens not otherwise permitted in subsections (a)-(p) above granted with respect to obligations that do not in the aggregate exceed \$10,000,000 at any time outstanding, and which do not encumber any Collateral.

*Section 8.9. Investments, Acquisitions, Loans and Advances.* No Loan Party shall, nor shall it permit any of its Subsidiaries to, directly or indirectly, make, retain or have outstanding any investments (whether through purchase of stock or obligations or otherwise) in, or loans or advances to (other than for travel advances and other similar cash advances made to employees in the ordinary course of business), any other Person, or acquire all or any substantial part of the assets or business of any other Person or division thereof; *provided, however*, that the foregoing shall not apply to nor operate to prevent:

(a) Cash Equivalents and Marketable Securities;

(b) the Loan Parties' existing investments in their respective Subsidiaries outstanding on the Closing Date;

(c) intercompany advances made from time to time between any Loan Party or Subsidiary of any Loan Party and any other Loan Party or Subsidiary of any Loan Party in the ordinary course of business, provided that the aggregate amount of all such intercompany advances made to Subsidiaries of a Loan Party that are not Loan Parties or Subsidiaries of a Loan Party that are not Wholly-owned Subsidiaries shall not exceed an aggregate amount of \$20,000,000 during any fiscal year of the Borrower;

(d) investments by any Loan Party and its Subsidiaries in connection with interest rate, foreign currency, and commodity Hedging Agreements entered into with financial institutions in connection with bona fide hedging activities in the ordinary course of business and not for speculative purposes;

(e) promissory notes and other non-cash consideration received in connection with dispositions permitted by Section 8.10;

(f) 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;

(g) Permitted Acquisitions;

(h) purchases of assets in the ordinary course of business;

(i) deposits made in the ordinary course of business to secure performance of leases or other obligations as permitted by Section 8.8;

(j) other investments existing on the Closing Date not otherwise permitted above and listed and identified on Schedule 8.9;

(k) investments in joint ventures in an amount not to exceed \$30,000,000 at any time outstanding, provided that (i) no Default exists both immediately before and after giving effect to such investment, (ii) after giving pro forma effect to such investment, the Borrower and its Subsidiaries are in compliance with Section 8.22, and (iii) cash and Cash Equivalents of the Borrower and its Subsidiaries plus availability under the Revolving Facility shall equal at least \$50,000,000; and

(l) other investments, loans, and advances in addition to those otherwise permitted by this Section in an amount not to exceed \$25,000,000 in the aggregate at any one time outstanding.

In determining the amount of investments, acquisitions, loans, and advances permitted under this Section, investments and acquisitions shall always be taken at the original cost thereof (regardless of any subsequent appreciation or depreciation therein), less any amount in respect of such investment upon sale, collection or return (not to exceed the original cost thereof) and loans and advances shall be taken at the principal amount thereof then remaining unpaid.

*Section 8.10. Mergers, Consolidations and Sales.* No Loan Party shall, nor shall it permit any of its Subsidiaries to, be a party to any merger or consolidation or amalgamation, or sell, transfer, lease or otherwise dispose of all or any material part of its Property, including any disposition of Property as part of a sale and leaseback transaction, or in any event sell or discount (with or without recourse) any of its notes or accounts receivable; *provided, however,* that this Section shall not apply to nor operate to prevent:

(a) the sale or lease of inventory in the ordinary course of business;

(b) the sale, transfer, lease or other disposition of Property of any Loan Party to one another in the ordinary course of its business;

(c) the merger of any Loan Party or any Subsidiary of a Loan Party with and into the Borrower or any other Loan Party, provided that, in the case of any merger involving the Borrower or involving a Subsidiary of a Loan Party which is not a Loan Party, the Borrower, if the Borrower is a party to the merger, or a Loan Party, if the Borrower is not a party to the merger, is the corporation surviving the merger;

(d) the sale of delinquent notes or accounts receivable in the ordinary course of business for purposes of collection only (and not for the purpose of any bulk sale or securitization transaction);

(e) the sale, transfer or other disposition of any tangible personal property that, in the reasonable business judgment of the relevant Loan Party or its Subsidiary, has become obsolete or worn out, and which is disposed of in the ordinary course of business;

(f) the Disposition of Property of any Loan Party or any Subsidiary of a Loan Party (including any Disposition of Property as part of a sale and leaseback transaction) aggregating for all Loan Parties and their Subsidiaries not more than \$30,000,000 during any fiscal year of the Borrower, *provided* that (i) each such Disposition shall be made for fair value and (ii) at least 80% of the total consideration received at the closing of such Disposition shall consist of cash and at least 80% of the total consideration received after taking into account all final purchase price adjustments and/or contingent payments (including working capital adjustment or earn-out provisions) expressly contemplated by the transaction documents, when received shall consist of cash; and

(g) the sale or other Disposition of marketable securities in the ordinary course of business.

*Section 8.11. Maintenance of Subsidiaries.* No Loan Party shall assign, sell or transfer, nor shall it permit any of its Subsidiaries to issue, assign, sell or transfer, any shares of capital stock or other equity interests of a Subsidiary; *provided, however,* that the foregoing shall not operate to prevent (a) the issuance, sale, and transfer to any person of any shares of capital stock of a Subsidiary solely for the purpose of qualifying, and to the extent legally necessary to qualify, such person as a director of such Subsidiary, (b) any transaction permitted by Section 8.10(c) above, and (c) the issuance of shares of the Borrower's capital stock pursuant to the Borrower's KSOP, or (d) any Excluded Equity Issuances.

*Section 8.12. Dividends and Certain Other Restricted Payments.* No Loan Party shall, nor shall it permit any of its Subsidiaries to, (a) declare or pay any dividends on or make any other distributions in respect of any class or series of its capital stock or other equity interests (other than dividends or distributions payable solely in its capital stock or other equity interests), or (b) directly or indirectly purchase, redeem, or otherwise acquire or retire any of its capital stock or other equity interests or any warrants, options, or similar instruments to acquire the same (collectively referred to herein as "*Restricted Payments*"); *provided, however,* that the foregoing shall not operate to prevent:

(i) the making of dividends or distributions by any Subsidiary to the Borrower;

(ii) other Restricted Payments made in compliance with the Borrower's dividend policy as in effect on the Closing Date or any employee stock option plans or employee incentive plans or other compensation arrangements, or SAR plans; provided that no Default exists or will arise after giving effect to such other Restricted Payment; and

(iii) other Restricted Payments, provided that, both immediately before and after giving effect to such Restricted Payment (A) no Default has occurred and is continuing and (B) the sum of cash and Cash Equivalents of the Borrower and its Subsidiaries plus availability under the Revolving Facility shall equal at least \$50,000,000.

*Section 8.13. ERISA.* Each Loan Party shall, and shall cause each of its Subsidiaries to, promptly pay and discharge all obligations and liabilities arising under ERISA of a character which if unpaid or unperformed could reasonably be expected to result in the imposition of a Lien against any of its Property, unless being contested in good faith by appropriate proceedings which prevents the enforcement of any Lien with respect thereto. Each Loan Party shall, and shall cause each of its Subsidiaries to, promptly notify the Administrative Agent and each Lender of: (a) the occurrence of any reportable event (as defined in ERISA) with respect to a Plan, which individually or in the aggregate, could reasonably be expected to result in a Material Adverse Effect, (b) receipt of any notice from the PBGC of its intention to seek termination of any Plan or appointment of a trustee therefor, (c) its intention to terminate or withdraw from any Plan, and (d) the occurrence of any event with respect to any Plan which would result in the incurrence by any Loan Party or any Subsidiary of a Loan Party of any material liability, fine or penalty, or any material increase in the contingent liability of any Loan Party or any Subsidiary of a Loan Party with respect to any post-retirement Welfare Plan benefit, which individually or in the aggregate, could reasonably be expected to result in a Material Adverse Effect.

*Section 8.14. Compliance with Laws.* (a) Each Loan Party shall, and shall cause each of its Subsidiaries to, comply in all respects with all Legal Requirements applicable to or pertaining to its Property or business operations, where any such non-compliance, individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect or result in a Lien upon any of its Property.

(b) Without limiting Section 8.14(a) above, each Loan Party shall, and shall cause each of its Subsidiaries to, at all times, do the following to the extent the failure to do so, individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect: (i) comply in all material respects with, and maintain each of the Premises in compliance in all material respects with, all applicable Environmental Laws; (ii) require that each tenant and subtenant, if any, of any of the Premises or any part thereof comply in all material respects with all applicable Environmental Laws; (iii) obtain and maintain in full force and effect all material governmental approvals required by any applicable Environmental Law for the operation of their business and each of the Premises; (iv) cure any material violation by it or at any of the Premises of applicable Environmental Laws unless and except to the extent being contested in good faith by appropriate proceedings which prevents the enforcement of any Lien with respect thereto; (v) not manufacture, use, generate, transport, treat, store, Release, dispose or handle any Hazardous Material (or allow any tenant or subtenant to do any of the foregoing) at any of the Premises except in the ordinary course of its live animal agricultural business and in material compliance with all applicable Environmental Laws; (vi) within ten (10) Business Days notify the Administrative Agent in writing and provide the disclosure filing made by the Borrower with the SEC of any of the following in connection with any Loan Party or any Subsidiary of a Loan Party or any of the Premises which would be required to be disclosed in an 8-K or 10-Q filing with the SEC: (1) any Environmental Liability; (2) any Environmental Claim; or (3) any violation of an Environmental Law or Release, threatened Release or disposal, placement or land application of a Hazardous Material, product, or waste, including manure, that is not in compliance with applicable Environmental Laws; or (4) any restriction on the ownership, occupancy, use or transferability of any Premises arising from or in connection with any (x) Release, threatened Release or disposal of a Hazardous Material, waste or product, including manure, or (y) Environmental Law; (vii) conduct at its expense any investigation, study, sampling, testing, abatement, cleanup, removal, remediation or other corrective or response action necessary to remove, remediate, clean up, correct or abate any material Release, threatened material Release or material violation of any applicable Environmental Law unless and except to the extent being contested in good faith by appropriate proceedings which prevents the enforcement of any Lien with respect thereto, (viii) abide by and observe any restrictions on the use of the Premises imposed by any Governmental Authority as set forth in a deed or other instrument affecting any Loan Party's or any of its Subsidiary's interest therein unless being contested in good faith by appropriate proceedings which prevents the enforcement of any Lien with respect thereto; (ix) promptly provide or otherwise make available to the Administrative Agent any reasonably requested environmental record concerning the Premises which any Loan Party or any Subsidiary of a Loan Party possesses or controls other than records subject to work product or attorney-client or other confidentiality privilege pursuant to applicable law; and (x) perform, satisfy, and implement any operation, maintenance or corrective actions or other requirements of any Governmental Authority or Environmental Law, or included in any no further action letter or covenant not to sue issued by any Governmental Authority under any Environmental Law unless and except to the extent being contested in good faith by appropriate proceedings which prevents the enforcement of any Lien with respect thereto.

*Section 8.15. Compliance with OFAC Sanctions Programs and Anti-Corruption Laws.* (a) Each Loan Party shall at all times comply in all material respects with the requirements of all OFAC Sanctions Programs applicable to such Loan Party and shall cause each of its Subsidiaries to comply in all material respects with the requirements of all OFAC Sanctions Programs applicable to such Subsidiary.

(b) Each Loan Party shall provide the Administrative Agent and the Lenders any information regarding the Loan Parties, their Affiliates, and their Subsidiaries necessary for the Administrative Agent and the Lenders to comply with all applicable OFAC Sanctions Programs; subject however, in the case of Affiliates, to such Loan Party's ability to provide information applicable to them.

(c) If any Loan Party obtains actual knowledge or receives any written notice that any Loan Party, any Subsidiary of any Loan Party, or any officer, director or Affiliate of any Loan Party or that any Person that owns or controls any such Person is the target of any OFAC Sanctions Programs or is located, organized or resident in a country or territory that is, or whose government is, the subject of any OFAC Sanctions Programs (such occurrence, an "OFAC Event"), such Loan Party shall promptly (i) give written notice to the Administrative Agent and the Lenders of such OFAC Event, and (ii) comply in all material respects with all applicable laws with respect to such OFAC Event (regardless of whether the target Person is located within the jurisdiction of the United States of America), including the OFAC Sanctions Programs, and each Loan Party hereby authorizes and consents to the Administrative Agent and the Lenders taking any and all steps the Administrative Agent or the Lenders deem necessary, in their sole but reasonable discretion, to avoid violation of all applicable laws with respect to any such OFAC Event, including the requirements of the OFAC Sanctions Programs (including the freezing and/or blocking of assets and reporting such action to OFAC).

(d) No Loan Party will, directly or, to any Loan Party's knowledge, indirectly, use the proceeds of the Revolving Facility of an Incremental Term Loan (if any), or lend, contribute or otherwise make available such proceeds to any other Person, (i) to fund any activities or business of or with any Person or in any country or territory, that, at the time of such funding, is, or whose government is, the subject of any OFAC Sanctions Programs, or (ii) in any other manner that would result in a violation of OFAC Sanctions Programs or Anti-Corruption Laws by any Person (including any Person participating in the Revolving Facility or any Incremental Term Loan, whether as underwriter, lender, advisor, investor, or otherwise).

(e) No Loan Party will, nor will it permit any Subsidiary to, violate any Anti-Corruption Law in any material respect.

(f) Each Loan Party will maintain in effect policies and procedures designed to ensure compliance by the Loan Parties, their Subsidiaries, and their respective directors, officers, employees, and agents with applicable Anti-Corruption Laws.

*Section 8.16. Burdensome Contracts With Affiliates.* No Loan Party shall, nor shall it permit any of its Subsidiaries to, enter into any material contract, agreement or business arrangement with any of its Affiliates on terms and conditions which are less favorable to such Loan Party or such Subsidiary than would be usual and customary in similar contracts, agreements or business arrangements between Persons not affiliated with each other; *provided* that the foregoing restriction shall not apply to transactions between or among the Loan Parties.

*Section 8.17. No Changes in Fiscal Year.* The fiscal year of the Borrower and its Subsidiaries ends on or about May 31 of each year; and the Borrower shall not, nor shall it permit any Subsidiary to, change its fiscal year from its present basis.

*Section 8.18. Formation of Subsidiaries.* Promptly upon the formation or acquisition of any Subsidiary, the Loan Parties shall provide the Administrative Agent and the Lenders notice thereof (at which time Schedule 6.2 shall be deemed amended to include reference to such Subsidiary. The Loan Parties shall, and shall cause their Wholly-owned Subsidiaries that are Domestic Subsidiaries to, timely comply with the requirements of Sections 11 and 12 with respect to any Subsidiary that is required to become a Guarantor hereunder.

*Section 8.19. Change in the Nature of Business.* No Loan Party shall, nor shall it permit any of its Subsidiaries to, engage in any business or activity if as a result the general nature of the business of such Loan Party or any of its Subsidiaries would be changed in any material respect from the general nature of the business engaged in by it as of the Closing Date or an Eligible Line of Business.

*Section 8.20. Use of Proceeds.* The Borrower shall use the credit extended under this Agreement solely for the purposes set forth in, or otherwise permitted by, Section 6.4.

*Section 8.21. No Restrictions.* Except as provided herein or exist as of the date hereof, no Loan Party shall, nor shall it permit any of its Wholly-owned Subsidiaries to, directly or indirectly create or otherwise cause or suffer to exist or become effective any consensual encumbrance or restriction of any kind on the ability of any Loan Party or any Wholly-owned Subsidiary of a Loan Party to: (a) pay dividends or make any other distribution on any such Subsidiary's capital stock or other equity interests owned by such Loan Party or any of its Wholly-owned Subsidiaries, (b) pay any indebtedness owed to any Loan Party or any of its Wholly-owned Subsidiaries, (c) make loans or advances to any Loan Party or any of its Wholly-owned Subsidiaries, (d) transfer any of its Property to any Loan Party or any of its Wholly-owned Subsidiaries, or (e) guarantee the Secured Obligations and/or grant Liens on its assets to the Administrative Agent as required by the Loan Documents.

*Section 8.22. Financial Covenants.*

(a) *Total Funded Debt to Capitalization Ratio.* As of the last day of each fiscal quarter of the Borrower ending on or after November 27, 2021, the Borrower shall not permit the Total Funded Debt to Capitalization Ratio to be greater than 50.0%.

(b) *Minimum Tangible Net Worth.* The Borrower shall not permit Tangible Net Worth to be less than (i) \$700,000,000 for the fiscal quarter ended November 27, 2021, plus (ii) for each fiscal quarter ending thereafter, 50% of Net Income for such fiscal quarter (if Net Income is positive) less Restricted Payments permitted to be made pursuant to Section 8.12 during such fiscal quarter.

SECTION 9. EVENTS OF DEFAULT AND REMEDIES.

*Section 9.1. Events of Default.* Any one or more of the following shall constitute an "Event of Default" hereunder:

(a) default for a period of five (5) days in the payment when due of all or any part of the principal of any Loan (whether at the stated maturity thereof or at any other time provided for in this Agreement) or of any Reimbursement Obligation, or default for a period of five (5) Business Days in the payment when due of any interest, fee or other Obligation payable hereunder or under any other Loan Document;

(b) default in the observance or performance of any covenant set forth in Sections 8.1(a), 8.10, 8.12, 8.17, 8.20 or 8.22 of this Agreement;

(c) default in the observance or performance of any other provision hereof or of any other Loan Document which is not remedied within thirty (30) days after the earlier of (i) the date on which such failure shall first become known to any Responsible Officer of any Loan Party or (ii) written notice thereof is given to the Borrower by the Administrative Agent;

(d) any representation or warranty made herein or in any other Loan Document or in any certificate furnished to the Administrative Agent or the Lenders pursuant hereto or thereto or in connection with any transaction contemplated hereby or thereby proves untrue in any material respect as of the date of the issuance or making or deemed making thereof;

(e) (i) any event occurs or condition exists (other than those described in subsections (a) through (d) above) which is specified as an event of default under any of the other Loan Documents, or (ii) any of the Loan Documents shall for any reason not be or shall cease to be in full force and effect or is declared to be null and void, or (iii) any of the Collateral Documents shall for any reason fail to create a valid and perfected first priority Lien in favor of the Administrative Agent in any Collateral purported to be covered thereby except as expressly permitted by the terms hereof, or (iv) any Loan Party takes any action for the purpose of terminating, repudiating or rescinding any Loan Document executed by it or any of its obligations thereunder;

(f) default shall occur under any Material Indebtedness issued, assumed or guaranteed by any Loan Party or any Subsidiary of a Loan Party, or under any indenture, agreement or other instrument under which the same may be issued, and such default shall continue for a period of time sufficient to permit the acceleration of the maturity of any such Material Indebtedness (whether or not such maturity is in fact accelerated), or any such Material Indebtedness shall not be paid when due (whether by demand, lapse of time, acceleration or otherwise);

(g) (i) any judgment or judgments, writ or writs or warrant or warrants of attachment, or any similar process or processes, shall be entered or filed against any Loan Party or any Subsidiary of a Loan Party, or against any of their respective Property, in an aggregate amount for all such Persons in excess of \$25,000,000 (except to the extent fully covered by insurance pursuant to which the insurer has accepted liability therefor in writing), and which remains undischarged, unvacated, unbonded or unstayed for a period of 30 days, or any action shall be legally taken by a judgment creditor to attach or levy upon any Property of any Loan Party or any Subsidiary of a Loan Party to enforce any such judgment, or (ii) any Loan Party or any Subsidiary of a Loan Party shall fail within thirty (30) days to discharge one or more non-monetary judgments or orders which, individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect, which judgments or orders, in any such case, are not stayed on appeal or otherwise being appropriately contested in good faith by proper proceedings diligently pursued;

(h) any Loan Party or any Subsidiary of a Loan Party, or any member of its Controlled Group, shall fail to pay when due an amount or amounts aggregating for all such Persons in excess of \$20,000,000 which it shall have become liable to pay to the PBGC or to a Plan under Title IV of ERISA; or notice of intent to terminate a Plan or Plans having aggregate Unfunded Vested Liabilities in excess of \$20,000,000 (collectively, a "Material Plan") shall be filed under Title IV of ERISA by any Loan Party or any Subsidiary of a Loan Party, or any other member of its Controlled Group, any plan administrator or any combination of the foregoing; or the PBGC shall institute proceedings under Title IV of ERISA to terminate or to cause a trustee to be appointed to administer any Material Plan or a proceeding shall be instituted by a fiduciary of any Material Plan against any Loan Party or any Subsidiary of a Loan Party, or any member of its Controlled Group, to enforce Section 515 or 4219(c)(5) of ERISA and such proceeding shall not have been dismissed within ninety (90) days thereafter; or a condition shall exist by reason of which the PBGC would be entitled to obtain a decree adjudicating that any Material Plan must be terminated;

(i) any Change of Control shall occur;

(j) any Loan Party or any Subsidiary of a Loan Party shall (i) have entered involuntarily against it an order for relief under the United States Bankruptcy Code, as amended, (ii) not pay, or admit in writing its inability to pay, its debts generally as they become due, (iii) make an assignment for the benefit of creditors, (iv) apply for, seek, consent to or acquiesce in, the appointment of a receiver, custodian, trustee, examiner, liquidator or similar official for it or any substantial part of its Property, (v) institute any proceeding seeking to have entered against it an order for relief under the United States Bankruptcy Code, as amended, to adjudicate it insolvent, or seeking dissolution, winding up, liquidation, reorganization, arrangement, adjustment or composition of it or its debts under any law relating to bankruptcy, insolvency or reorganization or relief of debtors or fail to file an answer or other pleading denying the material allegations of any such proceeding filed against it, (vi) take any corporate or similar action in furtherance of any matter described in parts (i) through (v) above, or (vii) fail to contest in good faith any appointment or proceeding described in Section 9.1(k); or

(k) a custodian, receiver, trustee, examiner, liquidator or similar official shall be appointed for any Loan Party or any Subsidiary of a Loan Party, or any substantial part of any of its Property, or a proceeding described in Section 9.1(j)(v) shall be instituted against any Loan Party or any Subsidiary of a Loan Party, and such appointment continues undischarged or such proceeding continues undismissed or unstayed for a period of 60 days.

*Section 9.2. Non-Bankruptcy Defaults.* When any Event of Default (other than those described in subsection (j) or (k) of Section 9.1 with respect to the Borrower) has occurred and is continuing, the Administrative Agent shall, by written notice to the Borrower: (a) if so directed by the Required Lenders, terminate the remaining Commitments and all other obligations of the Lenders hereunder on the date stated in such notice (which may be the date thereof); (b) if so directed by the Required Lenders, declare the principal of and the accrued interest on all outstanding Loans to be forthwith due and payable and thereupon all outstanding Loans, including both principal and interest thereon, shall be and become immediately due and payable together with all other amounts payable under the Loan Documents without further demand, presentment, protest or notice of any kind; and (c) if so directed by the Required Lenders, demand that the Borrower immediately deliver to the Administrative Agent Cash Collateral in an amount equal to 105% of the aggregate amount of each Letter of Credit then outstanding, and the Borrower agrees to immediately make such payment and acknowledges and agrees that the Lenders would not have an adequate remedy at law for failure by the Borrower to honor any such demand and that the Administrative Agent, for the benefit of the Lenders, shall have the right to require the Borrower to specifically perform such undertaking whether or not any drawings or other demands for payment have been made under any Letter of Credit. In addition, the Administrative Agent may exercise on behalf of itself, the Lenders and the L/C Issuer all rights and remedies available to it, the Lenders and the L/C Issuer under the Loan Documents or applicable law or equity when any such Event of Default has occurred and is continuing. The Administrative Agent shall give notice to the Borrower under Section 9.1(c) promptly upon being requested to do so by any Lender. The Administrative Agent, after giving notice to the Borrower pursuant to Section 9.1(c) or this Section 9.2, shall also promptly send a copy of such notice to the other Lenders, but the failure to do so shall not impair or annul the effect of such notice.

*Section 9.3. Bankruptcy Defaults.* When any Event of Default described in subsections (j) or (k) of Section 9.1 with respect to the Borrower has occurred and is continuing, then all outstanding Loans shall immediately become due and payable together with all other amounts payable under the Loan Documents without presentment, demand, protest or notice of any kind, the obligation of the Lenders to extend further credit pursuant to any of the terms hereof shall immediately terminate and the Borrower shall immediately deliver to the Administrative Agent Cash Collateral in an amount equal to 105% of the aggregate amount of each Letter of Credit then outstanding, the Borrower acknowledging and agreeing that the Lenders would not have an adequate remedy at law for failure by the Borrower to honor any such demand and that the Lenders, and the Administrative Agent on their behalf, shall have the right to require the Borrower to specifically perform such undertaking whether or not any draws or other demands for payment have been made under any of the Letters of Credit. In addition, the Administrative Agent may exercise on behalf of itself, the Lenders and the L/C Issuer all rights and remedies available to it, the Lenders and the L/C Issuer under the Loan Documents or applicable law or equity when any such Event of Default has occurred and is continuing.

*Section 9.4. Collateral for Undrawn Letters of Credit.* (a) If the prepayment of the amount available for drawing under any or all outstanding Letters of Credit is required under any of Sections 2.3(b), 2.8(b), Section 2.13, 2.14, 9.2 or 9.3 above, the Borrower shall forthwith pay the amount required to be so prepaid, to be held by the Administrative Agent as provided in subsection (b) below.

(b) All amounts prepaid pursuant to subsection (a) above shall be held by the Administrative Agent in one or more separate collateral accounts (each such account, and the credit balances, properties, and any investments from time to time held therein, and any substitutions for such account, any certificate of deposit or other instrument evidencing any of the foregoing and all proceeds of and earnings on any of the foregoing being collectively called the "Collateral Account") as security for, and for application by the Administrative Agent (to the extent available) to, the reimbursement of any payment under any Letter of Credit then or thereafter made by the L/C Issuer, and to the payment of the unpaid balance of all other Secured Obligations. The Collateral Account shall be held in the name of and subject to the exclusive dominion and control of the Administrative Agent for the benefit of the Administrative Agent, the Lenders, and the L/C Issuer. If and when requested by the Borrower, the Administrative Agent shall invest funds held in the Collateral Account from time to time in direct obligations of, or obligations the principal of and interest on which are unconditionally guaranteed by, the United States of America with a remaining maturity of one year or less, *provided* that the Administrative Agent is irrevocably authorized to sell investments held in the Collateral Account when and as required to make payments out of the Collateral Account for application to amounts due and owing from the Borrower to the L/C Issuer, the Administrative Agent or the Lenders. Subject to the terms of Sections 2.13 and 2.14, if the Borrower shall have made payment of all obligations referred to in subsection (a) above required under Section 2.8(b), at the request of the Borrower the Administrative Agent shall release to the Borrower amounts held in the Collateral Account so long as at the time of the release and after giving effect thereto no Default exists. After all Letters of Credit have expired or been cancelled and the expiration or termination of all Commitments, at the request of the Borrower, the Administrative Agent shall release any remaining amounts held in the Collateral Account following payment in full in cash of all Secured Obligations.

*Section 9.5. Post-Default Collections.* Anything contained herein or in the other Loan Documents to the contrary notwithstanding (including, without limitation, Section 2.8(b)), all payments and collections received in respect of the Obligations and all proceeds of the Collateral and payments made under or in respect of the Guaranty Agreements received, in each instance, by the Administrative Agent or any of the Lenders after acceleration or the final maturity of the Obligations or termination of the Commitments as a result of an Event of Default shall be remitted to the Administrative Agent and distributed as follows:

- (a) first, to the payment of any outstanding costs and expenses incurred by the Administrative Agent, and any security trustee therefor, in monitoring, verifying, protecting, preserving or enforcing the Liens on the Collateral, in protecting, preserving or enforcing rights under the Loan Documents, and in any event including all costs and expenses of a character which the Loan Parties have agreed to pay the Administrative Agent under Section 13.4 (such funds to be retained by the Administrative Agent for its own account unless it has previously been reimbursed for such costs and expenses by the Lenders, in which event such amounts shall be remitted to the Lenders to reimburse them for payments theretofore made to the Administrative Agent);
- (b) second, to the payment of any outstanding interest and fees due under the Loan Documents to be allocated pro rata in accordance with the aggregate unpaid amounts owing to each holder thereof;
- (c) third, to the payment of principal on the Loans, unpaid Reimbursement Obligations, together with amounts to be held by the Administrative Agent as collateral security for any outstanding L/C Obligations pursuant to Section 9.4 (until the Administrative Agent is holding an amount of cash equal to 105% of the then outstanding amount of all such L/C Obligations), and Hedging Liability, the aggregate amount paid to, or held as collateral security for, the Lenders and L/C Issuer and, in the case of Hedging Liability, their Affiliates to be allocated pro rata in accordance with the aggregate unpaid amounts owing to each holder thereof;
- (d) fourth, to the payment of all other unpaid Secured Obligations and all other indebtedness, obligations, and liabilities of the Borrower and its Subsidiaries secured by the Loan Documents (including, without limitation, Bank Product Obligations) to be allocated pro rata in accordance with the aggregate unpaid amounts owing to each holder thereof; and
- (e) finally, to the Borrower or whoever else may be lawfully entitled thereto.

SECTION 10. THE ADMINISTRATIVE AGENT.

*Section 10.1. Appointment and Authority.* Each of the Lenders and the L/C Issuers hereby irrevocably appoints BMO Harris 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 Section 10 are solely for the benefit of the Administrative Agent, the Lenders and the L/C Issuers, and neither the Borrower nor any other Loan Party shall 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 the Administrative Agent is not intended to connote any fiduciary or other implied (or express) obligations arising under agency doctrine of any applicable law. Instead such term is used as a matter of market custom, and is intended to create or reflect only an administrative relationship between contracting parties.

*Section 10.2. Rights as a Lender.* The Person serving as the Administrative Agent hereunder shall have the same rights and powers in its capacity as a Lender as any other Lender and may exercise the same as though it were not the Administrative Agent, and the term "Lender" or "Lenders" shall, unless otherwise expressly indicated or unless the context otherwise requires, include the Person serving as the Administrative Agent hereunder in its individual capacity. Such Person and its Affiliates may accept deposits from, lend money to, own securities of, act as the financial advisor or in any other advisory capacity for, and generally engage in any kind of business with, the Borrower or any Subsidiary or other Affiliate thereof as if such Person were not the Administrative Agent hereunder and without any duty to account therefor to the Lenders.

*Section 10.3. Action by Administrative Agent; Exculpatory Provisions.* (a) The Administrative Agent shall not have any duties or obligations except those expressly set forth herein and in the other Loan Documents, and its duties hereunder shall be administrative in nature. Without limiting the generality of the foregoing, the Administrative Agent and its Related Parties:

(i) shall not be subject to any fiduciary or other implied duties, regardless of whether a Default has occurred and is continuing;

(ii) shall not have any duty to take any discretionary action or exercise any discretionary powers, except discretionary rights and powers expressly contemplated hereby or by the other 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 or 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. The Administrative Agent shall in all cases be fully justified in failing or refusing to act hereunder or under any other Loan Document unless it first receives any further assurances of its indemnification from the Lenders that it may require, including prepayment of any related expenses and any other protection it requires against any and all costs, expense, and liability which may be incurred by it by reason of taking or continuing to take any such action; and

(iii) shall not, except as expressly set forth herein and in the other Loan Documents, have any duty or responsibility to disclose, and shall not be liable for the failure to disclose, any information relating to any Loan Party or any of its Affiliates that is communicated to or obtained by the Person serving as the Administrative Agent or any of its Affiliates in any capacity.

(b) Neither the Administrative Agent nor any of its Related Parties shall be liable for any action taken or not taken by the Administrative Agent under or in connection with this Agreement or any other Loan Document or the transactions contemplated hereby or thereby (i) with the consent or at the request of the Required Lenders (or such other number or percentage of the Lenders as shall be necessary, or as the Administrative Agent shall believe in good faith shall be necessary, under the circumstances as provided in Sections 9.2, 9.3, 9.4, 9.5 and 13.3), 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. Any such action taken or failure to act pursuant to the foregoing shall be binding on all Lenders. The Administrative Agent shall be deemed not to have knowledge of any Default unless and until notice describing such Default is given to the Administrative Agent in writing by the Borrower, a Lender, or the L/C Issuer.

(c) Neither the Administrative Agent nor any of its Related Parties shall be responsible for or have any duty or obligation to any Lender or L/C Issuer or participant or any other Person 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 sufficiency of any Collateral, or (vi) the satisfaction of any condition set forth in Section 7.1 or 7.2 or elsewhere herein, other than to confirm receipt of items expressly required to be delivered to the Administrative Agent.

*Section 10.4. Reliance by Administrative Agent.* The Administrative Agent shall be entitled to rely upon, and shall be fully protected in relying and shall not incur any liability for relying upon, any notice, request, certificate, communication, 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. The Administrative Agent also may rely upon any statement made to it orally or by telephone and believed by it to have been made by the proper Person, and shall be fully protected in relying and shall not incur any liability for relying thereon. In determining compliance with any condition hereunder to the making of a Loan, or the issuance, extension, renewal or increase of a Letter of Credit, 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 L/C Issuer unless the Administrative Agent shall have received notice to the contrary from such Lender or 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 Loan Parties), 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 10.5. Delegation of Duties.* The Administrative Agent may perform any and all of its duties and exercise its rights and powers hereunder or under any other 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 Section 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 Revolving Facility and any Incremental Term Loans 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 10.6. Resignation of Administrative Agent.* (a) 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 bank with an office in the United States of America, or an Affiliate of any such bank with an office in the United States of America. If no such successor shall have been so appointed by the Required Lenders and shall have accepted such appointment within thirty (30) days after the retiring Administrative Agent gives notice of its resignation (or such earlier day as shall be agreed by the Required Lenders) (the "*Resignation Effective Date*"), then the retiring Administrative Agent may (but shall not be obligated to), on behalf of the Lenders and the L/C Issuers, appoint a successor Administrative Agent meeting the qualifications set forth above. Whether or not a successor has been appointed, such resignation shall become effective in accordance with such notice on the Resignation Effective Date.

(b) With effect from the Resignation Effective Date, (i) the retiring Administrative Agent shall be discharged from its duties and obligations hereunder and under the other Loan Documents, and (ii) except for any indemnity payments owed to the retiring or removed Administrative Agent, all payments, communications and determinations provided to be made by, to or through the Administrative Agent shall instead be made by or to each Lender and L/C Issuer directly, until such time, if any, as the Required Lenders appoint a successor Administrative Agent as provided for above. If on the Resignation Effective Date no successor has been appointed and accepted such appointment, the Administrative Agent's rights in the Collateral Documents shall be assigned without representation, recourse or warranty to the Lenders and L/C Issuer as their interests may appear. 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 Administrative Agent (other than any rights to indemnity payments or other amounts owed to the retiring Administrative Agent), and the retiring Administrative Agent shall be discharged from all of its duties and obligations hereunder or under the other Loan Documents. The fees payable by the Borrower to a successor Administrative Agent shall be the same as those payable to its predecessor unless otherwise agreed between the Borrower and such successor. After the retiring Administrative Agent's resignation hereunder and under the other Loan Documents, the provisions of this Section 10 and Section 13.4 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.

*Section 10.7. Non-Reliance on Administrative Agent and Other Lenders.* Each Lender and 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 L/C Issuer also acknowledges that it will, 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 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.

Upon a Lender's written request, the Administrative Agent agrees to forward to such Lender, when complete, copies of any field audit, examination, or appraisal report prepared by or for the Administrative Agent with respect to the Borrower or any Loan Party or the Collateral (herein, "Reports"). Each Lender hereby agrees that (a) it has requested a copy of each Report prepared by or on behalf of the Administrative Agent; (b) the Administrative Agent (i) makes no representation or warranty, express or implied, as to the completeness or accuracy of any Report or any of the information contained therein or any inaccuracy or omission contained in or relating to a Report and (ii) shall not be liable for any information contained in any Report; (c) the Reports are not comprehensive audits or examinations, and that any Person performing any field examination will inspect only specific information regarding the Borrower and the other Loan Parties and will rely significantly upon the books and records of Borrower and the other Loan Parties, as well as on representations of personnel of the Borrower and the other Loan Parties, and that the Administrative Agent undertakes no obligation to update, correct or supplement the Reports; (d) it will keep all Reports confidential and strictly for its internal use, not share the Report with any other Person except as otherwise permitted pursuant to this Agreement; and (e) without limiting the generality of any other indemnification provision contained in this Agreement, it will pay and protect, and indemnify, defend, and hold the Administrative Agent and any such other Person preparing a Report harmless from and against, the claims, actions, proceedings, damages, costs, expenses, and other amounts (including reasonable attorney fees) incurred by as the direct or indirect result of any third parties who might obtain all or part of any Report through the indemnifying Lender.

*Section 10.8. L/C Issuer and Swingline Lender.* The L/C Issuer shall act on behalf of the Lenders with respect to any Letters of Credit issued by it and the documents associated therewith, and the Swingline Lender shall act on behalf of the Lenders with respect to the Swingline Loans made hereunder. The L/C Issuer and the Swingline Lender shall each have all of the benefits and immunities (i) provided to the Administrative Agent in this Section 10 with respect to any acts taken or omissions suffered by the L/C Issuer in connection with Letters of Credit issued by it or proposed to be issued by it and the Applications pertaining to such Letters of Credit or by the Swingline Lender in connection with Swingline Loans made or to be made hereunder as fully as if the term "Administrative Agent", as used in this Section 10, included the L/C Issuer and the Swingline Lender with respect to such acts or omissions and (ii) as additionally provided in this Agreement with respect to such L/C Issuer or Swingline Lender, as applicable. Any resignation by the Person then acting as Administrative Agent pursuant to Section 10.6 shall also constitute its resignation or the resignation of its Affiliate as L/C Issuer and Swingline Lender except as it may otherwise agree. If such Person then acting as L/C Issuer so resigns, it shall retain all the rights, powers, privileges and duties of the L/C Issuer hereunder with respect to all Letters of Credit 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 Loans or fund risk participations in Reimbursement Obligations pursuant to Section 2.3. If such Person then acting as Swingline Lender resigns, it shall retain all the rights of the Swingline Lender provided for hereunder with respect to Swingline Loans made by it and outstanding as of the effective date of such resignation, including the right to require the Lenders to make Loans or fund risk participations in outstanding Swingline Loans pursuant to Section 2.2(b). Upon the appointment by the Borrower of a successor L/C Issuer or Swingline Lender hereunder (which successor shall in all cases be a Lender other than a Defaulting Lender), (i) such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring L/C Issuer or Swingline Lender, as applicable (other than any rights to indemnity payments or other amounts that remain owing to the retiring L/C Issuer or Swingline Lender), and (ii) the retiring L/C Issuer and Swingline Lender shall be discharged from all of their respective duties and obligations hereunder or under the other Loan Documents other than with respect to its outstanding Letters of Credit and Swingline Loans, and (iii) upon the request of the resigning L/C Issuer, 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 satisfactory to the resigning L/C Issuer to effectively assume the obligations of the resigning L/C Issuer with respect to such Letters of Credit.

*Section 10.9. Hedging Liability and Bank Product Obligations.* By virtue of a Lender's execution of this Agreement or an assignment agreement pursuant to Section 13.2, as the case may be, any Affiliate of such Lender with whom the Borrower or any other Loan Party has entered into an agreement creating Hedging Liability or Bank Product Obligations shall be deemed a Lender party hereto for purposes of any reference in a Loan Document to the parties for whom the Administrative Agent is acting, it being understood and agreed that the rights and benefits of such Affiliate under the Loan Documents consist exclusively of such Affiliate's right to share in payments and collections out of the Collateral and the Guaranty Agreements as more fully set forth in Section 9.5. Without limiting the generality of the foregoing, (i) each such Affiliate of any Lender that has entered into an agreement creating Hedging Liability or Bank Product Obligations shall, for the avoidance of doubt, be deemed to have agreed to the provisions of Section 10.15 and (ii) no such Affiliate of any Lender 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). In connection with any such distribution of payments and collections, or any request for the release of the Guaranty Agreements and the Administrative Agent's Liens in connection with the termination of the Commitments and the payment in full of the Obligations, the Administrative Agent shall be entitled to assume no amounts are due to any Lender or its Affiliate with respect to Hedging Liability or Bank Product Obligations unless such Lender has notified the Administrative Agent in writing of the amount of any such liability owed to it or its Affiliate prior to such distribution or payment or release of Guaranty Agreements and Liens.

*Section 10.10. Designation of Additional Agents.* The Administrative Agent shall have the continuing right, for purposes hereof, at any time and from time to time to designate one or more of the Lenders (and/or its or their Affiliates) as "syndication agents," "documentation agents," "book runners," "lead arrangers," "arrangers," or other designations for purposes hereto, but such designation shall have no substantive effect, and such Lenders and their Affiliates shall have no additional powers, duties or responsibilities as a result thereof.

*Section 10.11. Authorization to Enter into, and Enforcement of, the Collateral Documents; Possession of Collateral.* The Administrative Agent is hereby irrevocably authorized by each of the Lenders and the L/C Issuer to execute and deliver the Collateral Documents on behalf of each of the Lenders, the L/C Issuer, and their Affiliates and to take such action and exercise such powers under the Collateral Documents as the Administrative Agent considers appropriate; *provided* the Administrative Agent shall not amend the Collateral Documents unless such amendment is agreed to in writing by the Required Lenders. Upon the occurrence of an Event of Default, the Administrative Agent shall take such action to enforce its Lien on the Collateral and to preserve and protect the Collateral as may be directed by the Required Lenders. Unless and until the Required Lenders give such direction, the Administrative Agent may (but shall not be obligated to) take or refrain from taking such actions as it deems appropriate and in the best interest of all the Lenders and L/C Issuer. Each Lender and L/C Issuer acknowledges and agrees that it will be bound by the terms and conditions of the Collateral Documents upon the execution and delivery thereof by the Administrative Agent. The Administrative Agent shall not be responsible for or have a duty to ascertain or inquire into any representation or warranty regarding the existence, value or collectability of the Collateral, the existence, priority or perfection of the Administrative Agent's Lien thereon, or any certificate prepared by any Loan Party in connection therewith, nor shall the Administrative Agent be responsible or liable to the Lenders, the L/C Issuer or their Affiliates for any failure to monitor or maintain any portion of the Collateral. The Lenders and L/C Issuer hereby irrevocably authorize (and each of their Affiliates holding any Bank Product Obligations and Hedging Liability entitled to the benefits of the Collateral shall be deemed to authorize) the Administrative Agent, based upon the instruction of the Required Lenders, to credit bid and purchase (either directly or through one or more acquisition vehicles) all or any portion of the Collateral at any sale thereof conducted by the Administrative Agent (or any security trustee therefore) under the provisions of the Uniform Commercial Code, including pursuant to Sections 9-610 or 9-620 of the Uniform Commercial Code, at any sale thereof conducted under the provisions of the United States Bankruptcy Code, including Section 363 of the United States Bankruptcy Code, or at any sale or foreclosure conducted by the Administrative Agent or any security trustee therefore (whether by judicial action or otherwise) in accordance with applicable law. Except as otherwise specifically provided for herein, no Lender, L/C Issuer, or their Affiliates, other than the Administrative Agent, shall have the right to institute any suit, action or proceeding in equity or at law for the foreclosure or other realization upon any Collateral or for the execution of any trust or power in respect of the Collateral or for the appointment of a receiver or for the enforcement of any other remedy under the Collateral Documents; it being understood and intended that no one or more of the Lenders or L/C Issuer or their Affiliates shall have any right in any manner whatsoever to affect, disturb or prejudice the Lien of the Administrative Agent (or any security trustee therefor) under the Collateral Documents by its or their action or to enforce any right thereunder, and that all proceedings at law or in equity shall be instituted, had, and maintained by the Administrative Agent (or its security trustee) in the manner provided for in the relevant Collateral Documents for the benefit of the Lenders, the L/C Issuer, and their Affiliates. Each Lender and L/C Issuer is hereby appointed agent for the purpose of perfecting the Administrative Agent's security interest in assets which, in accordance with Article 9 of the Uniform Commercial Code or other applicable law can be perfected only by possession. Should any Lender or L/C Issuer (other than the Administrative Agent) obtain possession of any Collateral, such Lender or L/C Issuer shall notify the Administrative Agent thereof, and, promptly upon the Administrative Agent's request therefor shall deliver such Collateral to the Administrative Agent or in accordance with the Administrative Agent's instructions.

*Section 10.12. Authorization to Release, Limit or Subordinate Liens or to Release Guaranties.* The Administrative Agent is hereby irrevocably authorized by each of the Lenders, the L/C Issuer, and their Affiliates to (a) release any Lien covering any Collateral that is sold, transferred, or otherwise disposed of in accordance with the terms and conditions of this Agreement and the relevant Collateral Documents (including a sale, transfer, or disposition permitted by the terms of Section 8.10 or which has otherwise been consented to in accordance with Section 13.3), (b) release or subordinate any Lien on Collateral consisting of goods financed with purchase money indebtedness or under a Capital Lease to the extent such purchase money indebtedness or Capitalized Lease Obligation, and the Lien securing the same, are permitted by Sections 8.7(b) and 8.8(d), (c) reduce or limit the amount of the indebtedness secured by any particular item of Collateral to an amount not less than the estimated value thereof to the extent necessary to reduce mortgage registry, filing and similar tax, (d) release Liens on the Collateral following termination or expiration of the Commitments and payment in full in cash of the Obligations (other than contingent indemnification obligations) and the expiration or termination of all Letters of Credit (other than Letters of Credit that have been Cash Collateralized to the satisfaction of the Administrative Agent and relevant L/C Issuer) and, if then due, Hedging Liability and Bank Product Obligations, and (e) release any Subsidiary from its obligations as a Guarantor if such Person ceases to be a Subsidiary as a result of a transaction permitted under the Loan Documents. Upon the Administrative Agent's request, the Required Lenders will confirm in writing the Administrative Agent's authority to release or subordinate its interest in particular types or items of Property or to release any Person from its obligations as a Guarantor under the Loan Documents.

*Section 10.13. Authorization of Administrative Agent to File Proofs of Claim.* In case of the pendency of any proceeding under any Debtor Relief Law or any other judicial proceeding relative 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, 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 Lenders, the L/C Issuer and the Administrative Agent (including any claim for the reasonable compensation, expenses, disbursements and advances of the Lenders, the L/C Issuer and the Administrative Agent and their respective agents and counsel and all other amounts due the Lenders, the L/C Issuer and the Administrative Agent under the Loan Documents including, but not limited to, Sections 3.1, 4.4, 4.5, and 13.4) 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 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 Issuer, to pay to the Administrative Agent any amount due for the reasonable compensation, expenses, disbursements and advances of the Administrative Agent and its agents and counsel, and any other amounts due the Administrative Agent under Sections 3.1 and 13.4. 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 or to authorize the Administrative Agent to vote in respect of the claim of any Lender or L/C Issuer in any such proceeding.

*Section 10.14. 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 and its Affiliates, and not, for the avoidance of doubt, to or for the benefit of any Borrower or any other Loan Party, that at least one of the following is and will be true:

(i) such Lender is not using "plan assets" (within the meaning of Section 3(42) of ERISA or otherwise) of one or more Benefit Plans with respect to such Lender's entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments or this Agreement;

(ii) the transaction exemption set forth in one or more PTEs, such as PTE 84-14 (a class exemption for certain transactions determined by independent qualified professional asset managers), PTE 95-60 (a class exemption for certain transactions involving insurance company general accounts), PTE 90-1 (a class exemption for certain transactions involving insurance company pooled separate accounts), PTE 91-38 (a class exemption for certain transactions involving bank collective investment funds) or PTE 96-23 (a class exemption for certain transactions determined by in-house asset managers), is applicable 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

(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, 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 and not, for the avoidance of doubt, to or for the benefit of any Borrower or any other Loan Party, that the Administrative Agent is not a fiduciary with respect to the assets of such Lender involved in such Lender's entrance into, participation in, administration of and performance of the Loans, the 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 hereto or thereto).

*Section 10.15. Recovery of Erroneous Payments.* Notwithstanding anything to the contrary in this Agreement, if at any time the Administrative Agent determines (in its sole and absolute discretion) that it has made a payment hereunder in error to any Lender, L/C Issuer or other secured party hereunder, whether or not in respect of an Obligation due and owing by the Borrowers at such time, where such payment is a Rescindable Amount, then in any such event, each such Person receiving a Rescindable Amount severally agrees to repay to the Administrative Agent forthwith on demand the Rescindable Amount received by such Person in immediately available funds in the currency so received, with interest thereon, for each day from and including the date such Rescindable Amount is received by it to but excluding the date of payment to the Administrative Agent, at the greater of the Federal Funds Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation. Each Lender, each L/C Issuer and each other secured party hereunder irrevocably waives any and all defenses, including any "discharge for value" (under which a creditor might otherwise claim a right to retain funds mistakenly paid by a third party in respect of a debt owed by another), "good consideration", "change of position" or similar defenses (whether at law or in equity) to its obligation to return any Rescindable Amount. The Administrative Agent shall inform each Lender, L/C Issuer or other secured party hereunder that received a Rescindable Amount promptly upon determining that any payment made to such Person comprised, in whole or in part, a Rescindable Amount. Each Person's obligations, agreements and waivers under this Section 10.16 shall survive the resignation or replacement of the Administrative Agent, any transfer of rights or obligations by, or the replacement of, a Lender or L/C Issuer, the termination of the Commitments and/or the repayment, satisfaction or discharge of all Obligations (or any portion thereof) under any Loan Document.

SECTION 11. THE GUARANTEES.

*Section 11.1. The Guarantees.* To induce the Lenders and L/C Issuer to provide the credits described herein and in consideration of benefits expected to accrue to the Borrower by reason of the Commitments and for other good and valuable consideration, receipt of which is hereby acknowledged, each Wholly-owned Subsidiary party hereto (including any Wholly-owned Subsidiary executing an Additional Guarantor Supplement in the form attached hereto as Exhibit F or such other form acceptable to the Administrative Agent) and the Borrower (as to the Secured Obligations of another Loan Party) hereby unconditionally and irrevocably guarantees jointly and severally to the Administrative Agent, the Lenders, and the L/C Issuer and their Affiliates, the due and punctual payment of all present and future Secured Obligations, including, but not limited to, the due and punctual payment of principal of and interest on the Loans, the Reimbursement Obligations, and the due and punctual payment of all other Obligations now or hereafter owed by the Borrower under the Loan Documents and the due and punctual payment of all Hedging Liability and Bank Product Obligations, in each case as and when the same shall become due and payable, whether at stated maturity, by acceleration, or otherwise, according to the terms hereof and thereof (including all interest, costs, fees, and charges after the entry of an order for relief against the Borrower or such other obligor in a case under the United States Bankruptcy Code or any similar proceeding, whether or not such interest, costs, fees and charges would be an allowed claim against the Borrower or any such obligor in any such proceeding); *provided, however*, that, with respect to any Guarantor, Hedging Liability guaranteed by such Guarantor shall exclude all Excluded Swap Obligations. In case of failure by the Borrower or other obligor punctually to pay any Secured Obligations guaranteed hereby, each Guarantor hereby unconditionally agrees to make such payment or to cause such payment to be made punctually as and when the same shall become due and payable, whether at stated maturity, by acceleration, or otherwise, and as if such payment were made by the Borrower or such obligor. Only direct and indirect Wholly-owned Subsidiaries of the Borrower that are Domestic Subsidiaries shall be required to be a Guarantor and bound by the guaranty provisions of this Section 11.

*Section 11.2. Guarantee Unconditional.* The obligations of each Guarantor under this Section 11 shall be unconditional and absolute and, without limiting the generality of the foregoing, shall not be released, discharged, or otherwise affected by:

- (a) any extension, renewal, settlement, compromise, waiver, or release in respect of any obligation of any Loan Party or other obligor or of any other guarantor under this Agreement or any other Loan Document or by operation of law or otherwise;
- (b) any modification or amendment of or supplement to this Agreement or any other Loan Document or any agreement relating to Hedging Liability or Bank Product Obligations;
- (c) any change in the corporate existence, structure, or ownership of, or any insolvency, bankruptcy, reorganization, or other similar proceeding affecting, any Loan Party or other obligor, any other guarantor, or any of their respective assets, or any resulting release or discharge of any obligation of any Loan Party or other obligor or of any other guarantor contained in any Loan Document;

(d) the existence of any claim, set-off, or other rights which any Loan Party or other obligor or any other guarantor may have at any time against the Administrative Agent, any Lender, the L/C Issuer or any other Person, whether or not arising in connection herewith;

(e) any failure to assert, or any assertion of, any claim or demand or any exercise of, or failure to exercise, any rights or remedies against any Loan Party or other obligor, any other guarantor, or any other Person or Property;

(f) any application of any sums by whomsoever paid or howsoever realized to any obligation of any Loan Party or other obligor, regardless of what obligations of any Loan Party or other obligor remain unpaid;

(g) any invalidity or unenforceability relating to or against any Loan Party or other obligor or any other guarantor for any reason of this Agreement or of any other Loan Document or any agreement relating to Hedging Liability or Bank Product Obligations or any provision of applicable law or regulation purporting to prohibit the payment by any Loan Party or other obligor or any other guarantor of the principal of or interest on any Loan or any Reimbursement Obligation or any other amount payable under the Loan Documents or any agreement relating to Hedging Liability or Bank Product Obligations; or

(h) any other act or omission to act or delay of any kind by the Administrative Agent, any Lender, the L/C Issuer, or any other Person or any other circumstance whatsoever that might, but for the provisions of this subsection, constitute a legal or equitable discharge of the obligations of any Guarantor under this Section 11.

*Section 11.3. Discharge Only upon Payment in Full; Reinstatement in Certain Circumstances.* Each Guarantor's obligations under this Section 11 shall remain in full force and effect until the Commitments are terminated, all Letters of Credit have expired, and the principal of and interest on the Loans and all other amounts payable by the Borrower and the other Loan Parties under this Agreement and all other Loan Documents and, if then outstanding and unpaid, all Hedging Liability and Bank Product Obligations shall have been paid in full. If at any time any payment of the principal of or interest on any Loan or any Reimbursement Obligation or any other amount payable by any Loan Party or other obligor or any guarantor under the Loan Documents or any agreement relating to Hedging Liability or Bank Product Obligations is rescinded or must be otherwise restored or returned upon the insolvency, bankruptcy, or reorganization of such Loan Party or other obligor or of any guarantor, or otherwise, each Guarantor's obligations under this Section 11 with respect to such payment shall be reinstated at such time as though such payment had become due but had not been made at such time.

*Section 11.4. Subrogation.* Each Guarantor agrees it will not exercise any rights which it may acquire by way of subrogation by any payment made hereunder, or otherwise, until all the Secured Obligations shall have been paid in full subsequent to the termination of all the Commitments and expiration of all Letters of Credit. If any amount shall be paid to a Guarantor on account of such subrogation rights at any time prior to the later of (x) the payment in full of the Secured Obligations and all other amounts payable by the Loan Parties hereunder and the other Loan Documents and (y) the termination of the Commitments and expiration of all Letters of Credit, such amount shall be held in trust for the benefit of the Administrative Agent, the Lenders, and the L/C Issuer (and their Affiliates) and shall forthwith be paid to the Administrative Agent for the benefit of the Lenders and L/C Issuer (and their Affiliates) or be credited and applied upon the Secured Obligations, whether matured or unmatured, in accordance with the terms of this Agreement.

*Section 11.5. Subordination.* Each Guarantor (each referred to herein as a "Subordinated Creditor") hereby subordinates the payment of all indebtedness, obligations, and liabilities of the Borrower or other Loan Party owing to such Subordinated Creditor, whether now existing or hereafter arising, to the indefeasible payment in full in cash of all Secured Obligations. During the existence of any Event of Default, subject to Section 11.4, any such indebtedness, obligation, or liability of the Borrower or other Loan Party owing to such Subordinated Creditor shall be enforced and performance received by such Subordinated Creditor as trustee for the benefit of the holders of the Secured Obligations and the proceeds thereof shall be paid over to the Administrative Agent for application to the Secured Obligations (whether or not then due), but without reducing or affecting in any manner the liability of such Guarantor under this Section 11.

*Section 11.6. Waivers.* Each Guarantor irrevocably waives acceptance hereof, presentment, demand, protest, and any notice not provided for herein, as well as any requirement that at any time any action be taken by the Administrative Agent, any Lender, the L/C Issuer, or any other Person against the Borrower or any other Loan Party or other obligor, another guarantor, or any other Person.

*Section 11.7. Limit on Recovery.* Notwithstanding any other provision hereof, the right of recovery against each Guarantor under this Section 11 shall not exceed \$1.00 less than the lowest amount which would render such Guarantor's obligations under this Section 11 void or voidable under applicable law, including, without limitation, fraudulent conveyance law.

*Section 11.8. Stay of Acceleration.* If acceleration of the time for payment of any amount payable by the Borrower or other Loan Party or other obligor under this Agreement or any other Loan Document, or under any agreement relating to Hedging Liability or Bank Product Obligations, is stayed upon the insolvency, bankruptcy or reorganization of the Borrower or such other Loan Party or obligor, all such amounts otherwise subject to acceleration under the terms of this Agreement or the other Loan Documents, or under any agreement relating to Hedging Liability or Bank Product Obligations, shall nonetheless be payable by the Guarantors hereunder forthwith on demand by the Administrative Agent made at the request or otherwise with the consent of the Required Lenders.

*Section 11.9. Benefit to Guarantors.* The Loan Parties are engaged in related businesses and integrated to such an extent that the financial strength and flexibility of the Borrower and the other Loan Parties has a direct impact on the success of each other Loan Party. Each Guarantor will derive substantial direct and indirect benefit from the extensions of credit hereunder, and each Guarantor acknowledges that this guarantee is necessary or convenient to the conduct, promotion and attainment of its business.

*Section 11.10. Keepwell.* Each Qualified ECP Guarantor hereby jointly and severally absolutely, unconditionally and irrevocably undertakes to provide such funds or other support as may be needed from time to time by each other Loan Party to honor all of its obligations under this Guaranty in respect of Swap Obligations (provided, however, that each Qualified ECP Guarantor shall only be liable under this Section for the maximum amount of such liability that can be hereby incurred without rendering its obligations under this Section, or otherwise under this Guaranty, voidable under applicable law relating to fraudulent conveyance or fraudulent transfer, and not for any greater amount). The obligations of each Qualified ECP Guarantor under this Section shall remain in full force and effect until discharged in accordance with Section 11.3. Each Qualified ECP Guarantor intends that this Section constitute, and this Section shall be deemed to constitute, a "keepwell, support, or other agreement" for the benefit of each other Loan Party for all purposes of Section 1a(18)(A)(v)(II) of the Commodity Exchange Act.

## SECTION 12. COLLATERAL.

*Section 12.1. Collateral.* The Secured Obligations shall be secured by valid, perfected, and enforceable Liens on all right, title, and interest of each Loan Party in all of its accounts, chattel paper, instruments, documents, payment intangibles, letter-of-credit rights, supporting obligations, deposit accounts, inventory and farm products and certain other Property as specifically set forth in the Collateral Documents whether now owned or hereafter acquired or arising, and all proceeds thereof; *provided, however,* that: (i) the Collateral shall not include Excluded Property, and (ii) the Collateral need not include (or be perfected if a Lien is granted) those assets of any Loan Party as to which the Administrative Agent in its sole discretion determines that the cost of obtaining a security interest in or perfection thereof are excessive in relation to the value of the security to be afforded thereby. Each Loan Party acknowledges and agrees that the Liens on the Collateral shall be granted to the Administrative Agent for the benefit of the holders of the Secured Obligations and shall be valid and perfected first priority Liens (to the extent perfection by filing, registration, recordation, possession or control is required herein or in any other Loan Document) subject to the proviso appearing at the end of the preceding sentence and to Liens permitted by Section 8.8, in each case pursuant to one or more Collateral Documents from such Persons, each in form and substance satisfactory to the Administrative Agent.

*Section 12.2. Depository Banks.* Each Loan Party shall maintain the Administrative Agent (or one of its Affiliates) as its primary depository bank, including for its principal operating, administrative, cash management, lockbox arrangements, collection activity, and other deposit accounts for the conduct of its business.

*Section 12.3. Further Assurances.* Each Loan Party agrees that it shall, from time to time at the request of the Administrative Agent, execute and deliver such documents and do such acts and things as the Administrative Agent may reasonably request in order to provide for or perfect or protect such Liens on the Collateral. In the event any Loan Party forms or acquires any other Subsidiary after the date hereof, except as otherwise provided in the definition of Guarantor, the Loan Parties shall promptly upon such formation or acquisition cause such newly formed or acquired Subsidiary to execute a Guaranty Agreement and such Collateral Documents as the Administrative Agent may then require, and the Loan Parties shall also deliver to the Administrative Agent, or cause such Subsidiary to deliver to the Administrative Agent, at the Borrower's cost and expense, such other instruments, documents, certificates, and opinions reasonably required by the Administrative Agent in connection therewith.

SECTION 13. MISCELLANEOUS.

Section 13.1. Notices.

(a) *Notices Generally.* Except in the case of notices and other communications expressly permitted to be given by telephone (and except as provided in subsection (b) below), all notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier services or mailed by certified or registered mail as follows:

(i) if to the Borrower or any other Loan Party, to it at 1052 Highland Colony Parkway, Suite 200, Ridgeland, MS 39157, Attention of Max Bowman, Vice President and Chief Financial Officer; Telephone No. (601) 718-4238 with a copy to the same address to the attention of Robert Holladay, General Counsel; Telephone No. (601) 948-6813;

(ii) if to the Administrative Agent or to BMO Harris Bank N.A. in its capacity as L/C Issuer, to BMO Harris Bank N.A. at 111 West Monroe Street, Chicago, Illinois 60603, Attention of David J. Bechstein; Telephone No. (312) 461-5174);

(iii) if to a Lender, to it at its address set forth in its Administrative Questionnaire.

Notices sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received. Notices delivered through electronic communications, to the extent provided in subsection (b) below, shall be effective as provided in said subsection (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 Sections 2.2, 2.3 and 2.6 if such Lender or L/C Issuer, as applicable, has notified the Administrative Agent that it is incapable of receiving notices under such Sections by electronic communication. The Administrative Agent or the Borrower may, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by it; *provided* that approval of such procedures may be limited to particular notices or communications.

Unless the Administrative Agent otherwise prescribes, (i) notices and other communications sent to an e-mail address shall be deemed received upon the sender's receipt of an acknowledgement from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgement), 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; *provided* that, for both clauses (i) and (ii) above, if such notice, email 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.

(c) *Change of Address, etc.* Any party hereto may change its address or facsimile number for notices and other communications hereunder by notice to the other parties hereto.

(d) *Platform.* (i) Each Loan Party agrees that the Administrative Agent may, but shall not be obligated to, make the Communications (as defined below) available to the L/C Issuers and the other Lenders by posting the Communications on Debt Domain, Intralinks, Syndtrak or a substantially similar electronic transmission system (the "*Platform*").

(ii) The Platform is provided “as is” and “as available.” The Agent Parties (as defined below) do not warrant the adequacy of the Platform and expressly disclaim liability for errors or omissions in the Communications. No warranty of any kind, express, implied or statutory, including, without limitation, 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 Communications 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 or the other Loan Parties, any Lender or any other Person or entity for damages of any kind, including, without limitation, direct or indirect, special, incidental or consequential damages, losses or expenses (whether in tort, contract or otherwise) arising out of the Borrower’s, any Loan Party’s or the Administrative Agent’s transmission of communications through the Platform, except to the extent that such losses, claims, damages and liabilities or expenses are determined by a court of competent jurisdiction by final and non-appealable judgment to have resulted from the gross negligence or willful misconduct of the Agent Parties. “Communications” means, collectively, any notice, demand, communication, information, document or other material provided by or on behalf of any Loan Party pursuant to any Loan Document or the transactions contemplated therein which is distributed to the Administrative Agent, any Lender or any L/C Issuer by means of electronic communications pursuant to this Section, including through the Platform.

(e) *Private Side Designation.* Each public Lender agrees to cause at least one individual at or on behalf of such public Lender to 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 laws, including United States Federal and state securities applicable laws, to make reference to Borrower or any Loan Party materials that are not made available through the “Public Side Information” portion of the Platform and that may contain material non-public information with respect to the Borrower or any Loan Party or their securities for purposes of United States Federal or state securities applicable laws.

*Section 13.2. 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 neither the Borrower nor any other Loan Party may assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of the Administrative Agent and each Lender, and no Lender may assign or otherwise transfer any of its rights or obligations hereunder except (i) to an assignee in accordance with the provisions of paragraph (b) of this Section, (ii) by way of participation in accordance with the provisions of paragraph (d) of this Section, or (iii) by way of pledge or assignment of a security interest subject to the restrictions of paragraph (e) of this Section (and any other attempted assignment or transfer by any party hereto 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 paragraph (d) of this Section and, to the extent expressly contemplated hereby, the Related Parties of each of the Administrative Agent 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 Commitments and the Loans at the time owing to it); provided that (in each case with respect to any Facility) 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 Commitments and the Loans at the time owing to it (in each case with respect to any Facility) or in the case of an assignment to a Lender or an Affiliate of a Lender, no minimum amount need be assigned; and

(B) in any case not described in paragraph (b)(i)(A) of this Section, the aggregate amount of the relevant Commitment (which for this purpose includes Loans outstanding thereunder) or, if the applicable Commitment is not then in effect, the principal outstanding balance of the Loans of the assigning Lender subject to each such assignment (determined as of the date the Assignment and Assumption with respect to such assignment is delivered to the Administrative Agent or, if “Trade Date” is specified in the Assignment and Assumption, as of the Trade Date) shall not be less than \$5,000,000, unless each of the Administrative Agent and, so long as no Event of Default has occurred and is continuing, the Borrower otherwise consents (each such consent not to be unreasonably withheld or delayed).

(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 Loan or the Commitment assigned.

(iii) *Required Consents.* No consent shall be required for any assignment except to the extent required by paragraph (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 (x) an Event of Default has occurred and is continuing at the time of such assignment, or (y) such assignment is to a Lender or an Affiliate of a Lender; *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 ten (10) Business Days after having received notice thereof;

(B) the consent of the Administrative Agent (such consent not to be unreasonably withheld or delayed) shall be required for assignments in respect of (i) the Revolving Facility if such assignment is to a Person that is not a Lender with a Commitment in respect of the Revolving Facility or an Affiliate of such Lender, or (ii) any Incremental Term Loans to a Person who is not a Lender or an Affiliate of a Lender; and

(C) the consent of each L/C Issuer and Swingline Lender shall be required for any assignment in respect of the Revolving 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 of \$3,500; *provided* that the Administrative Agent may, in its sole discretion, elect to waive such processing and recordation fee in the case of any assignment. The assignee, if it is not a Lender, shall deliver to the Administrative Agent an Administrative Questionnaire.

(v) *No Assignment to Certain Persons.* No such assignment shall be made to (A) the Borrower or any other Loan Party or any Loan Party's Affiliates or Subsidiaries or (B) to any Defaulting Lender or any of its Subsidiaries, or any Person who, upon becoming a Lender hereunder, would constitute any of the foregoing Persons described in this clause (B).

(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) (herein any of the foregoing is a "natural Person").

(vii) *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, each L/C Issuer, the Swingline Lender and each other 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 and Swingline Loans in accordance with its 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 thereof by the Administrative Agent pursuant to paragraph (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 13.4 and 13.6 with respect to facts and circumstances occurring prior to the effective date of such assignment; *provided* that except to the extent otherwise expressly agreed by the affected parties, no assignment by a Defaulting Lender will constitute a waiver or release of any claim of any party hereunder arising from that Lender's having been a Defaulting Lender. Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this paragraph shall be treated for purposes of this Agreement as a sale by such Lender of a participation in such rights and obligations in accordance with paragraph (d) of this Section.

(c) *Register.* The Administrative Agent, acting solely for this purpose as an agent of the Borrower, shall maintain at one of its offices in Chicago, Illinois 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 owing to, each Lender pursuant to the terms hereof from time to time (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. The Register shall be available for inspection by the Borrower and any Lender, at any reasonable time and from time to time upon reasonable prior notice.

(d) *Participations.* Any Lender may at any time, without the consent of, or notice to, the Borrower or the Administrative Agent, sell participations to any Person (other than a natural Person or the Borrower or any other Loan Party or any Loan Party's Affiliates or Subsidiaries or any other Person prohibited under Section 13.2 (b)(v) (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 Commitments and/or the Loans owing to it); *provided* that (i) such Lender's obligations under this Agreement shall remain unchanged, (ii) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations, and (iii) the Borrower, the Administrative Agent, the L/C Issuers and Lenders shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement. For the avoidance of doubt, each Lender shall be responsible for the indemnity under Section 10.8 with respect to any payments made by such Lender to its Participant(s).

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, modification or waiver described in Section 13.3 that expressly relate to amendments requiring the unanimous consent of the Lenders in the Revolving Facility in which such Participant participates. The Borrower agrees that each Participant shall be entitled to the benefits of Sections 4.1, 4.4, and 4.5 (subject to the requirements and limitations therein, including the requirements under Section 4.1(g) (it being understood that the documentation required under Section 4.1(g) shall be delivered to the participating Lender)) to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to paragraph (b) of this Section; *provided* that such Participant (A) agrees to be subject to the provisions of Sections 2.12 and 4.7 as if it were an assignee under paragraph (b) of this Section; and (B) shall not be entitled to receive any greater payment under Sections 4.1 or 4.4, with respect to any participation, than its participating Lender would have been entitled to receive, 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. Each Lender that sells a participation agrees, at the Borrower's request and expense, to use reasonable efforts to cooperate with the Borrower to effectuate the provisions of Section 2.12 with respect to any Participant. To the extent permitted by law, each Participant also shall be entitled to the benefits of Section 13.6 (Right of Setoff) as though it were a Lender; *provided* that such Participant agrees to be subject to Section 13.7 (Sharing of Payments by Lenders) as though it were a Lender. Each Lender that sells a participation shall, acting solely for this purpose as an agent of the Borrower, 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 Section 5f.103-1(c) of the United States Treasury Regulations. The entries in the Participant Register shall be conclusive absent manifest error, and such Lender shall treat each Person whose name is recorded in the Participant Register as the owner of such participation for all purposes of this Agreement notwithstanding any notice to the contrary. For the avoidance of doubt, the Administrative Agent (in its capacity as Administrative Agent) shall have no responsibility for maintaining a Participant Register.

(e) *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 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.

*Section 13.3. Amendments.* Any provision of this Agreement or the other Loan Documents may be amended or waived if, but only if, such amendment or waiver is in writing and is signed by (a) the Borrower, (b) the Required Lenders (or the Administrative Agent acting at the direction of the Required Lenders) (except as otherwise stated below to require only the consent of the Lenders affected thereby), and (c) if the rights or duties of the Administrative Agent, the L/C Issuer, or the Swingline Lender are affected thereby, the Administrative Agent, the L/C Issuer, or the Swingline Lender, as applicable; *provided* that:

(i) no amendment or waiver pursuant to this Section 13.3 shall (A) increase any Commitment of any Lender without the consent of such Lender or (B) reduce the amount of or postpone the date for any scheduled payment of any principal of or interest on any Loan or of any Reimbursement Obligation or of any fee payable hereunder without the consent of the Lender to which such payment is owing or which has committed to make such Loan or Letter of Credit (or participate therein) hereunder; *provided, however*, that only the consent of the Required Lenders shall be necessary (i) to amend the default rate provided in Section 2.9 or to waive any obligation of the Borrower to pay interest or fees at the default rate as set forth therein or (ii) to amend any financial covenant hereunder (or any defined term used therein) even if the effect of such amendment would be to reduce the rate of interest or any fee payable hereunder;

(ii) no amendment or waiver pursuant to this Section 13.3 shall, unless signed by each Lender, change the definition of Required Lenders, change the provisions of this Section 13.3, change Section 13.7 in a manner that would affect the ratable sharing of setoffs required thereby, change the application of payments contained in Section 3.1 or 9.5, release any material Guarantor or all or substantially all of the Collateral (except as otherwise provided for in the Loan Documents), or affect the number of Lenders required to take any action hereunder or under any other Loan Document;

(iii) no amendment or waiver pursuant to this Section 13.3 shall, unless signed by each Lender affected thereby, extend the Revolving Credit Termination Date, or extend the stated expiration date of any Letter of Credit beyond the Revolving Credit Termination Date; and

(iv) no amendment to Section 11 shall be made without the consent of the Guarantor(s) affected thereby.

Notwithstanding anything to the contrary herein, (1) no Defaulting Lender shall have any right to approve or disapprove any amendment, waiver or consent hereunder (and any amendment, waiver or consent which by its terms requires the consent of all Lenders or each affected Lender may be effected with the consent of the applicable Lenders other than Defaulting Lenders), except that (x) the Commitment of any Defaulting Lender may not be increased or extended without the consent of such Lender and (y) any waiver, amendment or modification requiring the consent of all Lenders or each affected Lender that by its terms affects any Defaulting Lender more adversely than other affected Lenders shall require the consent of such Defaulting Lender, (2) if the Administrative Agent and the Borrower have jointly identified an obvious error or any error or omission of a technical nature, in each case, in any provision of the Loan Documents, then the Administrative Agent and the Borrower shall be permitted to amend such provision, (3) guarantees, collateral security documents and related documents executed by the Borrower or any other Loan Party in connection with this Agreement may be in a form reasonably determined by the Administrative Agent and may be amended, supplemented or waived without the consent of any Lender if such amendment, supplement or waiver is delivered in order to (x) comply with local law or advice of local counsel, (y) cure ambiguities, omissions, mistakes or defects or (z) cause such guarantee, collateral security document or other document to be consistent with this Agreement and the other Loan Documents, (4) the Borrower and the Administrative Agent may, without the input or consent of any other Lender, effect amendments to this Agreement and the other Loan Documents as may be necessary in the reasonable opinion of the Borrower and the Administrative Agent to effect the provisions of Section 2.15, and (5) this Section 13.3 shall be subject to the terms of Section 4.3(c) in all respects.

Section 13.4. *Costs and Expenses; Indemnification.*

(a) *Costs and Expenses.* The Borrower shall pay (i) all reasonable and documented out-of-pocket expenses incurred by the Administrative Agent and its Affiliates (including the reasonable fees, charges and disbursements of outside counsel for the Administrative Agent), in connection with the syndication of the Revolving Facility of any Incremental Term Loan, 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), including, without limitation, such documented fees and expenses incurred in connection with (x) the creation, perfection or protection of the Liens under the Loan Documents (including all title insurance fees and all search, filing and recording fees) and (y) environmental assessments, insurance reviews, collateral audits and valuations, and field exams as provided herein, (ii) all documented 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 documented out-of-pocket expenses incurred by the Administrative Agent, any Lender or any L/C Issuer (including the fees, charges and disbursements of any outside counsel for the Administrative Agent, any Lender or any L/C Issuer), and shall pay all fees and time charges for attorneys who may be employees of the Administrative Agent, any Lender or any L/C Issuer, 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 documented out-of-pocket expenses incurred during any workout, restructuring or negotiations in respect of such Loans or Letters of Credit (including all such costs and expenses incurred in connection with any proceeding under the United States Bankruptcy Code involving the Borrower or any other Loan Party as a debtor thereunder).

(b) *Indemnification by the Loan Parties.* 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 outside counsel for any Indemnitee), incurred by any Indemnitee or asserted against any Indemnitee by any Person (including any third party or 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 or the consummation of the transactions contemplated hereby or thereby, or, in the case of Administrative Agent (and any sub-agent thereof), any Swingline Lender and L/C Issuer, and their Related Parties, the administration and enforcement of this Agreement and the other Loan Documents (including all such costs and expenses incurred in connection with any proceeding under the United States Bankruptcy Code involving the Borrower or any other Loan Party as a debtor thereunder), (ii) any Loan or Letter of Credit or the use or proposed 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 Environmental Claim or Environmental Liability, including with respect to the actual or alleged presence or Release of Hazardous Materials, wastes, or products, including manure, at, on or from any property owned or operated by any Loan Party or any of its Subsidiaries or at any off-site location, related in any way to any Loan Party or any of its Subsidiaries, or (iv) any actual or prospective claim, litigation, investigation or proceeding relating to any of the foregoing, whether based on contract, tort or any other theory, whether brought by a third party or by the Borrower or any other Loan Party, and regardless of whether any Indemnitee is a party thereto (including, without limitation, any settlement arrangement arising from or relating to the foregoing); *provided* that such indemnity shall not, as to any Indemnitee, be available to the extent that such losses, claims, damages, liabilities or related expenses (x) 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 Indemnitee or (y) result from a claim brought by the Borrower or any other Loan Party against an Indemnitee for breach in bad faith of such Indemnitee's obligations hereunder or under any other Loan Document, if the Borrower or such Loan Party has obtained a final and nonappealable judgment in its favor on such claim as determined by a court of competent jurisdiction. This subsection (b) shall not apply with respect to Taxes other than any Taxes that represent losses, claims, damages, etc. arising from any non-Tax claim.

(c) *Reimbursement by Lenders.* To the extent that (i) the Loan Parties for any reason fail to indefeasibly pay any amount required under subsection (a) or (b) of this Section to be paid by any of them to the Administrative Agent (or any sub-agent thereof), any L/C Issuer, any Swingline Lender or any Related Party or (ii) any liabilities, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind or nature whatsoever are imposed on, incurred by, or asserted against, Administrative Agent, the L/C Issuer, any Swingline Lender or a Related Party in any way relating to or arising out of this Agreement or any other Loan Document or any action taken or omitted to be taken by Administrative Agent, the L/C Issuer, any Swingline Lender or a Related Party in connection therewith, then, in each case, each Lender severally agrees to pay to the Administrative Agent (or any such sub-agent), such L/C Issuer, such Swingline Lender or such Related Party, as the case may be, such Lender's pro rata share (determined as of the time that the applicable unreimbursed expense or indemnity payment is sought based on each Lender's share of the Total Credit Exposure at such time) of such unpaid amount (including any such unpaid amount in respect of a claim asserted by such Lender); *provided* that with respect to such unpaid amounts owed to any L/C Issuer or Swingline Lender solely in its capacity as such, only the Lenders party to the Revolving Facility shall be required to pay such unpaid amounts, such payment to be made severally among them based on such Lenders' pro rata share (determined as of the time that the applicable unreimbursed expense or indemnity payment is sought based on each such Lender's share of the Revolving Credit Exposure at such time); and *provided, further*, 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), such L/C Issuer or such Swingline Lender in its capacity as such, or against any Related Party of any of the foregoing acting for the Administrative Agent (or any such sub-agent), such L/C Issuer or any such Swingline Lender in connection with such capacity. The obligations of the Lenders under this subsection (c) are subject to the provisions of Section 13.15.

(d) *Waiver of Consequential Damages, Etc.* To the fullest extent permitted by applicable law, the Loan Parties shall not assert, and hereby waives, any claim against any Indemnitee, 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 Indemnitee referred to in subsection (b) above shall be liable for any damages arising from the use by unintended recipients of any information or other materials distributed by it 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.

(e) *Payments.* All amounts due under this Section shall be payable not later than 30 days after demand therefor.

(f) *Survival.* Each party's obligations under this Section shall survive the termination of the Loan Documents and payment of the obligations hereunder.

*Section 13.5. No Waiver, Cumulative Remedies.* No delay or failure on the part of the Administrative Agent, the L/C Issuer, or any Lender, or on the part of the holder or holders of any of the Obligations, in the exercise of any power or right under any Loan Document shall operate as a waiver thereof or as an acquiescence in any default, nor shall any single or partial exercise of any power or right preclude any other or further exercise thereof or the exercise of any other power or right. The rights and remedies hereunder of the Administrative Agent, the L/C Issuer, the Lenders, and of the holder or holders of any of the Obligations are cumulative to, and not exclusive of, any rights or remedies which any of them would otherwise have.

*Section 13.6. Right of Setoff.* In addition to any rights now or hereafter granted under the Loan Documents or applicable law and not by way of limitation of any such rights, 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 or any other Loan Party against any and all of the obligations of the Borrower or such Loan Party now or hereafter existing under this Agreement or any other Loan Document to such Lender or such L/C Issuer or their respective Affiliates, irrespective of whether or not such Lender, L/C Issuer or Affiliate shall have made any demand under this Agreement or any other Loan Document and although such obligations of the Borrower or such Loan Party may be contingent or unmatured or are owed to a branch, office or Affiliate of such Lender or such L/C Issuer different from the branch, office or Affiliate 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 2.13 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, the L/C Issuers, 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 other rights and remedies (including other rights of setoff) that such Lender, such L/C Issuer or their respective Affiliates may have. 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 13.7. Sharing of Payments by Lenders.* If any Lender shall, by exercising any right of setoff or counterclaim or otherwise, obtain payment in respect of any principal of or interest on any of its Loans or other obligations hereunder resulting in such Lender receiving payment of a proportion of the aggregate amount of its Loans and accrued interest thereon or other such obligations greater than its pro rata share thereof as provided herein, 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 such other 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 principal of and accrued interest on their respective Loans and other amounts owing them; *provided* that:

(a) if any such participations are purchased and all or any portion of the payment giving rise thereto is recovered, such participations shall be rescinded and the purchase price restored to the extent of such recovery, without interest; and

(b) the provisions of this Section shall not be construed to apply to (x) any payment made by 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), or (y) any payment obtained by a Lender as consideration for the assignment of or sale of a participation in any of its Loans or participations in L/C Obligations to any assignee or participant, other than to any Loan Party or any Subsidiary thereof (as to which the provisions of this Section shall apply).

Each Loan Party 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 each Loan Party rights of setoff and counterclaim with respect to such participation as fully as if such Lender were a direct creditor of each Loan Party in the amount of such participation.

*Section 13.8. Survival of Representations.* All representations and warranties made herein or in any other Loan Document or in certificates given pursuant hereto or thereto shall survive the execution and delivery of this Agreement and the other Loan Documents, and shall continue in full force and effect with respect to the date as of which they were made as long as any credit is in use or available hereunder.

*Section 13.9. Survival of Indemnities.* All indemnities and other provisions relative to reimbursement to the Lenders and L/C Issuer of amounts sufficient to protect the yield of the Lenders and L/C Issuer with respect to the Loans and Letters of Credit, including, but not limited to, Sections 4.1, 4.4, 4.5, and 13.4, shall survive the termination of this Agreement and the other Loan Documents and the payment of the Obligations.

*Section 13.10. Counterparts; Integration; Effectiveness.*

(a) *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 and the other Loan Documents, and any separate letter agreements with respect to fees payable to the Administrative Agent, constitute the entire contract among the parties relating to the subject matter hereof and supersede any and all previous agreements and understandings, oral or written, relating to the subject matter hereof. Except as provided in Section 7.2, this Agreement shall become effective when it shall have been executed by the Administrative Agent and when the Administrative Agent shall have received counterparts hereof that, when taken together, bear the signatures of each of the other parties hereto. Delivery of an executed counterpart of a signature page of this Agreement by facsimile or in electronic (e.g., "pdf" or "tif") format shall be effective as delivery of a manually executed counterpart of this Agreement.

(b) *Electronic Execution of Assignments.* The words "execution," "signed," "signature," and words of like import in any Assignment and Assumption shall be deemed to include electronic signatures 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 Illinois State Electronic Commerce Security Act, or any other similar state laws based on the Uniform Electronic Transactions Act.

*Section 13.11. Headings.* Section headings used in this Agreement are for reference only and shall not affect the construction of this Agreement.

*Section 13.12. Severability of Provisions.* Any provision of any Loan Document which is unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such unenforceability without invalidating the remaining provisions hereof or affecting the validity or enforceability of such provision in any other jurisdiction. All rights, remedies and powers provided in this Agreement and the other Loan Documents may be exercised only to the extent that the exercise thereof does not violate any applicable mandatory provisions of law, and all the provisions of this Agreement and other Loan Documents are intended to be subject to all applicable mandatory provisions of law which may be controlling and to be limited to the extent necessary so that they will not render this Agreement or the other Loan Documents invalid or unenforceable.

*Section 13.13. Construction.* The parties acknowledge and agree that the Loan Documents shall not be construed more favorably in favor of any party hereto based upon which party drafted the same, it being acknowledged that all parties hereto contributed substantially to the negotiation of the Loan Documents. The provisions of this Agreement relating to Subsidiaries shall only apply during such times as the Borrower has one or more Subsidiaries. NOTHING CONTAINED HEREIN SHALL BE DEEMED OR CONSTRUED TO PERMIT ANY ACT OR OMISSION WHICH IS PROHIBITED BY THE TERMS OF ANY COLLATERAL DOCUMENT, THE COVENANTS AND AGREEMENTS CONTAINED HEREIN BEING IN ADDITION TO AND NOT IN SUBSTITUTION FOR THE COVENANTS AND AGREEMENTS CONTAINED IN THE COLLATERAL DOCUMENTS.

*Section 13.14. Excess Interest.* Notwithstanding any provision to the contrary contained herein or in any other Loan Document, no such provision shall require the payment or permit the collection of any amount of interest in excess of the maximum amount of interest permitted by applicable law to be charged for the use or detention, or the forbearance in the collection, of all or any portion of the Loans or other obligations outstanding under this Agreement or any other Loan Document ("Excess Interest"). If any Excess Interest is provided for, or is adjudicated to be provided for, herein or in any other Loan Document, then in such event (a) the provisions of this Section shall govern and control, (b) neither the Borrower nor any guarantor or endorser shall be obligated to pay any Excess Interest, (c) any Excess Interest that the Administrative Agent or any Lender may have received hereunder shall, at the option of the Administrative Agent, be (i) applied as a credit against the then outstanding principal amount of Obligations hereunder and accrued and unpaid interest thereon (not to exceed the maximum amount permitted by applicable law), (ii) refunded to the Borrower, or (iii) any combination of the foregoing, (d) the interest rate payable hereunder or under any other Loan Document shall be automatically subject to reduction to the maximum lawful contract rate allowed under applicable usury laws (the "Maximum Rate"), and this Agreement and the other Loan Documents shall be deemed to have been, and shall be, reformed and modified to reflect such reduction in the relevant interest rate, and (e) neither the Borrower nor any guarantor or endorser shall have any action against the Administrative Agent or any Lender for any damages whatsoever arising out of the payment or collection of any Excess Interest. Notwithstanding the foregoing, if for any period of time interest on any of Borrower's Obligations is calculated at the Maximum Rate rather than the applicable rate under this Agreement, and thereafter such applicable rate becomes less than the Maximum Rate, the rate of interest payable on the Borrower's Obligations shall remain at the Maximum Rate until the Lenders have received the amount of interest which such Lenders would have received during such period on the Borrower's Obligations had the rate of interest not been limited to the Maximum Rate during such period.

*Section 13.15. Lender's and L/C Issuer's Obligations Several.* The obligations of the Lenders and L/C Issuer hereunder are several and not joint. Nothing contained in this Agreement and no action taken by the Lenders or L/C Issuer pursuant hereto shall be deemed to constitute the Lenders and L/C Issuer a partnership, association, joint venture or other entity.

*Section 13.16. 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), each Loan Party acknowledges and agrees, and acknowledges its Affiliates' understanding, that: (a) (i) no fiduciary, advisory or agency relationship between any Loan Party and its Subsidiaries and the Administrative Agent, the L/C Issuer, or any Lender is intended to be or has been created in respect of the transactions contemplated hereby or by the other Loan Documents, irrespective of whether the Administrative Agent, the L/C Issuer, or any Lender has advised or is advising any Loan Party or any of its Subsidiaries on other matters, (ii) the arranging and other services regarding this Agreement provided by the Administrative Agent, the L/C Issuer, and the Lenders are arm's-length commercial transactions between such Loan Parties and their Affiliates, on the one hand, and the Administrative Agent, the L/C Issuer, and the Lenders, on the other hand, (iii) each Loan Party has consulted its own legal, accounting, regulatory and tax advisors to the extent that it has deemed appropriate and (iv) each Loan Party is capable of evaluating, and understands and accepts, the terms, risks and conditions of the transactions contemplated hereby and by the other Loan Documents; and (b) (i) the Administrative Agent, the L/C Issuer, and the Lenders each is and has been acting solely as a principal and, except as expressly agreed in writing by the relevant parties, has not been, is not, and will not be acting as an advisor, agent or fiduciary for any Loan Party or any of its Affiliates, or any other Person; (ii) none of the Administrative Agent, the L/C Issuer, and the Lenders has any obligation to any Loan Party or any of its Affiliates with respect to the transactions contemplated hereby except those obligations expressly set forth herein and in the other Loan Documents; and (iii) the Administrative Agent, the L/C Issuer, and the Lenders and their respective Affiliates may be engaged, for their own accounts or the accounts of customers, in a broad range of transactions that involve interests that differ from those of any Loan Party and its Affiliates, and none of the Administrative Agent, the L/C Issuer, and the Lenders has any obligation to disclose any of such interests to any Loan Party or its Affiliates. To the fullest extent permitted by law, each Loan Party hereby waives and releases any claims that it may have against the Administrative Agent, the L/C Issuer, 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 13.17. Governing Law; Jurisdiction; Consent to Service of Process.* (a) This Agreement, the Notes and the other Loan Documents (except as otherwise specified therein), and the rights and duties of the parties hereto, shall be construed and determined in accordance with the laws of the State of Illinois without regard to conflicts of law principles that would require application of the laws of another jurisdiction.

(b) Each party hereto hereby irrevocably and unconditionally submits, for itself and its property, to the nonexclusive jurisdiction of the United States District Court for the Northern District of Illinois and of any Illinois State court sitting in the City of Chicago, and any appellate court from any thereof, in any action or proceeding arising out of or relating to any Loan Document, or for recognition or enforcement of any judgment, and each party hereto hereby irrevocably and unconditionally agrees that all claims in respect of any such action or proceeding may be heard and determined in such Illinois State court or, to the extent permitted by applicable Legal Requirements, in such federal court. Each party hereto hereby 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 applicable Legal Requirements. Nothing in this Agreement or any other Loan Document or otherwise shall affect any right that the Administrative Agent, the L/C Issuer or any Lender may otherwise have to bring any action or proceeding relating to this Agreement or any other Loan Document against the Borrower or any Guarantor or its respective properties in the courts of any jurisdiction.

(c) Each Loan Party hereby irrevocably and unconditionally waives, to the fullest extent permitted by applicable Legal Requirements, any objection which it may now or hereafter have to the laying of venue of any suit, action or proceeding arising out of or relating to this Agreement or any other Loan Document in any court referred to in Section 13.17(b). Each party hereto hereby irrevocably waives, to the fullest extent permitted by applicable Legal Requirements, the defense of an inconvenient forum to the maintenance of such action or proceeding in any such court.

(d) Each party to this Agreement irrevocably consents to service of process in any action or proceeding arising out of or relating to any Loan Document, in the manner provided for notices (other than teletype or e-mail) in Section 13.1. Nothing in this Agreement or any other Loan Document will affect the right of any party to this Agreement to serve process in any other manner permitted by applicable Legal Requirements.

*Section 13.18. Waiver of Jury Trial.* Each party hereto hereby irrevocably waives, to the fullest extent permitted by applicable Legal Requirements, any right it may have to a trial by jury in any legal proceeding directly or indirectly arising out of or relating to any Loan Document or the transactions contemplated thereby (whether based on contract, tort or any other theory). Each party hereto (a) certifies that no representative, agent or attorney of any other party has represented, expressly or otherwise, that such other party would not, in the event of litigation, seek to enforce the foregoing waiver and (b) acknowledges that it and the other parties hereto have been induced to enter into this Agreement by, among other things, the mutual waivers and certifications in this Section.

*Section 13.19. USA Patriot Act.* Each Lender and L/C Issuer that is subject to the requirements of the USA Patriot Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)) (the "Act") hereby notifies the Borrower that pursuant to the requirements of the Act, it is required to obtain, verify, and record information that identifies the Borrower, which information includes the name and address of the Borrower and other information that will allow such Lender or L/C Issuer to identify the Borrower in accordance with the Act.

*Section 13.20. Confidentiality.* Each of the Administrative Agent, the Lenders and the L/C Issuers agree to maintain the confidentiality of the Information (as defined below), except that Information may be disclosed (a) to its Affiliates and to its Related Parties (it being understood that the Persons to whom such disclosure is made will be informed of the confidential nature of such Information and instructed and agrees to keep such Information confidential); (b) to the extent required by any regulatory authority purporting to have jurisdiction over such Person or its Related Parties (including any self-regulatory authority, such as the National Association of Insurance Commissioners); (c) to the extent required by applicable laws or regulations or by any subpoena or similar legal process; (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 and obligations under this Agreement, or (ii) any actual or prospective party (or its Related Parties) to any swap, derivative or other transaction under which payments are to be made by reference to the Borrower and its obligations, this Agreement or payments hereunder; (g) on a confidential basis to (i) any rating agency in connection with rating any Loan Party or its Subsidiaries or the Revolving Facility or any Incremental Term Loan or (ii) the CUSIP Service Bureau or any similar agency in connection with the issuance and monitoring of CUSIP numbers with respect to the Revolving Facility or Incremental Term Loan; (h) with the consent of the Borrower; or (i) to the extent such Information (x) becomes publicly available other than as a result of a breach of this Section, or (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. For purposes of this Section, "Information" means all information received from a Loan Party or any of its Subsidiaries relating to a Loan Party or any of its Subsidiaries 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 nonconfidential basis prior to disclosure by a Loan Party or any of its Subsidiaries; *provided* that, in the case of information received from a Loan Party or any of its Subsidiaries after the date hereof, such information is clearly identified at the time of delivery as confidential or is information that is not made available to the public and as such whether or not marked as confidential is to be held in confidence by the recipient. Any Person required to maintain the confidentiality of Information as provided in this Section shall be considered to have complied with its obligation to do so if such Person has exercised the same degree of care to maintain the confidentiality of such Information as such Person would accord to its own confidential information.

*Section 13.21. Acknowledgement and Consent to Bail-In of EEA 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 (including any party becoming a party hereto by virtue of an Assignment and Assumption) acknowledges that any liability of any EEA Financial Institution arising under any Loan Document, to the extent such liability is unsecured, may be subject to the write-down and conversion powers of an EEA 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 an EEA Resolution Authority to any such liabilities arising hereunder which may be payable to it by any party hereto that is an EEA 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 EEA Financial Institution, its parent undertaking, or a bridge institution that may be issued to it or otherwise conferred on it, and that such shares or other instruments of ownership will be accepted by it in lieu of any rights with respect to any such liability under this Agreement or any other Loan Document; or

(iii) the variation of the terms of such liability in connection with the exercise of the write-down and conversion powers of any EEA Resolution Authority.

*Section 13.22. Amendment and Restatement.* This Agreement amends and restates the Existing Credit Agreement and is not intended to be or operate as a novation or an accord and satisfaction of the Existing Credit Agreement or the indebtedness, obligations and liabilities of the Loan Parties evidenced or provided for thereunder. Without limiting the generality of the foregoing, each Loan Party agrees that notwithstanding the execution and delivery of this Agreement, the Liens previously granted to the Administrative Agent pursuant to the Collateral Documents shall be and remain in full force and effect and that any rights and remedies of the Administrative Agent thereunder and obligations of the Loan Parties thereunder shall be and remain in full force and effect, shall not be affected, impaired or discharged thereby (except as expressly amended by the Loan Documents) and shall secure all of the Borrower's indebtedness, obligations and liabilities to the Administrative Agent and the Lenders under the Existing Credit Agreement as amended and restated hereby. Without limiting the foregoing, the parties to this Agreement hereby acknowledge and agree that the "Credit Agreement" and the "Notes" referred to in the Collateral Documents shall from and after the date hereof be deemed references to this Agreement and the Notes issued hereunder.

*Section 13.23. Acknowledgement Regarding Any Supported QFCs.* (a) To the extent that the Loan Documents provide support, through a guarantee or otherwise, for Hedge Agreements or any other agreement or instrument that is a QFC (such support, "QFC Credit Support", and each such QFC, a "Supported QFC"), the parties acknowledge and agree as follows with respect to the resolution power of the Federal Deposit Insurance Corporation under the Federal Deposit Insurance Act and Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act (together with the regulations promulgated thereunder, the "U.S. Special Resolution Regimes") in respect of such Supported QFC and QFC Credit Support (with the provisions below applicable notwithstanding that the Loan Documents and any Supported QFC may in fact be stated to be governed by the laws of the State of New York and/or of the United States or any other state of the United States):

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.

(b) *Certain Defined Terms.* As used in this Section 13.23(a):

"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: (i) a "covered entity" as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 252.82(b); (ii) a "covered bank" as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 47.3(b); or (iii) 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).

[SIGNATURE PAGES TO FOLLOW]

This Amended and Restated Credit Agreement is entered into between us for the uses and purposes hereinabove set forth as of the date first above written.

*“BORROWER”*

CAL-MAINE FOODS, INC.

By \_\_\_\_\_

Max Bowman  
Vice President – Chief Financial Officer

*“GUARANTORS”*

AMERICAN EGG PRODUCTS, LLC

By \_\_\_\_\_

Max Bowman  
Vice President – Chief Financial Officer of  
Cal-Maine Foods, Inc.

BENTON COUNTY FOODS, LLC

By \_\_\_\_\_

Max Bowman  
Vice President – Chief Financial Officer of  
Cal-Maine Foods, Inc.

WHARTON COUNTY FOODS, LLC

By \_\_\_\_\_

Max Bowman  
Vice President – Chief Financial Officer of  
Cal-Maine Foods, Inc.

SOUTHERN EQUIPMENT DISTRIBUTORS, INC.

By \_\_\_\_\_  
Max Bowman  
Vice President – Chief Financial Officer of  
Cal-Maine Foods, Inc.

SOUTH TEXAS APPLICATORS, INC.

By \_\_\_\_\_  
Max Bowman  
Vice President – Chief Financial Officer of  
Cal-Maine Foods, Inc.

RED RIVER VALLEY EGG FARM, LLC

By \_\_\_\_\_  
Max Bowman  
Vice President – Chief Financial Officer of  
Cal-Maine Foods, Inc.

CAL-MAINE REAL ESTATE LLC

By \_\_\_\_\_  
Max Bowman  
Vice President – Chief Financial Officer of  
Cal-Maine Foods, Inc.

TEXAS EGG PRODUCTS, LLC

By \_\_\_\_\_  
Max Bowman  
Vice President – Chief Financial Officer of  
Cal-Maine Foods, Inc.

*“ADMINISTRATIVE AGENT AND L/C ISSUER”*

BMO HARRIS BANK N.A., as L/C Issuer and as Administrative Agent

By: \_\_\_\_\_

David J. Bechstein

Director

*"LENDERS"*

BMO HARRIS BANK N.A.

By: \_\_\_\_\_

David J. Bechstein

Director

GREENSTONE FARM CREDIT SERVICES, ACA

By \_\_\_\_\_

Name \_\_\_\_\_

Title \_\_\_\_\_

AGFIRST FARM CREDIT BANK

By \_\_\_\_\_  
Name \_\_\_\_\_  
Title \_\_\_\_\_

COMPEER FINANCIAL, ACA

By \_\_\_\_\_

Name \_\_\_\_\_

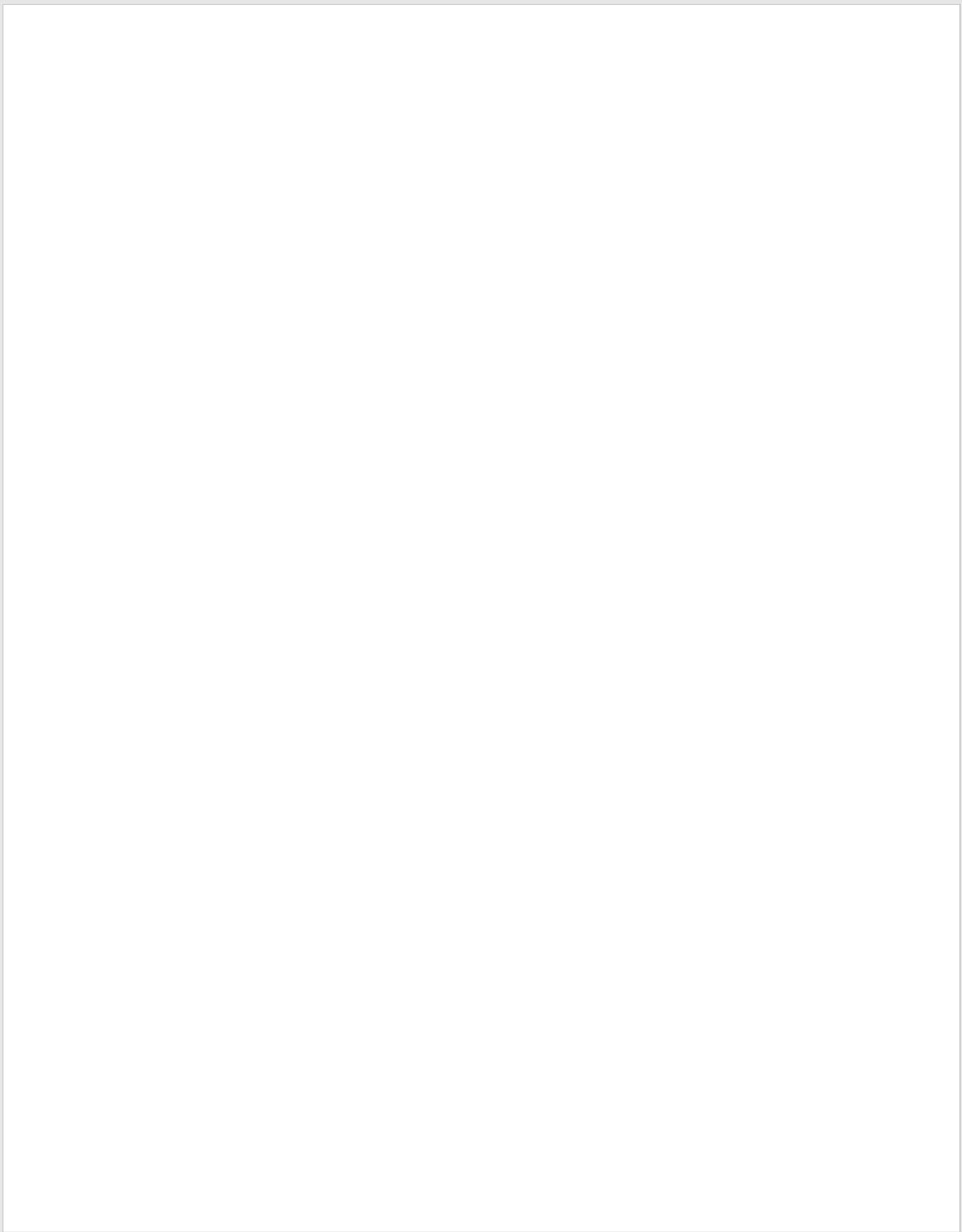
Title \_\_\_\_\_

FARM CREDIT BANK OF TEXAS

By \_\_\_\_\_

Name \_\_\_\_\_

Title \_\_\_\_\_





**Consent of Independent Registered Public Accounting Firm**

We hereby consent to the incorporation by reference in the Registration Statement (Form S-8 No. 333-180470) of Cal-Maine Foods, Inc. pertaining to the Cal-Maine Foods, Inc. KSOP and the Registration Statement (Form S-8 No. 333-252069) pertaining to the Amended and Restated Cal-Maine Foods, Inc. 2012 Omnibus Long-Term Incentive Plan, of our reports dated July 25, 2023, relating to the consolidated financial statements and financial statement schedules, and the effectiveness of Cal-Maine Foods, Inc. and Subsidiaries' internal control over financial reporting, which appear in the Annual Report to Stockholders, which is incorporated by reference in this Annual Report on Form 10-K.

/s/ Frost, PLLC

Little Rock, Arkansas  
July 25, 2023



**Certification**  
**Pursuant to Rule 13a-14(a) or Rule 15d-14(a) of the Securities Exchange Act of 1934,**  
**As Adopted Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002**

I, Sherman L. Miller, certify that:

1. I have reviewed this Annual Report on Form 10-K of Cal-Maine Foods, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

/s/ Sherman L. Miller

Sherman L. Miller

President and Chief Executive Officer

Date: July 25, 2023



**Certification**  
**Pursuant to Rule 13a-14(a) or Rule 15d-14(a) of the Securities Exchange Act of 1934,**  
**As Adopted Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002**

I, Max P. Bowman, certify that

1. I have reviewed this Annual Report on Form 10-K of Cal-Maine Foods, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

/s/ Max P. Bowman

Max P. Bowman

Vice President and Chief Financial Officer

Date: July 25, 2023

